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PART 24—BOARD OF CONTRACT APPEALS, DEPARTMENT OF AGRICULTURE

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In FR Doc. 75-27183 appearing at page 47473 in the FEDERAL REGISTER of October 9, 1975, the last sentence of item (i) of § 24.21(a)(2) reading "Full-time attorney members are designated as Administrative Judges and the Chairman is designated as Chief Administrative Judge." is deleted.

PAUL H. RAPP,
Chairman,
Board of Contract Appeals.

[FR Doc.75-29941 Filed 11-6-75;8:45 am]

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PART 984—WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

Expenses of Walnut Marketing Board, and Rates of Assessment, for the 1975–76 Marketing Year

Notice was published in the October 16, 1975, issue of the FEDERAL REGISTER (40 FR 48518) regarding proposed expenses of $218,665 for the Walnut Marketing Board, and rates of assessment of 0.125 cent per pound for inshell walnuts and 0.30 cent per pound for shelled walnuts, for the 1975–76 marketing year. The proposal was pursuant to §§ 984.68 and 984.69 of the marketing agreement, as amended, and Order No. 984, as amended (7 CFR Part 984). The amended marketing agreement and order regulate the handling of walnuts grown in California, Oregon, and Washington, and are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received. This action approves expenses of $218,665 and fixes assessment rates of 0.125 cent per pound for inshell walnuts and 0.30 cent per pound for shelled walnuts for the Walnut Marketing Board. The expenses are reasonable and likely to be incurred by the Board during the 1975–76 marketing year for its maintenance and functioning, and for such other purposes as the Secretary may, pursuant to this part, determine to be appropriate. The assessment rates are to be applied to all merchantable walnuts handled or declared for handling during the 1975–76 marketing year, and are expected to provide sufficient funds to meet the estimated expenses of the Board.

After consideration of all relevant matter presented, including that in the notice, the information and recommendations submitted by the Board, and other available information, it is found that the expenses of the Board, and rates of assessment, for the 1975–76 marketing year (which began August 1, 1975, and ends July 31, 1976), shall be as hereinafter set forth.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rates of assessment fixed for a particular marketing year shall be applicable to all assessable walnuts from the beginning of such year; and (2) the 1975–76 marketing year began August 1, 1975, and the rates of assessment hereinafter fixed will automatically apply to all such assessable walnuts beginning with that date.

The expenses and assessment rates are as follows:

§ 984.327 Expenses of the Walnut Marketing Board and rates of assessment for the 1975–76 marketing year.

(a) *Expenses.* Expenses in the amount of $218,665 are reasonable and likely to be incurred by the Walnut Marketing Board during the marketing year beginning August 1, 1975, for its maintenance and functioning, and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rates of assessment.* The rates of assessment for said marketing year, payable by each handler in accordance with § 984.69, are fixed at 0.125 cent per pound for merchantable inshell walnuts handled or declared for handling, and 0.30 cent per pound for merchantable shelled walnuts handled or declared for handling.

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

Dated: November 4, 1975.

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

[FR Doc.75-29926 Filed 11-6-75;8:45 am]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 2—RULES OF PRACTICE

Atomic Safety and Licensing Board Alternates

The Nuclear Regulatory Commission has adopted amendments to its "rules of practice", 10 CFR Part 2. These amendments specify the procedures for and delegate specific authority to the Chairman of the Atomic Safety and Licensing Board Panel in designating alternate Atomic Safety and Licensing Board members at all stages of the hearing process.

Section 2.704(a) gives the Commission the discretion to designate in the notice of hearing an Atomic Safety and Licensing Board (ASLB). If the Commission does not exercise this discretion, the Chairman of the ASLB Panel will issue an order designating an ASLB to preside. Section 2.721(a) gives both the Commission and the Chairman of the ASLB Panel the authority to establish ASLBs by designating members of the ASLB Panel established by the Commission.

Section 2.721 was ambiguous as to the appropriate action to be taken when an ASLB member might become unavailable. Section 2.721(b) gave the Commission sole discretion to designate alternate ASLB members even though § 2.721(a) permitted the Chairman of the ASLB Panel to designate the membership of an entire ASLB and § 2.721(b) gave the Chairman of the ASLB Panel sole discretion to constitute the alternate member in certain circumstances. Since the Commission has given the Chairman of the ASLB Panel the authority to designate the members of an ASLB, the Commission now has specifically delegated authority to the Chairman of the ASLB Panel to (1) appoint a qualified alternate at any time before, during, or after an ASLB hearing and (2) constitute the alternate, or in the event an alternate is unavailable or has not been designated, appoint a qualified alternate, to sit as a member of the board. The Commission will continue to have the discretion to designate qualified alternates if it so desires.

Section 2.704 currently contains provisions pertaining to the disqualification of a "presiding officer" on his own motion or that of a party. Clarifying language has been added to reflect current understanding and practice that these provisions apply to all members of a licensing board. In addition, this Section is revised

to reflect that a motion to disqualify a Board member shall be referred to the Commission, or to the Atomic Safety and Licensing Appeal Board, as appropriate.

Inasmuch as the amendments set forth below are procedural changes, notice of proposed rulemaking and public procedure thereon are not required by section 553 of title 5 of the United States Code.

Pursuant to the Atomic Energy Act of 1954, as amended, section 201 of the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 2 are published as a document subject to codification.

1. Paragraphs (b) through (e) of § 2.704 are revised to read as follows:

§ 2.704 Designation of presiding officer, disqualification, unavailability.

* * * * *

(b) If a designated presiding officer or a designated member of an atomic safety and licensing board deems himself disqualified to preside or to participate as a board member in the hearing, he shall withdraw by notice on the record and shall notify the Commission or the Chairman of the Atomic Safety and Licensing Board Panel, as appropriate, of his withdrawal.

(c) If a party deems the presiding officer or a designated member of an atomic safety and licensing board to be disqualified, he may move that the presiding officer or the board member disqualify himself. The motion shall be supported by affidavits setting forth the alleged grounds for disqualification. If the presiding officer does not grant the motion or the board member does not disqualify himself, the motion shall be referred to the Commission or the Atomic Safety and Licensing Board, as appropriate, which will determine the sufficiency of the grounds alleged.

(d) If a presiding officer or a designated member of an atomic safety and licensing board becomes unavailable during the course of a hearing, the Commission or the Chairman of the Atomic Safety and Licensing Board Panel, as appropriate, will designate another presiding officer or atomic safety and licensing board member. If he becomes unavailable after the hearing has been concluded:

(1) (i) The Commission may designate another presiding officer to make the decision, or

(ii) The Chairman of the Atomic Safety and Licensing Board Panel or the Commission, as appropriate, may designate another atomic safety and licensing board member to participate in the decision;

(2) The Commission may direct that the record be certified to it for decision, except in adjudications in which exceptions to the initial decision may be taken to the Atomic Safety and Licensing Appeal Board; or

(3) The Commission may designate another presiding officer.

(e) In the event of substitution of a presiding officer or a designated member of an atomic safety and licensing board for the one originally designated, any motion predicated upon the substitution shall be made within five (5) days thereafter.

2. Paragraph 2.721(b) is revised to read as follows:

§ 2.721 Atomic safety and licensing boards.

* * * * *

(b) The Commission or the Chairman of the Atomic Safety and Licensing Board Panel may designate an alternate qualified in the conduct of administrative proceedings, or an alternate having technical or other qualifications, or both, for an atomic safety and licensing board established pursuant to paragraph (a) of this section. If a member of a board becomes unavailable, the Commission or the Chairman of the Atomic Safety and Licensing Board Panel may constitute the alternate qualified in the conduct of administrative proceedings, or the alternate having technical or other qualifications, as appropriate, as a member of the board by notifying the alternate who will, as of the date of such notification, serve as member of the board. In the event that an alternate is unavailable or no alternates have been designated, and a member of a board becomes unavailable, the Commission or the Chairman of the Atomic Safety and Licensing Board Panel may appoint a member of the Atomic Safety and Licensing Board Panel who is qualified in the conduct of administrative proceedings or a member having technical or other qualifications, as appropriate, as a member of the atomic safety and licensing board by notifying the appointee who will, as of the date of such notification, serve as a member of the board.

* * * * *

3. The final paragraph of the introductory language in Appendix A of Part 2 is revised to read as follows:

APPENDIX A

* * * * *

Atomic safety and licensing boards are appointed from time to time by the Commission or the Chairman of the Atomic Safety and Licensing Board Panel to conduct hearings in licensing cases under the authority of section 191 of the Act. Section 191 authorizes the Commission to establish one or more atomic safety and licensing boards to conduct public hearings and to make intermediate or final decisions in administrative proceedings relating to granting, suspending, revoking or amending licenses issued by the Commission. It requires that each board consist of one member who is qualified in the conduct of administrative proceedings and two members who have such technical or other qualifications as the Commission deems appropriate to the issues to be decided. Members of each board may be appointed by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel from a panel selected from private life, the staff of the Commission or other Federal agencies.

* * * * *

4. In Appendix A to Part 2, paragraph VII(b) is revised to read as follows:

VII. GENERAL

* * * * *

(b) The Commission or the Chairman of the Atomic Safety and Licensing Board Panel may designate a technically qualified alternate or an alternate qualified in the conduct of administrative proceedings, or both, for a board. The designation of an alternate is discretionary. Alternates may be designated where the Commission (or the Chairman of the Atomic Safety and Licensing Board Panel) in its judgment believes that a proceeding involves factors that warrant the continuing assignment and presence of an alternate. If any alternates are designated before the hearing, they will receive copies and become familiar with the application and other documents filed by the parties prior to the start of the hearing. It is expected that an alternate will be constituted or appointed by the Commission or the Chairman of the Atomic Safety and Licensing Board Panel as a member of the board in situations where a technically qualified member of the board, or the member qualified in the conduct of administrative proceedings, becomes unavailable.

* * * * *

Effective date. These amendments become effective on November 7, 1975.

(Sec. 161, Pub. L. 83-703, 68 Stat. 948; Sec. 201, Pub. L. 93-438, 88 Stat. 1243 (42 U.S.C. 2201, 5841))

Dated this 3rd day of November, 1975 at Washington, D.C.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc.75-30093 Filed 11-6-75;8:45 am]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 75-SW-33; Amdt. 39-2415]

PART 39—AIRWORTHINESS DIRECTIVES

Mooney Model M20 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring inspection and servicing of the electric landing gear actuator at specific intervals on all Mooney Model 20 series airplanes equipped with Mooney Electric Gear Systems incorporating a Dukes electric landing gear actuator, P/N 4196-00-1C, was published in 40 FR 26542.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Avia-

tion Regulations is amended by adding the following new airworthiness directive:

MOONEY. Applies to all Mooney Model M20 series airplanes equipped with Mooney Electric Gear Systems incorporating a Dukes electric landing gear actuator, P/N 4196-00-1C.

Compliance required within the next 25 hours time in service after the effective date of this AD, unless already accomplished within the last 75 hours time in service, and thereafter at intervals not to exceed the time in service from the last inspection specified in Paragraphs (a) and (b).

To prevent further failures of the electric landing gear actuator, Dukes P/N 4196-00-1C, accomplish the following:

(a) Within the next 25 hours time in service, accomplish Parts I and III, and thereafter at every 200 hours time in service, accomplish Part I of Mooney Aircraft Corporation Service Bulletin M20-190, dated January 16, 1975, or later FAA approved revision, or by an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, Federal Aviation Administration, Fort Worth, Texas.

(b) Within the next 25 hours time in service, and thereafter at every 100 hours time in service, accomplish Part II of Mooney Aircraft Corporation Service Bulletin M20-190 dated January 16, 1975, or later FAA approved revision, or by an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Southwest Region, Federal Aviation Administration, Fort Worth, Texas.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 522(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain a copy upon request to Mooney Aircraft Corporation, P.O. Box 72, Kerrville, Texas 78028. This document may also be examined at the office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this A.D., which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C., and at the Southwest Regional Office in Fort Worth, Texas.

This amendment becomes effective on December 8, 1975.

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

Issued in Fort Worth, Texas on October 24, 1975.

HENRY L. NEWAN,
Director, Southwest Region.

NOTE: The incorporation by reference provisions in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc.75-30033 Filed 11-6-75;8:45 am]

[Docket No. 75-CE-25-AD; Amdt. 39-2418]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna Models 310Q, T310Q, 310R and T310R Airplanes

There have been reports that the emergency exit window is difficult to remove from some Cessna 310Q, T310Q, 310R and T310R airplanes. This condition is attributable to excessive sealant around the exterior periphery of the window and the installation of extra screws at each end of the interior plastic trim strip. To correct this condition the manufacturer has issued a service letter which recommends, as applicable, inspection and modification of the emergency exit window on Cessna 310Q, T310Q, 310R and T310R model airplanes. Since this condition is likely to exist in other airplanes of the same type design, an Airworthiness Directive (AD) is being issued making compliance with the service letter mandatory.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

CESSNA. Applies to Models 310Q/T310Q (Serial Numbers 310Q0401 thru 310Q1160) and 310R/T310R (Serial Numbers 310R0001 thru 310R0330) airplanes.

Compliance: Required as indicated, unless already accomplished.

To assure proper operation of the emergency exit window, within the next 50 hours' time in service after the effective date of this AD, accomplish the window modification, screw inspection, trim modification and placard installation, as applicable, in accordance with Cessna Service Letter ME75-26 or later approved revision or by any equivalent method of compliance approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective November 13, 1975.

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

Issued in Kansas City, Missouri, on October 30, 1975.

GEORGE R. LACAILLE,
Acting Director, Central Region.

[FR Doc.75-30034 Filed 11-6-75;8:45 am]

[Airspace Docket No. 75-CE-15]

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

Alteration of Transition Area

• The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Wichita, Kansas, transition area. •

The United States Air Force decommissioned the McConnell Air Force Base ILS Outer Marker effective October 9, 1975. The facility will be replaced in the ILS instrument approach procedure by a DME and RADAR fix. Accordingly, it is necessary to change the Wichita, Kansas, transition area description by deleting reference to the aforesaid ILS outer marker and instead referring to the airport. This change does not increase the size of the transition area.

Since this amendment is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, § 71.181 of Part 71 of the Federal Aviation Regulations is amended effective immediately as hereinafter set forth:

In § 71.181 (40 FR 441), the following transition area is amended to read:

WICHITA, KANSAS

That airspace extending upward from 700 feet above the surface within 8.5-mile radius of the Wichita, KS., Municipal Airport (latitude 37°39'09" N., longitude 95° 25'47" W.) and from 9.5 miles west of the LOC (BC) to Runway 1L, extending from 8.5 miles to 15 miles south of the airport to 4.5 miles east of the LOC (PC) to Runway 1R to 6.5 miles east of the 176° radial of the Wichita, KS., VORTAC facility, extending from the 8.5-mile radius to 15 miles south of the airport; within 8.5-mile radius of the McConnell AFB (latitude 37°37'25" N., longitude 97°16'00" W.); and 2 miles each side of the McConnell AFB ILS localizer south course, extending from the 8.5-mile radius to 13 miles south of the AFB, within a 5-mile radius of the Comotara Airpark (latitude 37°44'45" N., longitude 97°13'20" W.); and within 2 miles each side of the 344° bearing from the Comotara Airpark extending from the 5-mile radius to 6 miles north; within a 5-mile radius of the Augusta, Kansas Airport (latitude 37°40'21" N., longitude 97°04'38" W.)

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

Issued in Kansas City, Missouri, on October 16, 1975.

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

[FR Doc.75-30035 Filed 11-6-75;8:45 am]

[Airspace Docket No. 75-SW-52]

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

Designation of Transition Area; Withdrawal of Final Rule

On October 3, 1975, Part 71 of the Federal Aviation Regulations was amended to include a 700-foot point-in-space transition area over the Gulf of Mexico at latitude 29°15'53.2" N., longitude 94°08'46.9" W.

In the establishment of this transition area, compliance with the provisions of Executive Order 10854 and coordination with the International Civil Aviation Organization (ICAO) were inadvertently omitted.

In consideration of the foregoing, notice is hereby given that the establishment contained in Airspace Docket No. 75-SW-52 (40 FR 45804) is withdrawn pending readvertisement at a later date.

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

Issued in Fort Worth, Tex., on October 30, 1975.

HENRY N. STEWART,
Acting Director.
Southwest Region.

[FR Doc.75-30036 Filed 11-6-75;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER A—GENERAL RULES

[Docket No. RM 76-9; Order No. 540]

PART 2—GENERAL POLICY AND INTERPRETATIONS

Standardized Conditions for Inclusion in Preliminary Permits and Licenses

OCTOBER 31, 1975.

Section 2.9 of the Commission's General Policy and Interpretations, 18 CFR 2.9, provides for the implementation of forms containing standardized conditions for inclusion in preliminary permits and licenses issued under Part I of the Federal Power Act. The forms for preliminary permit and license conditions are denominated "P-Forms" and "L-Forms," respectively.

To date, there has been only one P-Form in use at any given time, for the same standardized preliminary permit conditions pertain to each proposed project for which a permit is issued, regardless of the basis for the Commission's jurisdiction or any other circumstances concerning that project. While some of the standardized conditions to be included in license instruments are also the same in each license issued, other standardized conditions differ according to certain variable factors, including the basis for the Commission's jurisdiction over the project, the status of the project as constructed or unconstructed, and the classification of the project as "major" or "minor."[1] Taking into account the various combinations of these factors, there must of necessity be several different L-Forms available for employment as circumstances dictate.

In the past, L-Forms needing revision were modified on an individual basis upon the issuance or amendment of a license.[2] Thus, while the L-Form applicable to a particular project immediately subject to licensing or amendment could be updated, modification of all other L-Forms needing similar revisions had to await issuance or amendment of licenses for projects to which they were specifically suited. This ad hoc method of revision was inefficient and confusing, and led to inconsistencies between different L-Forms with similar provisions.

In order to avoid these inherent problems, all of the P- and L-Forms have been brought up to date and will be set forth in their entirety immediately hereafter in the Federal Power Commission Reports, and we anticipate that henceforth all L-Forms in which a particular modification should be made will be revised simultaneously. As in the past, it may be necessary in specific situations to delete or alter certain standardized conditions in a license or preliminary permit in order to meet the requirements of a particular project. In such cases the appropriate changes will be made through explicit language in the order issuing or amending the license or preliminary permit and by inclusion therein of appropriate special conditions. However, where modifications are to have general, prospective application in one or more of the forms, the changes will be set forth in a separate order of the Commission, together with a designation of the forms to be affected by the changes.

Effectuation of these policies requires that the provisions of § 2.9 of the Commission's General Policy and Interpretations be amended. This amendment includes a revised list of P- and L-Forms to be employed by the Commission. The list includes several new forms not previously used, and several old forms that are no longer appropriate and have therefore been retired from further use. Among the latter are Forms L-7 (Minor Project Affecting Lands of the United States) and L-8 (Minor-Part Project (Transmission Line)), which have been superseded by forms which differentiate between constructed and unconstructed projects. Also retired is Form L-13 (Unconstructed Major Project Affecting the Interests of Interstate or Foreign Commerce and Affecting Lands of the United States),[3] which is superfluous in that all of its conditions are already included in Form L-2 (Unconstructed Major Project Affecting Lands of the United States).

Minor changes must also be made in paragraphs (b) and (c) of § 2.9 in order to accurately reflect the date of preparation of the revised list, the current address of the Commission's Office of Public Information, and the method of citation to orders in which particular forms are initially published or revised.

Accordingly, the Commission finds. (1) The amendments to § 2.9 of the Commission's General Policy and Interpretations discussed above are necessary and appropriate for the administration of the Federal Power Act, particularly sections 4(e), 4(f), 5, 6 and 15, 16 U.S.C. 797(e), 797(f), 798, 799, and 808.

(2) Inasmuch as the amendments to § 2.9 herein set forth involve only a general statement of the Commission's policy, compliance with the notice, public procedure, and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C. 553, is not necessary.

(3) In view of the purpose, intent and effect of the amendments herein ordered, good cause exists for making them effective upon issuance of this order.

The Commission, acting pursuant to the provisions of the Federal Power Act, as amended, particularly section 309, 16 U.S.C. 825h, orders:

(A) Paragraphs (b) and (c) of § 2.9, Part 2, Chapter I, Title 18 of the Code of Federal Regulations are hereby amended to read as follows:

§ 2.9 Conditions in preliminary permits and licenses—list of and citations to "P-" and "L-" Forms.

* * * * *

(b) New or revised forms may be approved after preparation of this list (which is current as of October, 1975) and consequently do not appear herein. Forms currently in use, including those forms which have not yet appeared in the FPC reports, may be obtained from the Federal Power Commission, Office of Public Information, 825 N. Capitol St, NE., Washington, D.C. 20426.

(c) Within each of the categories, unless retired, the last-listed form is the one in use at the date of preparation of the list. The dates in the list represent issuance dates of the orders with which the particular forms were first published, or subsequently revised, in the FPC reports.

P-1: Preliminary Permit, 11 F.P.C. 699 (December 2, 1952), 16 F.P.C. 1303 (December 4, 1956), 54 F.P.C. ——— (October —, 1975).

L-1: Constructed Major Project Affecting Lands of the United States, 12 F.P.C. 1262 (September 25, 1953), 32 F.P.C. 71 (July 8, 1964), 54 F.P.C. ——— (October —, 1975).

L-2: Unconstructed Major Project Affecting Lands of the United States, 12 F.P.C. 1137 (August 7, 1953), 17 F.P.C. 62 (January 18, 1957), 31 F.P.C. 528 (March 10, 1964), 54 F.P.C. ——— (October —, 1975).

L-3: Constructed Major Project Affecting Navigable Waters of the United States, 12 F.P.C. 836 (February 6, 1953), 17 F.P.C. 385 (March 4, 1957), 30 F.P.C. 1658 (November 21, 1963), 32 F.P.C. 1114 (October 15, 1964), 36 F.P.C. 971 (December 6, 1966), 40 F.P.C. 1136 (October 29, 1968), 54 F.P.C. ——— (October —, 1975).

L-4: Unconstructed Major Project Affecting Navigable Waters of the United States, 16 F.P.C. 1284 (November 29, 1956), 32 F.P.C. 839 (September 21, 1964), 42 F.P.C. 280 (July 30, 1969), 54 F.P.C. ——— (October —, 1975).

L-5: Constructed Major Project Affecting Navigable Waters and Lands of the United States, 12 F.P.C. 1329 (October 23, 1953),

[1] Pursuant to section 10(i) of the Federal Power Act, as amended, 16 U.S.C. 803(i), the Commission, in issuing licenses for projects of not more than two thousand horsepower installed capacity (minor projects), may in its discretion waive such conditions, provisions, and requirements of Part I of the Act as it deems to be in the public interest to waive under the circumstances, with the exception of the provision limiting license terms to a maximum of fifty years, and the provision calling for annual charges for use of lands within Indian reservations.

[2] Revisions to the single P-Form were also made at the time a preliminary permit was issued.

[3] Form L-13, which was used for the first and only time on August 6, 1969, has never been listed under § 2.9, for the list has not been updated since the Commission's Order No. 357 of December 29, 1967, 38 F.P.C. 1275. The revised list included in this order brings all citations up to date, insofar as possible.

17 F.P.C. 110 (January 13, 1957), 38 F.P.C. 203 (July 26, 1967), 54 F.P.C. ——— (October —, 1975).

L-6: Unconstructed Major Project Affecting Navigable Waters and Lands of the United States, 12 F.P.C. 1271 (September 29, 1953), 16 F.P.C. 1127 (October 29, 1956), 31 F.P.C. 284 (February 5, 1964), 34 F.P.C. 1114 (October 7, 1965), 54 F.P.C. ——— (October —, 1975).

L-7 (retired): Minor Project Affecting Lands of the United States, 12 F.P.C. 911 (March 30, 1953), 17 F.P.C. 486 (April 2, 1957).

L-8 (retired): Minor-Part Project (Transmission Line), 12 F.P.C. 1017 (June 12, 1953), 41 F.P.C. 217 (March 5, 1969).

L-9: Constructed Minor Project Affecting Navigable Waters of the United States, 32 F.P.C. 577 (August 10, 1964), 54 F.P.C. ——— (October —, 1975).

L-10: Constructed Major Project Affecting the Interests of Interstate or Foreign Commerce, 37 F.P.C. 860 (May 9, 1967), 40 F.P.C. 1489 (December 20, 1968), 54 F.P.C. ——— (October —, 1975).

L-11: Unconstructed Major Project Affecting the Interests of Interstate or Foreign Commerce, 34 F.P.C. 602 (August 26, 1965), 36 F.P.C. 687 (September 26, 1966), 41 F.P.C. 719 (June 6, 1969), 54 F.P.C. ——— (October —, 1975).

L-12: Constructed Minor Project Affecting the Interests of Interstate or Foreign Commerce, 35 F.P.C. 875 (June 3, 1966), 40 F.P.C. 1447 (December 10, 1968), 54 F.P.C. ——— (October —, 1975).

L-13 (retired): Unconstructed Major Project Affecting the Interests of Interstate or Foreign Commerce and Affecting Lands of the United States, 42 F.P.C. 367 (August 6, 1969).

L-14: Unconstructed Minor Project Affecting Navigable Waters of the United States, 54 F.P.C. ——— (October —, 1975).

L-15: Unconstructed Minor Project Affecting the Interests of Interstate or Foreign Commerce, 54 F.P.C. ——— (October —, 1975).

L-16: Constructed Minor Project Affecting Lands of the United States, 54 F.P.C. ——— (October —, 1975).

L-17: Unconstructed Minor Project Affecting Lands of the United States, 54 F.P.C. ——— (October —, 1975).

L-18: Constructed Minor Project Affecting Navigable Waters and Lands of the United States, 54 F.P.C. ——— (October —, 1975).

L-19: Unconstructed Minor Project Affecting Navigable Waters and Lands of the United States, 54 F.P.C. ——— (October —, 1975).

L-20: Constructed Transmisison Line Project, 54 F. P.C. ——— (October —, 1975).

L-21: Unconstructed Transmission Line Project, 54 F.P.C. ——— (October —, 1975).

(B) The P-Form and L-Forms listed under paragraph (A) above bearing the date of October, 1975, shall be set forth in their entirety in the Federal Power Commission Reports immediately following this order.

(C) The amendments to § 2.9 of the Commission's General Policy and Interpretations provided for in paragraph (A) above shall be effective immediately upon the date of issuance of this order.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-30020 Filed 11-6-75;8:45 am]

[Docket No. RM74-16]

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

Natural Gas Companies Annual Report of Proved Domestic Gas Reserves: FPC Form No. 40; Order Granting Extensions of Time[1]

OCTOBER 29, 1975.

On August 18, 1975, the Commission issued Order No. 526-A, which made new § 260.13 of the Commission's regulations effective as of that date and required respondents to submit to the Commission 1974 data on FPC Form No. 40 by September 17, 1975, for the Offshore Federal Domain and by October 2, 1975, for all other areas. Requests for extensions of time were approved to the extent that all those making such requests were to file for all reporting areas on or before October 17, 1975, later changed to November 17, 1975, for certain named parties by notice issued October 17, 1975.

On October 15, 1975, the United States Court of Appeals for the Ninth Circuit in "Union Oil Company of California, et al. v. Federal Power Commission," Nos. 75-2891, et al., issued an order holding, inter alia, that:

(c) The Federal Power Commission's Order Nos. 526 and 526-A (FPC RM74-16) are temporarily stayed pending further order of the Court only in so far as they require the filing of reserve data in the manner prescribed by Form 40;

(d) If and when requested by the Federal Power Commission, petitioners and intervenors shall file reserve data with the FPC in the form that petitioners and intervenors maintain such information.

We interpret this order to mean that, as explained by petitioners in their motions before the Court, it was not possible for them to supply the Commission with the information requested for 1974 on Form No. 40 in the manner dictated by that form within the time periods set in Order No. 526-A. We reach this conclusion because the Court's stay is temporary and because the companies were directed to submit, upon our request, their reserve information in the form that petitioners and intervenors maintain such information. In addition, while we view the Court stay as delaying the filing of the form, it does not relieve the producers of their obligation to continue the preparation thereof.

Upon reconsideration, we conclude that petitioners were correct that the time limitations set by Order No. 526-A did not, in many cases, provide respondents with adequate time in which to prepare the Form No. 40 type information in the required manner. Therefore, based on the representations of the parties expressed in the various requests for extensions of time, we conclude that it is reasonable to grant to all respondents in this proceeding an extension of time to file Form No. 40 data for 1974 until March 1, 1976.[2]

The Court's stay in this proceeding indicates that the respondents are not required to file Form No. 40 in the manner prescribed in Order Nos. 526 and 526-A until such time as the Court should so direct. We believe that our action in this order, by providing respondents with the time they requested, eliminates their objection that the Commission's demands in terms of time and burden were unreasonable and unrealistic. Therefore, we direct our Solicitor to seek a dissolution of the stay in so far it would relieve respondents of an obligation to file a complete and proper Form No. 40 as of March 1, 1976. We believe a dissolution of the stay is required lest the respondents, in reliance on the stay, defer their efforts to prepare the data necessary to comply with Form No. 40, with the result that they become unable to comply with a deadline they previously viewed as reasonable.

The Commission orders. Upon consideration, all respondents to this proceeding required to submit 1974 reserves data on FPC Form No. 40 are directed to do so no later than March 1, 1976.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-30019 Filed 11-6-75;8:45 am]

[1] While petitions for review have been filed in this docket, our authority to act is concurrent with the Court of Appeals until the record is docketed, section 19(b) of the Natural Gas Act, 15 U.S.C. 717r(b).

[2] The March 1, 1976 date has been chosen after a careful review of all of the applications for extension of time. That date represents our view of a reasonable filing date based upon a review of these extension applications. We recognize that thirteen natural gas companies, only two of whom are parties before the Ninth Circuit, have sought extensions past March 1, 1976, but we do not regard these requests as reasonable.

Title 20—Employees' Benefits

CHAPTER V—MANPOWER ADMINISTRATION

PART 601—ADMINISTRATIVE PROCEDURE

Tax Credit Reductions

On September 23, 1975, a document was published in the FEDERAL REGISTER (40 FR 43744) proposing to amend 20 CFR Part 601, Administrative Procedure, by adding to § 601.5 a new paragraph (f). The amendment implements the amendment to section 3302(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 3302(c)(3)) made by section 110(a) of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 (Pub. L. 94-45, approved June 30, 1975; 89 Stat. 236, 239) (Act).

Interested persons were invited to submit written data, views, or arguments on the proposed regulations on or before October 23, 1975. No public comments on the proposal have been received. However, in the interest of clarity the words "in employment" have been inserted after the words "total wages" in two places in § 601.5(f)(2)(i)(A).

The tax credit reductions in 26 U.S.C. 3302(c)(3) are inapplicable when the conditions of 20 CFR 601.5(f) are met. Since the reductions apply to advances made to States from the Federal Unemployment Account in the Unemployment Trust Fund which are outstanding on January 1 of a taxable year and remain outstanding on November 10 of that year, and since Congress has directed the Secretary to promptly prescribe and publish in the FEDERAL REGISTER regulations implementing section 110 (a) of the Act, I find there is good cause to make the benefit conferred by this amendment effective immediately upon publication in the FEDERAL REGISTER.

Accordingly, 20 CFR Part 601 is amended by adding to § 601.5 a new paragraph (f) as set forth below.

Effective date. 20 CFR Part 601 is amended effective November 7, 1975.

Signed at Washington, D.C. this 4th day of November, 1975.

WILLIAM H. KOLBERG,
Assistant Secretary for Manpower.

Part 601 of Title 20, Code of Federal Regulations, is amended by adding to § 601.5 a new paragraph (f) to read as follows:

§ 601.5 Withholding payments and certifications.

* * * * *

(f) *Tax credit reductions.* (1) Section 3302(c)(3) of the Internal Revenue Code of 1954 prescribes the conditions under which the total credits otherwise allowable under section 3302 for a taxable year in the case of a taxpayer subject to the unemployment compensation law of a State shall be reduced on account of an outstanding balance of advances made to the State pursuant to Title XII of the Social Security Act. As amended by section 110(a) of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975 (Pub. L. 94-45, approved June 30, 1975; 89 Stat. 236, 239), the incremental reductions in total credits will not apply to a State with respect to each of the taxable years beginning on January 1, 1975, January 1, 1976, and January 1, 1977, if the Secretary of Labor finds as to such year or years that the State has studied and taken appropriate action with respect to the financing of its unemployment compensation program so as substantially to accomplish the purpose of restoring the fiscal soundness of the State's unemployment account in the Unemployment Trust Fund and permitting the repayment within a reasonable time of any advances made to the State's account pursuant to Title XII of the Social Security Act.

(2) The Secretary of Labor's finding with respect to a State as to any of the taxable years 1975, 1976, and 1977, will be based on his determination as to whether the State has taken appropriate action resulting in—

(i) Amendment of its unemployment compensation law, effective in or prior to the taxable year with respect to which the finding is made, or effective at the beginning of the succeeding taxable year, increasing the State's unemployment tax rate, increasing the State's unemployment tax base, or changing the State's experience rating formula, or a combination of such changes, so as to be estimated by the Secretary to achieve for the taxable year with respect to which the finding is made or for the period following the effective date of the amendment—

(A) An average employer tax rate, computed as a percentage of the total wages in employment covered by the State's unemployment compensation law, which exceeds the State's average annual benefit cost rate, computed as a percentage of the total wages in employment covered by the State's unemployment compensation law, for the ten calendar years immediately preceding the year with respect to which the finding is made; and

(B) An effective minimum employer tax rate which is not less than 1.0 percent of the wages of any employer which are subject to tax under the Federal Unemployment Tax Act for the same year; and

(C) An effective maximum employer tax rate which exceeds 2.7 percent of the wages of any employer which are subject to tax under the Federal Unemployment Tax Act for the same year, or provision for no reduced rate of contributions for any employer subject to the State unemployment compensation law; or

(ii) (A) Amendment of its unemployment compensation law increasing the State's unemployment tax rate, increasing the State's unemployment tax base, or changing the State's experience rating formula, or a combination of such changes, so as to be estimated by the Secretary of Labor to result in increasing contributions to the State's unemployment fund, for the taxable year with respect to which the finding is made, and the allocation from such increased contributions of a sum sufficient to make the repayment in the amount and within the time limit prescribed in paragraph (f)(2)(ii)(B) of this section; and

(B) Repayment to the Treasury of the United States, for credit to the Federal unemployment account in the Unemployment Trust Fund, prior to November 10 of the taxable year with respect to which the finding is made, of an amount equal to the amount of the additional tax which would be payable by all taxpayers subject to the unemployment compensation law of the State for that taxable year if the reduction in total credits prescribed by section 3302(c)(3) of the Internal Revenue Code of 1954 for that taxable year was applied without regard to the amendment added by section 110(a) of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975. The amount determined under the preceding sentence shall be reduced by the amount of any additional tax payable for that taxable year by taxpayers subject to the unemployment compensation law of the State by reason of the reduced credit provisions of section 3302(c)(3) of the Internal Revenue Code of 1954, as amended by section 110(a) of the Emergency Compensation and Special Unemployment Assistance Extension Act of 1975.

(3) A finding by the Secretary of Labor with respect to any State shall be made as of November 10 of the taxable year with respect to which the finding is made, and such finding shall be published in the FEDERAL REGISTER together with the reasons for the finding.

[FR Doc.75-30059 Filed 11-6-75;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 75N-0293]

PART 201—LABELING

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

Drug Listing Act of 1972; Revision of Implementing Regulations

In a notice published in the FEDERAL REGISTER of September 5, 1974 (39 FR 32146), the Commissioner of Food and Drugs proposed to amend the regulations (21 CFR Part 132, recodified as 21 CFR Part 207 in the FEDERAL REGISTER of March 27, 1975 (40 FR 13996)) implementing the Drug Listing Act of 1972 to: (1) adopt the single character "N" to replace the present NDC (National Drug Code) prex; (2) permit the NDC number to appear as part of and contiguous to the grocery UPC (Universal Product Code) symbol wherever such symbol appears on consumer packages for over-the-counter drugs in addition to the placement as stated in § 132.8(b)(3)(i) (recodified as § 207.35(b)(3)(i)); (3) clarify that a list of drugs containing a particular active ingredient will be available for public disclosure; and (4) delete the requirement that the prefix "NDC" or "N", as the proposed prefix, be in a different color or different type style (front) from that used to print the NDC number if the label is printed rather than typewritten. This proposal was in response to a petition filed by Bristol-Myers Company of New York, N.Y. Interested persons were invited to submit comments on the proposal by November 4, 1974.

The Commissioner is now issuing a final regulation that permits the NDC number to appear as part of and contiguous to the UPC symbol wherever the symbol appears on consumer packages for over-the-counter drugs. When the UPC symbol appears prominently and in a conspicuous place, other than on the natural bottom of the immediate or outside container or wrapper, and the NDC num-

ber appears as part of and contiguous to the symbol, this placement will be regarded as meeting the labeling requirements of section 502(c) of the Federal Food, Drug, and Cosmetic Act as to prominence and conspicuousness. Whenever the NDC number is used on a label or in the labeling of a drug product, either alone or as part of and contiguous to the UPC symbol, it must be preceded by either the prefix "NDC" or "N." Under this final regulation, it is no longer necessary for the prefix to the NDC number to be in a different color or different type style (font) from that used to print the number, if the label is printed rather than typewritten. Also under this final regulation, a list of drugs containing a particular active ingredient will be regarded as information available for public disclosure.

Because 21 CFR Part 132 was recodified as 21 CFR Part 207 since the proposal was published, where specific sections and paragraphs of the proposed regulation are cited in the comments in this preamble the recodified number is used.

In response to the proposal, comments were received from 14 manufacturers, 3 trade associations, and 2 members of the Drug Ad Hoc Committee. The Commissioner has reviewed all of the comments. A summary of the comments and the Commissioner's conclusions are as follows:

1. One comment stated that the proposal should be reissued to convey that the petition was actually a recommendation of the Drug Ad Hoc Committee. The comment further stated that without such indication, significant support for the petition by representative drug industry groups would not be apparent to readers of the FEDERAL REGISTER.

The Commissioner disagrees with that contention. The proposal stated that the petition was filed by Bristol-Myers Company, a major drug manufacturer, and that copies of the petition were available to the public. Although the Drug Ad Hoc Committee (a private association of drug manufacturers) supported the recommendation, it was not indicated as being a co-petitioner. According to the petition, the recommendation was also supported by other trade associations. The Commissioner concludes that omission in the proposal of a statement that the petition was developed and endorsed by the Drug Ad Hoc Committee was not misleading to anyone reading the proposal as to the type of party supporting the proposed changes. The Commissioner concludes that the comments set forth issues that would undoubtedly have been raised regardless of who supported the recommendations of the petition; therefore, he does not find a compelling reason to reissue the proposal in the FEDERAL REGISTER.

2. Several comments asserted that adoption of the proposal would be extremely costly and time consuming in view of the necessity of revising printing plates, redesigning labels and disgarding the present inventory of printed labels. The comments argued that many firms have already placed the NDC prefix on their labels in accordance with regulations previously promulgated by the Food and Drug Administration. To compel industry members to again expend considerable sums of money for new label plates introduces an inflationary element without any redeeming features. The comments further suggested that industry be given the option to use either the prefix "NDC" or "N." This would remove the burden on companies in complying with current regulations and fulfill the objectives of this proposed change. These comments suggested that, if such an option is rejected, effective dates for the proposed change to be from 1 to 5 years from the date of publication of the final regulation or whenever existing label plates are revised, whichever comes first. The comments also suggested that, if the option was not allowed, there be a provision for intermixing the prefixes "NDC" and "N" during the transition period.

The Commissioner recognizes that many firms did revise their labeling, or are in the process of doing so, to include the NDC number in the format set forth by the implementing regulations to the Drug Listing Act of 1972. He has also considered the economic impact that the requirements of this regulation will have on industry. The Commissioner concludes that to provide compatibility with the UPC and to remove the burden of additional labeling expenditures from firms who are currently complying with the implementing regulations of the Drug Listing Act of 1972, the final regulation should allow the NDC number, when used alone or as part of and contiguous to the UPC symbol, to be preceded by either the prefix "NDC" or "N" whenever the NDC number is used on a label or in the labeling of a drug product. He also concludes that the prefix used for a drug product should be used consistently on the label of the immediate container, outer container, or wrapper, if any, and other labeling for that drug product. Section 207.35(b)(3)(ii) has been revised accordingly. To provide firms time to comply with these requirements regarding use of the prefix "NDC" or "N," the final regulation provides that current labeling shall be revised on or before November 7, 1977, or at the next revision of printing plates in the normal course of business, whichever occurs first.

3. Several comments expressed the view that any revision of the implementing regulations for the Drug Listing Act of 1972, with regard to the NDC number, should specify that section 502(c) of the Federal Food, Drug, and Cosmetic Act should be considered satisfied as to "prominence" and "conspicuousness" when the placement of the NDC number as an integral part of the UPC symbol appears in labeling or on the package in a prominent location other than the natural bottom of the package. Comments stated that the adoption of such a provision would encourage the use of NDC and HRI numbers by those companies who plan to otherwise utilize the UPC symbol. If such a provision is rejected, firms may be reluctant to provide labeling space on products for an NDC number, in addition to space already provided for a UPC symbol.

The Commissioner agrees with the comment and advises that it is the policy of the Food and Drug Administration to encourage use of the NDC number on all drug product labels and labeling. To ensure that this regulation reflects this policy, compatability with the UPC must be achieved, where possible. The Commissioner recognizes that the UPC was developed for products sold in retail establishments, i.e., products directly available to consumers, including over-the-counter drug products, as opposed to prescription drug products which are dispensed by a pharmacist in a retail establishment. He also recognizes that the guidelines for placing the UPC symbol on a consumer package suggest locations that will be compatible with checkout counter operations and that such locations may differ from the one required for the NDC number when used alone on a drug product label. Therefore, the Commissioner concludes that, for over-the-counter drug products, the requirements of section 502(c) of the Federal Food, Drug, and Cosmetic Act regarding prominence and conspicuousness will be satisfied if the NDC number, preceded by the prefix "NDC" or "N," appears as part of and contiguous to the UPC symbol and the symbol is displayed in a prominent and conspicuous location other than the natural bottom of the drug product package.

4. One comment stated that § 207.35(b)(3)(i) clearly indicates that the placement of the NDC number on the label of the immediate container must be in the top third of the center panel, but its intended location on the outer container or wrapper is not clearly defined since an outer container such as a carton has no "center panel." The comment suggested that if the location for an outer container is intended to be on the main panel this might be clarified by using the term "principal display panel."

The Commissioner has reviewed the wording of § 207.35(b)(3)(i) and concludes that the term "principal display panel" should be used to indicate the location of the NDC number on both the immediate and outer container or wrapper. The term "center panel" has been deleted. Therefore, whenever the NDC number is voluntarily placed on a label, it shall be placed prominently in the top third of the principal display panel of the immediate container and of the outer container or wrapper, if there is one. To assure compatibility with the UPC symbol location guidelines, where possible, and to comply with the requirements of the act regarding prominence and conspicuousness, the UPC symbol shall be placed prominently and in a conspicuous location other than the natural bottom of the immediate container and of the outer container or wrapper, if any, when the NDC number appears as part of and contiguous to this symbol for over-the-counter drug products. The term "principal display panel" as it applies here

means that part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display to the consumer (for over-the-counter drug products) or to the dispenser (for prescription drug products). Section 207.35(b)(3)(i) has been revised accordingly.

5. One comment expressed concern as to how the Food and Drug Administration proposed to deal with those manufacturers of health-related items who have adopted the HRI prefix for their product labeling. The comment recognized that the use of the HRI prefix was entirely voluntary.

The Commissioner advises that, although the use of the NHRIC (National Health Related Items Code) number is voluntary and not subject to this regulation, either the prefix "HRI" or "H" may precede the NHRIC number when such a number is placed on the label of a product listed under the NHRIC System. Specific questions relating to the use of the NHRIC number and its prefix should be directed to the Food and Drug Administration, Bureau of Medical Devices and Silver Spring, MD 20910.

6. One comment saw little or no rationale for separately identifying HRI codes from NDC codes with an "H" and "N" respectively. The comment further stated that the original intention of the letters NDC and HRI was strictly to distinguish this code from other numbers on packages and suggested that an "N" would be sufficient to identify both NDC and HRI codes. Another comment pointed out that the single character prefixes "N" and "H" were structurally very similar and would lead to more confusion than using the prefixes "NDC" and "HRI," which are sufficiently different to permit adequate distinction between them.

As stated in the preamble to the proposal, products listed in compliance with the Drug Listing Act of 1972 and products listed under the National Health Related Items Code System comprise two separate operating systems. At the present time, separate publications would be issued if the code numbers used to represent the products in these two systems are published. To facilitate identification of a product from its code number by reference to a published list of such code numbers, it would be necessary to know whether the code number represented a drug product or a health-related item. Although the code formats for drug products and health-related items differ, this is not considered to be the most desirable method of identifying these two categories of products. Thus, although the use of the single prefix "N" to designate both NDC and HRI codes would be sufficient for distinguishing these codes from other numbers on packages, it would not provide adequate information from which a person could determine the proper list of codes. The Commissioner, therefore, concludes that the NDC number should be preceded by either the prefix "NDC" or "N" and the NHRIC number should be preceded by either the prefix "HRI" or "H." The Commissioner rejects the comment that the prefixes "N" and "H" would lead to confusion because of their similarity in structure.

7. One comment requested the Food and Drug Administration interpretation of section 502(c) of the act relating to conspicuous placement of any information required to appear on drug labels and § 207.35(b)(3) of the current regulations, which states that the NDC number is requested but not required to appear on all drug labels and in all drug labeling. The comment also requested a restatement of the reasons why the NDC number is not appropriate as an integral part of the UPC symbol.

The Commissioner recognizes that placement of the NDC number on the label or in the labeling of a drug product is voluntary; however, if the NDC number is shown on a drug product label, the regulation sets forth the requirements for the position and format of the NDC number. Therefore, if a firm chooses to place the NDC number on a drug product label, the requirements of § 207.35(b)(3) shall be complied with. These requirements are consistent with section 502(c) of the act as to prominence and conspicuousness.

As previously stated in paragraph 3 above, the NDC number may be included as part of and contiguous to the UPC symbol provided the symbol is displayed prominently and in a conspicuous location other than the natural bottom of the drug product package.

8. In regard to proposed § 207.37(a)(2)(iii), which would clarify that a list of drugs containing a particular active ingredient will be available for public disclosure, one comment contended that section 510(f) of the Federal Food, Drug, and Cosmetic Act requires that a denial of the confidential status of a list of drugs containing a particular ingredient must be based upon a specific finding that it would be inconsistent with the protection of the public health and that the proposal did not relate any such finding. The comment refers to a letter of December 22, 1971, from the Assistant General Counsel of the Department of Health, Education, and Welfare, Food and Drug Division, to the Senate Committee considering H.R. 9936, in which the type of information the Food and Drug Administration intended for disclosure and nondisclosure is discussed. The comment stated that in listing the types of information subject to disclosure, a list of drugs containing a particular active ingredient was conspicuously absent. For the Commissioner now to state that § 207.37(a)(2)(iii) was never intended to prevent public disclosure of lists of drugs containing a particular active ingredient, according to the comment, is a complete departure from the position stated in the legislative history.

The Commissioner does not concur with this comment. Section 510(f) of the Federal Food, Drug, and Cosmetic Act permits the Secretary to disclose information where confidentiality would be inconsistent with protection of the public health and is intended to permit greater public disclosure, rather than greater confidentiality of product information. Section 502(e) of the act requires that the established name of each active ingredient be stated on the label of a drug product; therefore, such information has been previously disclosed to the public, and a list of drugs containing a particular active ingredient would be available for public disclosure. In active ingredients, except those named in section 502(e) of the act, are not required to be stated on the label of a drug product, may not have previously been disclosed to the public, and are, therefore, not available for public disclosure. Section 207.37 has been amended to clarify this point.

9. In addition to amending Part 207, the Commissioner is also amending Subpart A of Part 201 by establishing a new § 201.2 *Drugs and devices; National Drug Code numbers* to include under the labeling provisions of Chapter I of Title 21 of the Code of Federal Regulations a reference to the requirements regarding the use of National Drug Code numbers in the labeling of drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055, 1057 as amended, 55 Stat. 851, 59 Stat. 463 as amended, 76 Stat. 794 as amended, 82 Stat. 343–351 (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374)); the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)); and the Drug Listing Act of 1972 (Public Law 92–387; 86 Stat. 559–562) and under authority delegated to the Commissioner (21 CFR 2.120), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

1. In Part 201, Subpart A is amended by adding a new section to read as follows:

§ 201.2 Drugs and devices; National Drug Code numbers.

The National Drug Code (NDC) number is requested but not required to appear on all drug labels and in all drug labeling, including the label of any prescription drug container furnished to a consumer. If the NDC number is shown on a drug label, it shall be displayed as required in § 207.35(b)(3) of this chapter.

2. In Part 207:

a. Section 207.35 is amended by revising paragraph (b)(3)(i), (ii), and (iii) to read as follows:

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

* * * * *

(b) * * *

(3) * * *

(i) The NDC number shall be placed prominently in the top third of the principal display panel of the label of the immediate container and of the outside container or wrapper, if any. However, the NDC number may appear as part of and contiguous to the UPC (Universal Product Code) symbol for over-the-counter drug products if such symbol appears prominently and in a conspic-

uous location, other than the natural bottom, of the immediate container and of the outside container or wrapper, if any. The term "principal display panel," as used in this paragraph, means that part of a label that is most likely to be displayed, presented, shown, or examined under customary conditions of display to the consumer (for over-the-counter drug products) or to the dispenser (for prescription drug products).

(ii) The NDC number shall be preceded by either the prefix "NDC" or "N" whenever it is used on a label or in labeling. The prefix used for a drug product shall be used consistently on the label of the immediate container, outside container or wrapper, if any, and on other labeling for that drug product.

(iii) The Product-Package Code configuration shall be indicated and the segments of the number shall be separated by a dash, e.g., NDC 15643–542–12 or N 15643–542–12.

* * * * *

b. Section 207.37 is amended by adding a new paragraph (a)(1)(x), and by revising paragraph (a)(2)(iii) to read as follows:

§ 207.37 Inspection of registrations and drug listings.

(a) * * *

(1) * * *

(x) A list of drug products containing a particular active ingredient.

(2) * * *

(iii) A list of drugs containing a particular inactive ingredient.

* * * * *

Effective date. This regulation shall become effective on December 8, 1975, except that the effective date for revising current labeling to comply with § 207.35 (b)(3)(ii) regarding the use of the prefix "NDC" or "N" shall be November 7, 1977, or at the next revision of printing plates in the normal course of business, whichever occurs first.

(Secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055, 1057 as amended, 55 Stat. 851, 59 Stat. 463 as amended, 76 Stat. 794 as amended, 82 Stat. 343–351 (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262); Pub. L. 92-387 (86 Stat. 559–562))

Dated: October 31, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-29228 Filed 11-6-75;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

STERILE BLEOMYCIN SULFATE

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, as amended, with respect to approval of the antibiotic drug sterile bleomycin sulfate.

The Commissioner concludes that data supplied by the manufacturer concerning the subject antibiotic drug are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for the certification of this drug, effective November 7, 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 430, 431, 436, and 450 are amended to provide for certification of sterile bleomycin sulfate as follows:

PART 430—ANTIBIOTIC DRUGS: GENERAL

1. Part 430 is amended:

a. In § 430.4 by adding new paragraph (a)(41), as follows:

§ 430.4 Definitions of antibiotic substances.

(a) * * *

(41) *Bleomycin.* Each of the antibiotic substances produced by the growth of *Streptomyces verticillus* and each of the same substances produced by any other means is a kind of bleomycin.

b. In § 430.5 by adding new paragraphs (a)(57) and (b)(57), as follows:

§ 430.5 Definitions of master and working standards.

(a) * * *

(57) *Bleomycin.* The term "bleomycin master standard" means a specific lot of bleomycin designated by the Commissioner as the standard of comparison in determining the potency of the bleomycin working standard.

(b) * * *

(57) *Bleomycin.* The term "bleomycin working standard" means a specific lot of a homogeneous preparation of bleomycin.

c. In § 430.6 by adding new paragraph (a)(5), as follows:

§ 430.6 Definitions of the terms "unit" and "microgram" as applied to antibiotic substances.

(a) * * *

(5) *Bleomycin.* The term "unit" applied to bleomycin means the bleomycin activity (potency) contained in 0.637 milligram of the bleomycin master standard.

* * * * *

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

2. In Part 431 by amending § 431.53 (b)(1), by alphabetically inserting the three following items into the table:

§ 431.53 Fees.

* * * * *

(b) * * *

(1) * * *

Test:	*Chargeable fee per test*
* * * *	*
Bleomycin fractions	$1,725.00
Bleomycin potency	35.00
* * * *	*
Copper content	36.00
* * * *	*

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

3. Part 436 is amended:

a. In § 436.33(b) by alphabetically inserting a new item in the table, as follows:

§ 436.33 Safety test.

* * * * *

(b) * * *

Antibiotic drug	Diluent (diluent number as listed in sec. 436.31)	Test dose: Concentrations in units or milligrams of activity per milliliter	Test dose: Volume in milliliters to be administered to each mouse	Route of administration as described in par. (c) of this section
* * *	*	*	*	*
Bleomycin sulfate	4	5 units	0.5	Intravenous.
* * *	*	*	*	*

b. In § 436.35(c) by alphabetically inserting a new item in the table, as follows:

§ 436.35 Histamine test.

* * * * * * *

(c) * * *

Antibiotic	Diluent (diluent number as listed in sec. 436.31(b))	Concentration of test solution (milligrams of activity per milliliter)	Volume of test solution to be injected (milliliters per kilogram of body weight)
Bleomycin sulfate	4	[1]0.5	1.0
* * *	*	*	*

[1] The concentration of the test solution is expressed in units per milliliter in lieu of milligrams of activity per milliliter.

* * * * * * *

c. In § 436.101 by adding new paragraph (a) (16) to read as follows:

§ 436.101 Solutions.

(a) * * *

(16) *Solution 16 (0.1 M potassium phosphate buffer, pH 7.0).*

Dibasic potassium phosphate: 13.6 gm.
Monobasic potassium phosphate: 4.0 gm.
Distilled water, q.s.: 1,000.0 ml.

Adjust with 18 *N* phosphoric acid or 10 *N* potassium hydroxide to yield a pH 6.8 to 7.2 after sterilization.

* * * * *

d. In § 436.102 by adding paragraphs (b) (34), (35), and (36) to read as follows:

§ 436.102 Culture media.

* * * * *

(b) * * *

(34) *Medium 34.*

Glycerol: 10.0 gm.
Peptone: 10.0 gm.
Beef extract: 10.0 gm.
Sodium chloride: 3.0 gm.
Distilled water q.s.: 1,000.0 ml.
pH 7.0 after sterilization.

(35) *Medium 35.* Same as medium 34, except add 17.0 grams of agar to each liter of medium.

(36) *Medium 36.*

Pancreatic digest of casein	grams	15
Papaic digest of soybean	grams	5
Sodium chloride	grams	5
Agar	grams	15
Distilled water, q.s.	milliliters	1,000

pH 7.3 after sterilization.

e. In § 436.103 by alphabetically inserting a new item in the table in paragraph (a) and by adding paragraph (b) (8) to read as follows:

§ 436.103 Test organisms.

(a) * * *

Test organisms	Method used	Medium used for the—		Incubation period of Roux bottle	Suggested dilution factor	Suggested storage period of suspensions under refrigeration
		Slants	Roux bottles			
* * *	*	*	*	*	*	*
Test organism X—*Mycobacterium smegmatis* (ATCC 607).	8	36				2 weeks.

(b) * * *

(8) *Method 8.* Maintain organisms on agar slants containing 10 milliliters of the appropriate medium and transfer to a fresh slant about once a week. Incubate the slants at 37° C for 48 hours. Using 3 milliliters of sterile U.S.P. saline T.S., wash the growth from the agar slant into a 500-milliliter Erlenmeyer flask containing 100 milliliters of medium 34, as described in § 436.102(b) (34), and 50 grams of glass beads. Agitate the culture by rotation at a speed of 130 cycles per minute and a radius of 3.5 centimeters at 27° C for 5 days. Determine the amount of suspension to be added to each 100 milliliters of agar by the use of test plates. Store the test organism suspension under refrigeration.

f. In § 436.105 (a) and (b) by alphabetically inserting a new item in the respective tables, as follows:

§ 436.105 Microbiological agar diffusion assay.

* * * * * * *

(a) * * *

Antibiotic	Media to be used (as listed by medium number in sec. 436.102(b))		Milliliters of media to be used in the base and seed layers		Test organism	Suggested volume of standardized inoculum to be added to each 100 mls of seed agar	Incubation temperature for the plates (° C)
	Base layer	Seed layer	Base layer	Seed layer			
* * *	*	*	*	*	*	*	*
Bleomycin	35	35	10	6	X	1.0	32-35
* * *	*	*	*	*	*	*	*

(b) * * *

Antibiotic	Working standard stock solutions						Standard response line concentrations	
	Drying conditions (method number as listed in sec. 436.200)	Initial solvent	Diluent (solution number as listed in sec. 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration		Diluent	Final concentrations, units or micrograms of antibiotic activity per milliliter
* * *	*	*	*	*	*	*	*	*
Bleomycin	7		16	2 units	2 weeks		16	0.01, 0.02, 0.04, 0.08, 0.16 unit.
* * *	*	*	*	*	*	*	*	*

PART 450—ANTITUMOR ANTIBIOTIC DRUGS

4. In Part 450 by adding new §§ 450.10a and 450.210, to read as follows:

§ 450.10a Sterile bleomycin sulfate.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.* Sterile bleomycin sulfate is the amorphous sulfate salt of bleomycin. Bleomycin has been separated into several similar glyco-peptide molecules. It is a cream-colored powder that is so purified and dried that:

(i) Its potency is not less than 1.5 units and not more than 2.0 units of bleomycin per milligram. If it is packaged for dispensing, the content of the ampoule or vial is not less than 90 percent and not more than 120 percent of the number of units of bleomycin that it is represented to contain.

(ii) It is sterile.

(iii) It is nonpyrogenic.

(iv) It passes the safety test.

(v) It contains no histamine nor histamine-like substances.

(vi) Its loss on drying is not more than 6.0 percent.

(vii) Its pH in an aqueous solution containing 10 units per milliliter is not less than 4.5 and not more than 6.0.

(viii) Its copper content is not greater than 0.1 percent.

(ix) Its content of various bleomycins is as follows: Bleomycin A_2 is not less than 60 percent and not more than 70 percent; bleomycin B_2 is not less than 25 percent and not more than 32 percent; bleomycin B_1 is not more than 1 percent. Bleomycins A_2 and B_2 should comprise not less than 90 percent of the total bleomycins.

(x) It passes the identity test.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on the batch for potency, sterility, pyrogens, safety, histamine, loss on drying, pH, copper, content of various bleomycins, and identity.

(ii) Samples required:

(*a*) For all tests except sterility: A minimum of 20 immediate containers.

(*b*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay—*(1) *Potency.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 0.1*M* potassium phosphate buffer, pH 7.0 (solution 16), to provide a stock solution of convenient concentration; if it is packaged for dispensing, reconstitute as directed in the labeling. Then, using a suitable hypodermic needle and syringe, remove all of the withdrawable contents. Dilute the sample thus obtained with solution 16 to provide a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 16 to the reference concentration of 0.04 unit of activity per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except use the entire contents of each of the immediate containers tested.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 0.5 unit of bleomycin per milliliter.

(4) *Safety.* Proceed as directed in § 436.33 of this chapter.

(5) *Histamine.* Proceed as directed in § 436.35 of this chapter.

(6) *Loss on drying.* Proceed as directed in § 436.200(a) of this chapter, using the total contents of 2 or 3 vials.

(7) *pH.* Proceed as directed in § 436.202 of this chapter, using an aqueous solution containing 10 units per milliliter.

(8) *Copper content—*(i) *Reagents.* Dissolve 10 milligrams of zinc dibenzyldithiocarbamate in 100 milliliters of carbon tetrachloride.

(ii) *Preparation of standard copper solution.* Accurately weigh 1.965 grams of cupric sulfate pentahydrate and transfer to a 1-liter volumetric flask. Dissolve the material in 0.1*N* hydrochloric acid, dilute to volume with 0.1*N* hydrochloric acid and mix well. Transfer 3 milliliters of this stock solution to a 1-liter volumetric flask, dilute to volume with 0.1*N* hydrochloric acid, and mix well. This standard copper solution contains 0.0015 milligram of copper per milliliter. Transfer 10 milliliters of the standard copper solution to a 60-milliliter separatory funnel.

(iii) *Preparation of the sample.* Accurately weigh approximately 15 milligrams of sample into a 60-milliliter separatory funnel. Dissolve the sample in 10 milliliters of 0.1*N* hydrochloric acid.

(iv) *Procedure.* To the separatory funnels containing the sample solution and standard copper solution, add 10 milliliters of the zinc dibenzyldithiocarbamate solution and shake the funnels vigorously for 1 minute. Allow the phases to separate. Filter the carbon tetrachloride phase (lower phase) through 1 gram of anhydrous sodium sulfate to remove excess water. Using a suitable spectrophotometer equipped with 1-centimeter cells, and carbon tetrachloride as a blank, measure the absorbance of the standard copper solution and the sample solution at 435 nanometers. Calculate the percent copper as follows:

$$\text{Percent copper} = \frac{\text{Absorbance of sample solution} \times 1.5}{\text{Absorbance of standard copper solution} \times \text{Sample weight in milligrams}}$$

(9) *Content of various bleomycin fractions—*(i) *Apparatus and reagents—*(*a*) *Column.* Precision glass chromatographic column (1.5±0.0005 centimeters ID×45 centimeters long) equipped with two column end units.

(*b*) *Column end units.* Plastic cylinders (approximately 15 centimeters long), which must fit snugly in the glass chromatographic column. Each end unit contains a barrel and sleeve assembly, and a sealing piston at the end of which is a porous polyethylene disc. A viton O-ring between the barrel and the piston can be expanded to grip the unit in position. A teflon feed tube in the hole in the center of the barrel can be connected to the pump or other equipment. A Whatman Precision Chromatography column or equivalent is suitable.[1]

(*c*) *Extension tube.* Glass tube same dimensions as the column.

(*d*) *Gradient elution device.* Two vertically mounted 500-milliliter glass cylinders connected by means of a glass capillary (1 millimeter ID), which extends from the bottom of the first cylinder to the bottom of the second cylinder. The second cylinder is positioned on a magnetic stirrer and contains a stirring bar. A polyethylene capillary (2 milliliters ID) connects the bottom of the second cylinder to a peristaltic pump. A stock-cock valve between the two cylinders, and one between the second cylinder and the pump, control the solution flow.

(*e*) *Solution A.* 0.025 *M* ammonium formate.

(*f*) *Solution B.* 0.5 *M* ammonium formate.

(*g*) *Column support.* Transfer approximately 50 grams of carboxymethyl cellulose ion exchanger (Whatman CM 52* or equivalent) to a coarse-porosity fritted glass funnel, 600 milliliter, mounted on a 1,000-milliliter suction flask. Add approximately 325 milliliters of solution A and equilibrate for 10 to 15 minutes with occasional stirring. Draw off the solution with gentle suction. Repeat with the addition of 325 milliliters of solution A as above, as many times as necessary until the pH of the eluate is around 6.5.

(*h*) *Peristaltic pump with very little pulsing.*

(*i*) *Fraction collector.*

(*j*) *Ultraviolet spectrophotometer for recording absorbance versus time.*

(*k*) *Ultraviolet spectrophotometer.*

(ii) *Preparation of the chromatographic column.* Fit a column end unit into the bottom of the column and tighten in place. Place the extension tube on top of the column via a suitable connector, such as clamped rubber tubing, so as to make a smooth joint inside. Set the column in a vertical position. Add approximately 100 milliliters of solution A to the column support in the funnel, prepared as described in paragraph (b)(9)(i)(*g*) of this section, and stir to make a slurry. Pour the slurry into a beaker and then into the extension tube. Allow the effluent to run to waste through the lower end unit. Im-

[1] Available from: Whatman, 9 Bridewell Pl., Clifton, N.J. 07014.

* Available from: Whatman, 9 Bridewell Pl., Clifton, N.J. 07014.

mediately after the slurry has been added, insert a column end unit into the extension tube, tighten and connect it to the pump. Pump solution A from a flask containing several hundred milliliters of the solution through the extension tube and column at a flow rate of at least 150 milliliters per hour. Allow the column to pack until the bed height reaches a stable value. Shut off the flow from the bottom of the column by tap, or clamp, or valve. Stop the pump. Disconnect the feed tube from the pump. Release and withdraw the column end unit from the extension tube. Siphon off the solution in the extension tube and remove the extension tube from the column. The column should be overflowing with solution. Insert the column end unit into the top of the column being careful to exclude air. Carefully push the end unit down until it just touches the top of the bed allowing the displaced solution to escape via the top feed tube. Tighten the end unit in place on the column. Reconnect the feed tube of the top column end unit to the pump and open the flow from the bottom of the column. Pump solution A down through the column at approximately 150 milliliters per hour until the bed height reaches a stable value. Shut off the flow from the bottom of the column. Stop the pump. Disconnect the feed tube from the pump. Release and loosen the top column end unit. Push it down gently into the column until it firmly touches the top of the bed and tighten it. Reconnect the top column end unit to the pump and open the flow from the bottom of the column. Pump the solution through the column at a rate of 20 milliliters per hour for several hours. Add 535 milliliters of solution A to the cylinder of the gradient elution device to be connected to the pump. Stir the solution in this cylinder continuously. Add 500 milliliters of solution B to the other cylinder of the gradient elution device.

(iii) *Procedure.* Dissolve a sample containing approximately 15 units of bleomycin in 1 milliliter of solution A in a small conical centrifuge tube. Pump this sample solution to the top of the column. Wash the centrifuge tube three times with 1 milliliter of solution A and pump each wash to the top of the column. Do not pump air into the column. Connect the cylinder of the gradient elution device containing solution A to the pump. Maintain a flow rate of 20 milliliters per hour. Monitor the absorbance of the column effluent at 292 nanometers with a recording spectrophotometer. Collect seven 5-milliliter effluent fractions. Open the stop-cock between the two cylinders of the gradient elution device; then collect 170 5-milliliter effluent fractions from the column. By inspection of the monitored absorbances, identify the fraction numbers for each bleomycin peak by reference to the relative migration rates given in paragraph (b)(9)(iv) of this section. Measure the absorbance of each tube of the identified fractions at 292 nanometers with distilled water as a blank.

(iv) *Calculations.* Determine the migration rate (Rm) of each bleomycin fraction relative to the migration rate of the bleomycin A_2 as follows:

$$\text{Rm (Migration rate relative to bleomycin } A_2) = \frac{\text{Test tube number of each bleomycin fraction at its peak}}{\text{Test tube number of bleomycin } A_2 \text{ at its peak}}$$

The approximate Rm values of the bleomycin fractions are:

Fractions	Rm
Bleomycinic acid	0.16
Bleomycin A_3	0.48
Demethyl bleomycin A_2	0.52
Bleomycin B_1	0.58
Bleomycin A_2	1.00
Bleomycin A'_2	1.12
Bleomycin B_2	1.22
Bleomycin A_5	1.65
Bleomycin B_4	1.85

Add the absorbances of each tube of each bleomycin fraction to obtain the total absorbance of the particular bleomycin fraction. Add the absorbances of all the bleomycin fractions to obtain the grand total absorbance.

$$\text{Percent of a particular bleomycin fraction in the bleomycin sample} = \frac{\text{(Total absorbance of all tubes of a particular fraction } \times 100)}{\text{(Grand total of absorbances of all bleomycin fractions)}}$$

(10) *Identity test.* Proceed as directed in § 436.211 of this chapter, using the method described in paragraph (b)(1) of that section, using a 1 percent mixture.

§ 450.210 Sterile bleomycin sulfate.

The requirements for certification and the tests and methods of assay for sterile bleomycin sulfate packaged for dispensing are described in § 450.10a.

Since the conditions prerequisite to providing for certification of the subject antibiotic drug have been complied with, and since the matter is noncontroversial in nature, notice and public procedures and delayed effective date are not prerequisites to this promulgation.

Effective date. This regulation shall be effective on November 7, 1975.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

Dated: October 31, 1975.

MARY A. MCENIRY,
Assistant to the Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.75-29849 Filed 11-6-75;8:45 am]

[FRL 453-7; FAP5H5098/T6]

PART 561—TOLERANCES FOR PESTICIDES IN ANIMAL FEED ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Thiabendazole

On August 1, 1975, notice was given (40 FR 32377) that Merck & Co., Inc., Rahway, NJ 07065, had filed a pesticide petition (FAP 5H5098) with the Environmental Protection Agency (EPA). This petition proposed that 21 CFR 123 & 561 be amended to permit the postharvest use of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) on sugar beets with tolerance limitations of 0.5 part per million (ppm) in sugar beet sugar, 50 ppm in dry sugar beet pulp, and 40 ppm in sugar beet molasses, in a proposed experimental use program in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The tolerance limitations are being established and the experimental use permit is being issued to:

1. Evaluate the control of fungal organisms in piled sugar beet storage

2. Obtain data on residue concentration in sugar beet pulp and molasses from postharvest treatment of sugar beets with thiabendazole

3. Permit the marketing of dry sugar beet pulp and molasses produced from sugar beets which have received postharvest treatment with thiabendazole.

Merck & Co. subsequently amended the petition by withdrawing the request for a food additive tolerance in sugar beet sugar.

The scientific data reported have been evaluated. Residues of the fungicide will result in dry sugar beet pulp and sugar beet molasses from the uses as provided for by the experimental use permit issued under FIFRA, and therefore tolerance limitations are being established to coincide with this experimental use to protect the public health.

Any person adversely affected by this regulation may, on or before December 8, 1975, file written objections with the Hearing Clerk, Environmental Protection Agency, Room 1019, East Tower, 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and should specify both the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective November 7, 1975. Part 561, § 561.380, is amended to read as follows:

(Sec. 409(c)(1) and (4) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346(c)(1) and (4)) transferred to the Administrator EPA in Reorganization Plan No. 3 (35 FR 15623))

Dated: November 4, 1975.

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

Part 561 is amended by adding the tolerance limitations "50 parts per million . . ." and "40 parts per million . . ." as follows:

§ 561.380 Thiabendazole.

* * * * *

50 parts per million in dry sugar beet pulp resulting from postharvest application of the fungicide to sugar beets. Such residues may be present therein only as a result of application of the fungicide in an experimental use program which expires November 4, 1976. Residues not in excess of this tolerance limitation remaining after expiration of this experimental use program will not be considered actionable if the fungicide is legally applied during the term and in accordance with the provisions of the experimental use permit/feed additive tolerance limitation.

40 parts per million in sugar beet molasses resulting from postharvest application of the fungicide to sugar beets. Such residues may be present therein only as a result of application of the fungicide in an experimental use program which expires November 4, 1976. Residues not in excess of this tolerance limitation remaining after expiration of this experimental use program will not be considered actionable if the fungicide is legally applied during the term and in accordance with the provisions of the experimental use permit/feed additive tolerance limitation.

[FR Doc.75-30068 Filed 11-6-75;8:45 am]

SUBCHAPTER J—RADIOLOGICAL HEALTH

[Docket No. 75N-0043]

PART 1030—PERFORMANCE STANDARDS FOR MICROWAVE AND RADIOFREQUENCY EMITTING PRODUCTS

Microwave Ovens

The Commissioner of Food and Drugs is amending the performance standard in § 1030.10 (21 CFR 1030.10) for microwave ovens to indicate clearly that concealed interlocks must meet the commonly accepted definition of concealment, i.e., being hidden from view and undisclosed. The amendment allows microwave ovens to have, as an alternative to a concealed interlock, an interlock that cannot be actuated when access to it is possible. Also, the requirement that prohibits insertion of objects into the oven, which can cause excess radiation emission, is being changed to better define the term "object" and to cover parts of microwave oven interiors other than the cavity. The amendment also corrects a minor technical inconsistency in the requirements for magnetically operated interlocks. The amendment applies to all microwave ovens manufactured on or after November 7, 1976.

A proposed rule published in the FEDERAL REGISTER of June 26, 1975 (40 FR 27038), provided that interested persons had until August 25, 1975 to file written comments with the Hearing Clerk, Food and Drug Administration, regarding the proposal. Two comment letters were received in response to the proposal. One comment, from a manufacturer of microwave ovens, indicated no objection to the proposed amendment.

The second comment, from a manufacturers' association, reaffirmed the views of the association as presented at a public meeting held on December 10, 1974. At that meeting, the association's representative opposed the proposed amendment. Furthermore, the comment stated that in proposed § 1030.10(c)(2)(iv) a new phrase, "* * * or other microwave energy containing spaces * * *", had been added, and that this phrase was not understood by the industry and must be explained.

The Commissioner has determined that there was no documented information brought forth at the December 10, 1974 public meeting to change the decision to proceed with amendment of the standard. Regarding the phrase, "* * * or other microwave energy containing spaces * * *", it should be noted that this phrase was included in the draft amendment made public prior to the December 10, 1974 meeting and included in background material made available to meeting participants. The phrase is intended to extend the prohibition against insertion of objects to all interior oven spaces that are designed to contain microwave energy or can reasonably be expected to contain microwave energy. The present § 1030.10(c)(2)(iv) refers only to the microwave oven cavity and therefore does not take into account the possibility that insertion of objects into other microwave - energy - containing spaces may result in excessive emission.

In the proposed § 1030.10(c)(2)(i), the dimensions of the armature, used to determine test magnet strength, were inadvertently given as 60 millimeters by 50 millimeters by 8 millimeters. The dimensions in the present standard are 80 millimeters by 50 millimeters by 8 millimeters. The change from the present standard was unintentional and has been corrected in the regulation.

The Commissioner concludes that promulgation of this amendment to the performance standard for microwave ovens will not significantly affect the quality of the human environment and, therefore, that no environmental impact statement is necessary pursuant to 21 CFR Part 6 and 40 CFR Part 1500. The environmental impact analysis report and environmental assessment, along with other pertinent background data and information supporting the Commissioner's conclusions about this amendment are available for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

The regulation has been reviewed and no major inflation impact has been found, as defined in Executive Order 11821, OMB Circular A-107, and guidelines issued April 1, 1975, by the Department of Health, Education, and Welfare.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f)) and under authority delegated to him (21 CFR 2.120), Part 1030 is amended in § 1030.10 by revising paragraph (c)(2)(i) and (iv), to read as follows:

§ 1030.10 Microwave ovens.

* * * * *

(c) * * *

(2) *Safety interlocks.* (i) Microwave ovens shall have a minimum of two operative safety interlocks. At least one operative safety interlock on a fully assembled microwave oven shall not be operable by any part of the human body, or any object with a straight insertable length of 10 centimeters. Such interlock must also be concealed, unless its actuation is prevented when access to the interlock is possible. Any visible actuator or device to prevent actuation of this safety interlock must not be removable without disassembly of the oven or its door. A magnetically operated interlock is considered to be concealed, or its actuation is considered to be prevented, only if a test magnet held in place on the oven by gravity or its own attraction cannot operate the safety interlock. The test magnet shall be capable of lifting vertically at zero air gap at least 4.5 kilograms, and at 1 centimeter air gap at least 450 grams when the face of the magnet, which is toward the interlock when the magnet is in the test position, is pulling against one of the large faces of a mild steel armature having dimensions of 80 millimeters by 50 millimeters by 8 millimeters.

* * * * *

(iv) Microwave radiation emission in excess of the limits specified in paragraph (c)(1) of this section shall not be caused by insertion of an insulated wire through any opening in the external surfaces of a fully assembled oven into the cavity, waveguide, or other microwave-energy-containing spaces while the door is closed, provided the wire, when inserted, could consist of two straight segments forming an obtuse angle of not less than 170 degrees.

* * * * *

Effective date. This regulation shall become effective on November 7, 1976.

(Sec. 358, 82 Stat. 1177-1179 (42 U.S.C. 263f))

Dated: October 31, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-29927 Filed 11-6-75;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 627-75]

PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Protection of Privacy of Individuals Records

Correction

In FR Doc. 75-28905, appearing at page 50642 in the issue for Thursday, October 30, 1975, "or his delegate." should be added to the end of the second full sentence in § 16.48(b), appearing on page 50644.

Title 29—Labor

CHAPTER XXV—EMPLOYEE BENEFITS SECURITY, OFFICE OF DEPARTMENT OF LABOR

SUBCHAPTER B—DEFINITIONS AND COVERAGE UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2510—DEFINITIONS OF TERMS USED IN SUBCHAPTERS C, D, E, F, AND G OF THIS CHAPTER

Guidance To Determine Coverage

● **Purpose: The purpose of these amendments to chapter XXV of the Department of Labor regulations is to provide guidance to determine coverage under the Employee Retirement Income Security Act of 1974 (hereinafter "the Act").** ●

On December 4, 1974, notice was published in the FEDERAL REGISTER (39 FR 42234) of proposed regulations concerning the definition of the term "multiemployer plan" under section 3(37) of the Act.

On May 12, 1975, a final rule (40 FR 20629) and proposed rule (40 FR 20653) redesignating both final and proposed subchapters, parts and sections were published in the FEDERAL REGISTER. Under this redesignation system, the section numbers of proposed and adopted regulations promulgated under Chapter XXV are based on the section numbers of the Act to which each regulation relates. The December 4 proposed regulations have been redesignated in accordance with this system.

The regulations contained in this document are both temporary regulations effective immediately and proposed regulations for final adoption. The primary reason for making these regulations effective immediately on a temporary basis is that plans not in existence on January 1, 1974 must meet the requirements of the Act for plan years beginning after September 2, 1974. For many plans the first plan year beginning after September 2, 1974 will be a plan year beginning on September 1, 1975, as a result of procedures set forth by the Internal Revenue Service in Revenue Procedures 74–38, 74–39, and 74–40 issued September 10 and 11, 1974. These procedures classified plans as "pre-existing plan" (adopted and put into effect by an employer on or before January 1, 1974), "new plan subject to prior law" (adopted and put into effect by an employer after January 1, 1974, whose first plan year begins on or before September 2, 1974, whether or not it is adopted and put into effect by an employer before September 2, 1974), and "new plan subject to new law" (adopted and put into effect by an employer after January 1, 1974, whose first plan year begins after September 2, 1974). The effect of these procedures was to permit plans adopted after January 1, 1974 to meet the requirements of prior law rather than the requirements of the Act by making the plan year begin on or before September 2, 1974. Many of these plans will now have plan years beginning September 1, 1975, during which they will be required to meet the standards of the Act. In addition, preexisting plans must meet the requirements of the Act for plan years beginning after December 31, 1975. The regulations in Part 2530 will allow these plans to make the necessary adjustments. Any changes or modifications contained in "final" regulations will be prospective only.

For the foregoing reasons, the undersigned finds that good cause exists for making these regulations temporarily effective without advance publication as specified in the Administrative Procedure Act (5 U.S.C. 553(d)(3)).

These regulations are also proposed for final adoption as soon as possible. Interested persons are invited to submit written data, views, or arguments concerning any or all of the proposed regulations contained in this document on or before December 3, 1975. Such data, views and comments should be submitted to the Office of Employee Benefits Security DEVD–ME, Labor Management Services Administration, U.S. Department of Labor, Washington, D.C. 20216. All comments should be clearly referenced to the numbers of the sections to which the comments are directed.

The regulation provides that all multiemployer plans must meet the tests set forth in section 3(37)(a)(i)–(iv), and in addition a plan not in existence prior to the effective date of the Act must meet the test that it was established for a substantial business purpose. With one exception, all changes in this regulation from the December 4 proposal are editorial in nature and made in the interest of clarity.

The exception, contained in subsection (b), is a newly added set of rules for determining whether a plan was in existence prior to the effective date of the Act. These rules are consistent with those contained in § 1.411(a)–2(c) of the proposed regulations of of the Internal Revenue Service concerning vesting (26 CFR 1.411(a)–2(c). Comments are specifically solicited on these new provisions.

(Sec. 505, Pub. L. 93–406, 88 Stat. 894, 29 U.S.C. 1135; Secretary of Labor's Order No. 27–74, and Labor Management Services Administration Order No. 2–6.)

Accordingly, Chapter XXV of Title 29 of the Code of Federal Regulations is amended by adding a new § 2510.3–37.

§ 2510.3–37 Multiemployer plan.

(a) *General.* Section 3(37) of the Act contains in subparagraph (a)(i)–(iv) a number of criteria which an employee benefit plan must meet in order to be a multiemployer plan under the Act. Section 3(37) also provides that the Secretary may prescribe by regulation other requirements in addition to those contained in subparagraph (a)(i)–(iv). The purpose of this regulation is to establish such requirements.

(b) *Plans in existence before the effective date.* (1) A plan in existence before September 2, 1974, will be considered a multiemployer plan if it satisfies the requirements of section 3(37)(A)(i)–(iv) of the Act.

(2) For purposes of this section, a plan is considered to be in existence if:

(i) (A) The plan was reduced to writing and adopted by the participating employers and the employee organization (including, in the case of a corporate employer, formal approval by an employer's board of directors or shareholders, if required), even though no amounts had been contributed under the plan, and

(B) The plan has not been terminated; or

(ii) (A) There was a legally enforceable agreement to establish such a plan signed by the employers and the employee organization, and

(B) The contributions to be made to the plan were set forth in the agreement.

(iii) If a plan was in existence within the meaning of paragraph (b)(i) or (ii) of this section, any other plan with which such existing plan is merged or consolidated shall also be considered to be in existence.

(c) *Plans not in existence before the effective date.* In addition to the provisions of section 3(37)(A)(i)–(iv) of the Act, a multiemployer plan established on or after September 2, 1974, must meet the requirement that it was established for a substantial business purpose. A substantial business purpose includes the interest of a labor organization in securing an employee benefit plan for its members. The following factors are relevant in determining whether a substantial business purpose existed for the establishment of a plan; any single factor may be sufficient to constitute a substantial business purpose:

(1) The extent to which the plan is maintained by a substantial number of unaffiliated contributing employers and covers a substantial portion of the trade, craft or industry in terms of employees or a substantial number of the employees in the trade, craft or industry in a locality or geographic area;

(2) The extent to which the plan provides benefits more closely related to years of service within the trade, craft or industry rather than with an employer, reflecting the fact that an employee's relationship with an employer maintaining the plan is generally short-term although service in the trade, craft or industry is generally long-term;

(3) The extent to which collective bargaining takes place on matters other than employee benefit plans between the employee organization and the employers maintaining the plan; and

(4) The extent to which the administrative burden and expense of providing benefits through single employer plans would be greater than through a multiemployer plan.

Issued in Washington, D.C. this 4th day of November 1975.

JAMES D. HUTCHINSON,
Administrator for Pension and Welfare Benefit Programs.

[FR Doc.75–30082 Filed 11–6–75;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 411-8]

PART 79—REGISTRATION OF FUELS AND FUEL ADDITIVES

Requirements

On March 7, 1974, the Environmental Protection Agency published a notice of proposed rulemaking in the FEDERAL REGISTER (39 FR 8929) setting forth proposed regulations for the registration of fuels and fuel additives. Pursuant to this notice, many written comments were received during an extended public comment period. The proposed registration requirements have been reviewed in the light of these comments, and numerous changes have been made. The Agency's responses to the issues raised in the comments are set forth below.

Definition of fuels and designation of engine oils for registration. Industry trade associations and other interested persons have asserted that the definition of fuels contained in the regulations is impermissibly broad. They contend that section 211 of the Clean Air Act, as amended, authorizes registration of fuels for use in motor vehicles only and that the definition of fuel must be confined to substances or materials intended for use as a source of propulsion for motor vehicles. They object, therefore, to the designation of additives used in motor vehicle engine oils as subject to registration.

First, neither the language nor the legislative history of section 211 supports limiting the registration authority of section 211(a) to motor vehicle fuels and additives. While only motor vehicle fuels are subject to regulation under section 211(c), the Administrator's authority to require registration of "any fuel or fuel additive" was established in the Clean Air Act of 1967 and retained in the 1970 Amendments. EPA has designated only motor vehicle fuels for registration at this time, but this choice is dictated by research priorities and not by a lack of authority to regulate other types of fuels.

Section 79.2(c) of the registration regulations contains the definition of "fuel" as promulgated in the original fuel registration regulations issued in 1970. The word "fuel" is defined as "any material which is capable of releasing energy or power by combustion or other chemical or physical reaction." EPA believes that this broad definition of fuel reflects the intent of Congress in providing for the registration of fuels and fuel additives to grant authority encompassing all materials which might affect the emission products of combustion and thus the public health and welfare.

The function of motor vehicle engine oils is to lubricate the cylinder walls and the intake and exhaust valves of both standard piston and rotary engines. Although these oils are not introduced into the combustion chamber for the purpose of providing power for the engine, a portion of the oil is in fact combusted in the normal operation of the engine. This quantity increases in older, partially worn engines.

Most of the parties commenting on the regulations conceded that engine oils are combusted in the normal operation of both standard piston and rotary engines. They argued, however, that the quantities of engine oil consumed in the piston engine are not great enough to have a significant impact on emissions or emission control devices. While a relatively large volume of engine oil is deliberately introduced into the fuel and combustion process of the rotary engine, some persons commenting asserted that EPA should wait until larger numbers of rotary engines appear on the market.

The total quantity of engine oils consumed in vehicles is, of course, less than that of gasoline. However, the concentrations of additives containing various elements, especially metals, whose emission products are of concern to EPA are much higher in engine oils than in gasoline. Engine oils contain large quantities of additives, averaging 15 percent of total product volume and ranging as high as 40 percent. Gasoline additives, by contrast, average only 0.1 percent of total product volume. Considering both the consumption rates and the average additive content of engine oils and gasoline, the combustion and emission products of engine oil additives are, on the average, somewhat lower than that of gasoline additives; but they are of the same order of magnitude and are readily detectable in the exhaust.

There is ample evidence in the literature that lubricant composition and additive materials influence exhaust composition. Some investigators have found that lubricant consumption greatly increased emission of polynuclear aromatic hydrocarbons.[1] [2] Another researcher found zinc and barium in exhaust particles due to lubricant trace metals.[3] High lubricant consumption in rotary engines has also been a matter of considerable concern. A current EPA-funded program seeks to determine the impact on diesel exhaust products of the current commercial practice of adding used motor oil to diesel fuel.[4] EPA must monitor the composition of engine oil additives to guard against the introduction into engine oil of additives which could result in exhaust products damaging to emission control devices, as well as to insure that potentially toxic (as, for example, carcinogenic) products in significant levels do not enter the ambient air, particularly in regions of high traffic density.

Finally, many of the comments suggest that EPA should not require registration of particular fuels or additives such as engine oil additives unless EPA has reason to believe that their emission products impair the effectiveness of emission control devices or endanger public health or welfare. These comments misconceive the purpose of the registration requirements. The principal purpose of section 211(a) is to provide the Agency with information on fuel or additive composition before the emission products of such materials develop into a problem possibly requiring regulation under section 211(c). Thus, the fact that the rotary engine, for example, is not yet in widespread use has little bearing on whether to require registration of additives for engine oils. The regulations being promulgated, therefore, retain the requirement of registration of additives for motor vehicle engine oil. An effort has been made, however, to reduce the reporting burden imposed by the regulations where possible.

Testing to determine the effect of fuels or fuel additives on emission control systems or the public welfare. Section 79.6(b) of the proposed regulations states that the Administrator may require a fuel manufacturer or an additive manufacturer to conduct tests in accordance with protocols based on generally accepted test methods and procedures in order to determine the fuel's or additive's effects on emissions, emission control performances of motor vehicles, or the extent to which such emissions affect welfare. Several persons commented that this provision is unauthorized because section 211(b)(2)(A) authorizes requiring tests "to determine potential public health effects" of a fuel or additive and does not refer to requiring tests to ascertain the effects on emissions, emission control systems, or public welfare.

EPA believes that requiring the latter tests is amply supported by section 211(b)(2)(B) which requires a registrant to furnish "such other information as is reasonable and necessary to determine the emissions resulting from the use of the fuel or additive contained in such fuel, the effect of such fuel or additive on the emission control performance of any vehicle or engine, or the extent to which such emissions affect the public health or welfare." It is clear from the legislative history of section 211 that the authority of section 211(b)(2)(B) is not limited to obtaining information already developed by the registrant but extends to information that could readily be developed by test methods and procedures having general acceptance in the scientific community.

The specific authority of section 211(b)(2)(A) to require tests to determine "potential public health effects . . . (including, but not limited to, carcinogenic, teratogenic, or mutagenic effects) . . ." is directed at an area of more esoteric information where test procedures and research parameters are not well established or generally accepted. Consequently, testing requirements in the field of potential public health effects may not be imposed until such time as the Administrator has prescribed specific protocols and procedures for conducting the research. These protocols and procedures will be proposed for public com-

[1] Begeman, C. R. and J. M. Colucci, SAE Trans., 79, 1682 (1970).

[2] Gross, G., Final Report on CRC-APRAC Project CAPE-6-68, Oct. 31, 1973.

[3] Ninomiya, J. S., W. Bergman, and B. H. Simpson, Paper No. EN-106, presented at the Second International Clean Air Congress, Washington, D.C., Dec. 6-11, 1970.

[4] EPA grant 802425-01-02, Pennsylvania State University, May 1974.

ment. Requests to registrants for information to be developed by generally accepted test methods will not be subject to notice and comment procedures.

Fuel "processors". Several commentators asserted that a fuel "processor" may not be required to perform tests because the word "processor" appears only in section 211(a), which prohibits any fuel or additive manufacturer or processor from selling unregistered fuels or additives, but is omitted from section 211(b)(2), which authorizes the Administrator to require tests.

By enacting section 211 (a) and (b), Congress intended to establish authority for the Administrator to obtain information on health and welfare effects and effects on emission control devices of fuels and additives from the firms and individuals who introduce such fuels and additives into the marketplace. The combining of additives and/or fuels holds the potential of creating previously unidentified combustion by-products, and those who engage in this activity must be viewed in the same light as those who produce the substances which are combined. That the Congress chose to apply the broadest possible scope to its prohibition against marketing unregistered fuels or additives does not, in the Agency's view, suggest that the Administrator was to be barred from obtaining necessary information from those who in fact produce new fuels or additives by combining other fuels or additives. Broad applicability of the registration regulations is essential to assure that EPA receives complete information on the composition of designated fuels and additives from those who sell or introduce such products into commerce.

The Act does not define either "manufacturer" or "processor" as used in section 211, and nothing in the legislative history suggests that Congress intended to distinguish between manufacturers and processors for the purpose of reporting or testing requirements under the registration program. Indeed, there is no indication that the terms "manufacturer" and "processor" were meant to denote separate classes of producers. EPA has considered the term "manufacturer" to include "processor," and the existing registration regulations reflect that view. We find no legal or policy considerations compelling a departure from this interpretation in the revised regulations. To eliminate any further confusion of terminology, EPA has deleted the term "processor" from the definition of fuel manufacturer.

Registration of packaged additives. A group of persons commenting has recommended that packaged additives sold to consumers for addition to fuels be exempted from reporting and registration. Although the usage of packaged additives is limited, EPA has an obligation to be aware of the composition of every additive being used in motor vehicles in order to take appropriate action if an ingredient harmful to health, welfare, or an emission control device is included. This can only be assured by requiring the registration of all packaged additives. The reporting burden for manufacturers of packaged additives should be reduced in some cases by the more limited classes of information required from additive manufacturers who use only registered components with or without substances containing only hydrogen and carbon.

EPA has also consulted with representatives of the Consumer Product Safety Commission and was advised that regulation of packaged additives under the Federal Hazardous Substances Act does not require submission to that Agency of the information required under EPA's registration program.

Test fuels or additives; spot purchases from foreign sources. The Agency concurs with the recommendation of a number of persons commenting to exempt fuels and additives in test or developmental status from registration, and provisions exempting such fuels and additives not offered for sale to the public have been added. Also, an exemption for factory fill fuel has been included. The possibility of spot purchases of fuels of foreign manufacture to ease shortages is recognized, and a provision for simplified reporting of such purchases has been added. From time to time, a fuel manufacturer or processor may find himself in a special or unusual situation where he needs to use a registered additive which he has not previously reported. A provision for the use under such circumstances of any additive on the list of registered additives has been included.

Information required for registering fuels and additives. Many fuel or additive producers commented that the registration requirements impose an excessive burden. This objection is based in part on a misunderstanding of the regulations. In other cases, EPA has modified the requirements to avoid duplicative reporting of information where possible and to eliminate information requirements where the utility of the data is marginal at this time.

Some parties overlooked the fact that all information specified in Subpart D was to be furnished only to the extent such information is already known to the manufacturer, as was stated in §§ 79.11(f) and 79.21(e). The regulations being promulgated have been modified to clarify this point. The phrase "to the extent known to the manufacturer" has been shifted to the specific listings of desired information in Subpart D. In addition, the intent of this phrase has been clarified by explaining that (1) specified data are to be furnished only if known to the manufacturer "as a result of testing conducted for reasons other than fuel or additive registration or reporting" and (2) specified information is considered to be "known" only when "a report thereon has been prepared and circulated or distributed outside the research department or division."

Since a number of persons misinterpreted the request for information regarding any analytical technique that can be used to detect the presence of an additive in a fuel and to measure its concentration as a requirement to develop such a technique, it has been reworded to state that the manufacturer shall submit a suitable technique only if one is already known to him. It has also been pointed out that in some cases an additive manufacturer cannot be sure of the final chemical reaction products in his additive. Such a manufacturer may furnish the chemical composition "to the extent known," provided he also furnishes a description of the manufacturing process resulting in the final reaction products of the additive.

Several changes affecting the requirements and procedures for the registration of fuel additives have been made. New developments in additives containing carbon, hydrogen, and oxygen make it technically impossible to justify their exemption from registration in spite of recommendations to this effect. Some compounds having only carbon, hydrogen, and oxygen are known to have toxic or carcinogenic properties. B-propriolactane is a widely known carcinogen; some epoxides are also known to have toxic effects. Unsaturated carbonyl compounds which may be generated as partial combustion products are highly toxic and may also have carcinogenic activity. Thus, it is important to monitor the composition of fuel additives which contain only carbon, hydrogen, and oxygen. The additive definition has, however, been changed to exclude substances containing only carbon and/or hydrogen to avoid any uncertainty concerning the status of refinery blending streams. Refinery process chemicals are also excluded from the registration requirements.

In operations under the current regulations, additive manufacturers have understood that they are not required to furnish information about purchased components, provided such information can be obtained from the component manufacturer upon request; and a provision covering this has been inserted in these regulations. Another new provision will permit an additive manufacturer to register only the individual components of mixtures of additives that he markets only to fuel manufacturers rather than each of the mixtures, provided he will identify the components in any particular mixture upon request.

In addition, an additive manufacturer who sells under his own name a registered additive purchased from another manufacturer or a blend of such registered additive with other such registered additives and/or substances containing only carbon and/or hydrogen will be required to register his additive(s) but will not be required to furnish annual reports thereafter. This change is intended to limit potential duplicative reporting of information.

To ease the reporting burden on manufacturers of motor vehicle engine oil additives, those manufacturers are exempted from the requirement to furnish the chemical compounds in each additive to be registered and will be required to give a breakdown by chemical element only. Information on the chemical elements contained in such additives is considered sufficient for the program at this time.

Certain changes in fuel manufacturer reporting requirements have been made. The provision for reporting geographic variation in additive usage has been eliminated because of the difficulty and/or impossibility of obtaining meaningful and useful data. The only data to be required on a quarterly basis will be on additive usage, as is being provided under the current regulations, and fuel production. In addition, quarterly reports will be for calendar quarters. Other data as listed in Subpart D are to be furnished on an annual basis.

The types of gasoline being designated have been reduced to three: (1) Unleaded; (2) leaded, premium; and (3) leaded, nonpremium. The Agency feels that at the present time there is sufficient leaded premium gasoline on the market to warrant its classification but will consider elimination of this classification when the amount of leaded, premium gasoline sold is substantially reduced. The designated grades of motor vehicle diesel fuels have been reduced to two: (1) grade 1-D and (2) grade 2-D.

As requested by a number of persons commenting, time limits in which EPA will take specified actions to register fuels or additives have been set forth.

Procedural issues; confidentiality of information. Several persons requested that EPA hold a hearing on the record with the right of cross examination by interested members of the public. It is well established that a formal hearing is not required unless the statute calls for rulemaking on the record after opportunity for an agency hearing. To adopt the requirements of formal procedural rulemaking would be contrary to congressional intent and would serve only to delay the issuance of the regulations. In addition, neither the Administrative Procedure Act nor section 211 of the Clean Air Act requires that any public hearing, formal or informal, be held in addition to the opportunity to submit written comments on the proposed amendments to the fuel registration regulations. While the Agency recognizes that oral presentations may be beneficial in particular cases where a hearing is not required by law, the parties requesting a hearing have made no showing that the issues involved in the fuel registration program compel a departure from the procedures for informal rulemaking calling for written submissions only.

There is similarly no legal requirement that an environmental impact statement be prepared on the proposed amendments. See Amoco Oil v. EPA, 501 F.2d 722, 749-50 (D.C. Cir. 1974). Moreover, the Agency's published statement of policy that such statements will be prepared voluntarily in connection with specified rulemaking activities is applicable (a) to regulations proposed after October 15, 1974, and (b) to major regulatory actions involving establishment of substantive standards or criteria (39 FR 16186). The proposed amendments to the fuel registration program at issue in this rulemaking are excluded from the policy statement on both grounds.

Concern has been expressed that the provisions of EPA's regulations on Public Information (40 CFR Part 2) referenced in § 79.3 of the proposed registration regulations may not afford notice to a registrant that a request has been made for release of information considered by the registrant to be a trade secret. The preliminary determination as to potential exemption from disclosure on grounds of trade secrecy is made in this case by the Office of Fuel and Fuel Additive Registration. If the information "may be exempt" from disclosure, the matter is referred to the EPA Office of General Counsel, and the registrant is notified. It has been the policy of the Office of Fuel and Fuel Additive Registration to regard all information designated by the registrant as trade secret as potentially exempt. Thus, the registrant would be notified of any request for data that would call the trade secret status of such information into question.

The regulations promulgated below shall be effective on November 7, 1975. (Sections 211 and 301(a) of the Clean Air Act, 42 U.S.C. 1857f-6c and 1857g).

Dated: October 31, 1975.

JOHN QUARLES,
Acting Administrator.

Part 79, Chapter I of Title 40 of the Code of Federal Regulations, is revised to read as follows:

Subpart A—General Provisions

Sec.
79.1 Applicability.
79.2 Definitions.
79.3 Confidentiality of information.
79.4 Requirement of registration.
79.5 Periodic reporting requirements.
79.6 Requirement for testing.
79.7 Samples for test purposes.
79.8 Penalties.

Subpart B—Fuel Registration Procedures

79.10 Notification by fuel manufacturer.
79.11 Information and assurances to be provided by the fuel manufacturer.
79.12 Determination of noncompliance.
79.13 Registration.
79.14 Termination of registration of fuels.

Subpart C—Additive Registration Procedures

79.20 Notification by additive manufacturer.
79.21 Information and assurances to be provided by the additive manufacturer.
79.22 Determination of noncompliance.
79.23 Registration.
79.24 Termination of registration of additives.

Subpart D—Designation of Fuels and Additives

79.30 Scope.
79.31 Additives.
79.32 Motor vehicle gasoline.
79.33 Motor vehicle diesel fuel.

AUTHORITY: Secs. 211 and 301(a) of the Clean Air Act, 42 U.S.C. 1857f-6c and 1857g.

Subpart A—General Provisions

§ 79.1 Applicability.

The regulations of this part apply to the registration of fuels and fuel additives designated by the Administrator, pursuant to section 211 of the Clean Air Act (42 U.S.C. 1857f-6c, asamended by section 9, Pub. L. 91-604).

§ 79.2 Definitions.

As used in this part, all terms not defined herein shall have the meaning given them in the Act:.

(a) "Act" means the Clean Air Act (42 U.S.C. 1857 et seq., as amended by Pub. L. 91-604).

(b) "Administrator" means the Administrator of the Environmental Protection Agency.

(c) "Fuel" means any material which is capable of releasing energy or power by combustion or other chemical or physical reaction.

(d) "Fuel manufacturer" means any person who, for sale or introduction into commerce, produces or manufactures a fuel or causes or directs the alteration of the chemical composition of, or the mixture of chemical compounds in, a bulk fuel by adding to it an additive.

(e) "Additive" means any substance, other than one composed solely of carbon and/or hydrogen, that is intentionally added to a fuel named in the designation (including any added to a motor vehicle's fuel system) and that is not intentionally removed prior to sale or use.

(f) "Additive manufacturer" means any person who produces or manufactures an additive for use as an additive and/or sells an additive under his own name.

(g) "Range of concentration" means the highest concentration, the lowest concentration, and the average concentration of an additive in a fuel.

(h) "Chemical composition" means the name and percentage by weight of each compound in an additive and the name and percentage by weight of each element in an additive.

(i) "Chemical structure" means the molecular structure of a compound in an additive.

(j) "Impurity" means any chemical element present in an additive that is not included in the chemical formula or identified in the breakdown by element in the chemical composition of such additive.

§ 79.3 Confidentiality of information.

Information obtained by the Administrator or his representatives pursuant to this part shall be treated, insofar as its confidentiality is concerned, in accordance with regulations in 40 CFR Part 2. Results of tests required under § 79.6(a) to determine potential public health effects of fuels or additives shall in no case be considered confidential.

§ 79.4 Requirement of registration.

(a) Fuels. (1) No manufacturer of any fuel designated under this part shall, after the date prescribed for such fuel in this part, sell, offer for sale, or introduce into commerce such fuel unless the Administrator has registered such fuel.

(2) No manufacturer of a registered fuel shall add or direct the addition to

it of an additive which he has not previously reported unless he has notified the Administrator of such intended use, including the expected or estimated range of concentration. If necessary to meet an unforeseen production problem, however, a fuel manufacturer may use an additive that he has not previously reported provided that (i) the additive is on the current list of registered additives and (ii) the fuel manufacturer notifies the Administrator within 30 days regarding such unforeseen use and his plans regarding continued use, including the expected or estimated range of concentration.

(3) Any designated fuel that is (i) in a research, development, or test status; (ii) sold to automobile, engine, or component manufacturers for research, development, or test purposes; or (iii) sold to automobile manufacturers for factory fill, and is not in any case offered for commercial sale to the public, shall be exempt from registration.

(4) A domestic fuel manufacturer may purchase and offer for commercial sale foreign-produced fuel containing unidentified additives provided that within 30 days of his offer for sale he notifies the Administrator of the purchase, the source of purchase, the quantity purchased, and summarized results of any tests performed to determine the acceptability of the purchased fuel to the fuel manufacturer.

(b) Additives. (1) No manufacturer of any additive designated under this part shall, after the date prescribed for such additive in this part, sell, offer for sale, or introduce into commerce such additive for use as an additive unless the Administrator has registered such additive.

(2) Any designated additive that is either (i) in a research, development, or test status or (ii) sold to petroleum, automobile, engine, or component manufacturers for research, development, or test purposes, and in either case is not offered for commercial sale to the public, shall be exempt from registration.

(3) Process chemicals used by refineries during the refinery process are exempted from the requirement for registration.

(4) If an additive manufacturer prepares for sale only to fuel manufacturers a mixture of two or more registered additives (with or without substances containing only carbon and/or hydrogen), he will not be required to register such mixture provided he will, upon request, furnish the Administrator with the names and percentages by weight of all components of such mixture.

§ 79.5 Periodic reporting requirements.

(a) Fuel manufacturers. (1) For each calendar quarter (January through March, April through June, July through September, October through December) commencing after the date prescribed for a particular fuel in Subpart D, fuel manufacturers shall submit to the Administrator a report for each registered fuel showing (i) the range of concentration of each additive reported under § 79.11(a) and (ii) the volume of such fuel produced in the quarter. Reports shall be submitted within 45 days after the close of the reporting period on forms supplied by the Administrator upon request.

(2) Fuel manufacturers shall submit to the Administrator a report annually for each registered fuel providing additional data and information as specified in § 79.31 (c) and (d) in the designation of the fuel in Subpart D. Reports shall be submitted on or before March 31 for the preceding year or part thereof on forms supplied by the Administrator upon request. If the date prescribed for a particular fuel in Subpart D or the later registration of a fuel is between October 1 and December 31, no report will be required for the period to the end of that year.

(b) Additive manufacturers. Additive manufacturers shall submit to the Administrator a report annually for each registered additive providing additional data and information as specified in subparagraphs (c) and (d) in the designation of the additive in Subpart D. Additive manufacturers shall also report annually the volume of each additive produced. Reports shall be submitted on or before March 31 for the preceding year or part thereof on forms supplied by the Administrator upon request. If the date prescribed for a particular additive in Subpart D or the later registration of an additive is between October 1 and December 31, no report will be required for the period to the end of that year. These periodic reports shall not, however, be required for any additive that is (1) an additive registered under another name, (2) a blend or mixture of two or more registered additives, or (3) a blend or mixture of one or more registered additives with one or more substances containing only carbon and/or hydrogen.

§ 79.6 Requirement for testing.

(a) The Administrator may establish procedures and protocols for the conduct of tests to determine potential public health effects of a designated fuel or additive (including, but not limited to, carcinogenic, teratogenic, or mutagenic effects) and may thereafter require a fuel manufacturer or an additive manufacturer to conduct tests in conformance with such test procedures and protocols.

(b) In order to obtain such information as is reasonable and necessary to determine the emissions resulting from the use of a fuel or an additive in a fuel, the effect of such fuel or additive on the emission control performance of any motor vehicle or motor vehicle engine, or the extent to which such emissions affect the public welfare, the Administrator may require a fuel manufacturer or an additive manufacturer to conduct tests in accordance with protocols based on generally accepted test methods and procedures.

(c) Any test required under this section shall be performed in accordance with a time schedule prescribed by the Administrator, after consultation with the manufacturer involved.

(d) The Administrator may require a fuel manufacturer to perform tests under this section on any fuel registered for such manufacturer or an additive manufacturer to perform tests under this section on any additive registered for such manufacturer. He may not require any test as a prerequisite of registration unless it is part of a test protocol established by regulation a reasonable time prior to notification by the manufacturer.

§ 79.7 Samples for test purposes.

When the Administrator requires for test purposes a fuel or additive which is not readily available in the open market, he may request the manufacturer of such fuel or additive to furnish a sample in a reasonable quantity. The fuel or additive manufacturer shall comply with such request within 30 days.

§ 79.8 Penalties.

Any person who violates section 211(a) of the Act or who fails to furnish any information required under this part shall forfeit and pay to the United States a civil penalty of $10,000 for each and every day of the continuance of such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States, brought in the district in which such person does business. The Administrator may, upon application therefor, remit or mitigate any such forfeiture; and he shall have authority to determine the facts upon all such applications.

Subpart B—Fuel Registration Procedures

§ 79.10 Notification of fuel manufacturer.

Any manufacturer of a designated fuel who wishes to have such fuel registered shall notify the Administrator in accordance with § 79.11 at least 60 days prior to the date prescribed for such fuel in Subpart D or, after such prescribed date, at least 30 days prior to the date on which such fuel manufacturer proposes to begin to sell, offer for sale, or introduced into commerce such fuel. If a fuel manufacturer produces more than one grade or brand of a designated fuel, only one notification or report is required for that designated fuel, showing highest, lowest, and average values for all such grades or brands. Each notification shall be signed by the fuel manufacturer or his agent and shall be submitted on such forms as the Administrator will supply on request.

§ 79.11 Information and assurances to be provided by the fuel manufacturer.

Each notification submitted by a fuel manufacturer shall include the following:

(a) The commercial identifying name of each additive that will or may be used in a designated fuel subsequent to the date prescribed for such fuel in Subpart D;

(b) The name of the additive manufacturer of each additive named;

(c) The range of concentration of each additive named, as follows:

(1) In the case of an additive which has been or is being used in the designated fuel, the range during any 3-month or longer period prior to the date of submission;

(2) In the case of an additive which has not been used in the designated fuel, the expected or estimated range;

(d) The purpose-in-use of each additive named;

(e) The description (or identification, in the case of a generally accepted method) of a suitable analytical technique (if one is known) that can be used to detect the presence of each named additive in the designated fuel and/or to measure its concentration therein;

(f) Such other data and information as are specified in the designation of the fuel in Subpart D;

(g) Assurances that the fuel manufacturer will notify the Administrator in writing and within a reasonable time of any change in:

(1) The name of any additive previously reported;

(2) The name of the manufacturer of any additive being used;

(3) The purpose-in-use of any additive;

(4) Information submitted pursuant to paragraph (e) of this section;

(h) Assurances that the fuel manufacturer will not represent, directly or indirectly, in any notice, circular, letter, or other written communication, or any written, oral, or pictorial notice or other announcement in any publication or by radio or television, that registration of the fuel constitutes endorsement, certification, or approval by any agency of the United States.

§ 79.12 Determination of noncompliance.

Whenever the Administrator determines that a notification fails to comply with the regulation of this part, he shall within 30 days (60 days in the case of initial registrations prior to the date prescribed for the fuel in Subpart D) of receipt of the notification inform the noncomplying fuel manufacturer of the reasons for such determination.

§ 79.13 Registration.

(a) If the provisions of this part requiring the submission of information and the giving of assurances have been complied with for a particular fuel, the Administrator shall register that fuel and within 30 days (60 days in the case of initial registrations prior to the date prescribed for the fuel in Subpart D) of receipt of the notification notify the fuel manufacturer of such registration.

(b) The Administrator shall maintain a list of registered fuels, which shall be available to the public upon request.

§ 79.14 Termination of registration of fuels.

Registration may be terminated by the Administrator if the fuel manufacturer requests such termination in writing.

Subpart C—Additive Registration Procedures

§ 79.20 Notification by additive manufacturer.

Except as provided in § 79.23(b), any manufacturer of a designated additive who wishes to have such additive registered shall notify the Administrator in accordance with § 79.21 at least 90 days prior to the date prescribed for such additive in Subpart D or, after such prescribed date, at least 30 days prior to the date on which such additive manufacturer proposes to begin to sell, offer for sale, or introduce into commerce such additive. Each notification shall be signed by the additive manufacturer or his agent and shall be submitted on such forms as the Administrator will supply upon request.

§ 79.21 Information and assurances to be provided by the additive manufacturer.

Each notification submitted by an additive manufacturer shall include the following:

(a) The chemical composition of the additive with the methods of analysis identified, except that

(1) If the chemical composition is not known, full disclosure of the chemical process of manufacture will be accepted in lieu thereof;

(2) In the case of an additive for engine oil, only the name, percentage by weight, and method of analysis of each element in the additive are required;

(3) In the case of a purchased component, only the name, manufacturer, and percent by weight of such purchased component are required if the manufacturer of the component will, upon request, furnish the Administrator with the chemical composition thereof.

(b) The chemical structure of each compound in the additive if such structure is known and is not adequately specified by the name given under "chemical composition." Nominal identification is adequate if mixed isomers are present.

(c) The description (or identification, in the case of a generally accepted method) of a suitable analytical technique (if one is known) that can be used to detect the presence of the additive in any fuel named in the designation and/or to measure its concentration therein.

(d) Fuels in which the use of the additive is recommended and the manufacturer's recommended range of concentration and purpose-in-use in each.

(e) Such other data and information as are specified in the designation of the additive in Subpart D.

(f) Assurances that any change in information submitted pursuant to (1) paragraphs (a), (b), (c), and (d) of this section will be provided to the Administrator in writing within 30 days of such change; and (2) paragraph (e) of this section as provided in § 79.5(b).

(g) Assurances that the additive manufacturer will not represent, directly or indirectly, in any notice, circular, letter, or other written communication or any written, oral, or pictorial notice or other announcement in any publication or by radio or television, that registration of the additive constitutes endorsement, certification, or approval by any agency of the United States.

§ 79.22 Determination of noncompliance.

Whenever the Administrator determines that a notification fails to comply with the regulations of this part, he shall within 30 days (90 days in the case of initial registrations prior to the date prescribed for the additive in Subpart D) of receipt of the notification inform the noncomplying additive manufacturer of the reasons for such determination.

§ 79.23 Registration.

(a) If the provisions of this part requiring the submission of information and the giving of assurances have been complied with for a particular additive, the Administrator shall register that additive and within 30 days (90 days in the case of initial registrations prior to the date prescribed for the additive in Subpart D) of receipt of the notification notify the additive manufacturer of such registration.

(b) Any additive which had been registered under the provisions of this part prior to the promulgation date of these regulations shall be deemed registered under these regulations upon such promulgation date. The information requirements of § 79.21 must be complied with for any such additive within 6 months after the promulgation of this part.

(c) The Administrator shall maintain a list of registered additives, which shall be available to the public upon request.

§ 79.24 Termination of registration of additives.

Registration may be terminated by the Administrator if the additive manufacturer requests such termination in writing.

Subpart D—Designation of Fuels and Additives

§ 79.30 Scope.

Fuels and additives designated and dates prescribed by the Administrator for the registration of such fuels and additives, pursuant to section 211 of the Act, are listed in this subpart. In addition, specific informational requirements under §§ 79.11(f) and 79.21(e) are set forth for each designated fuel or additive. Additional fuels and/or additives may be designated and pertinent dates and additional specific informational requirements prescribed as the Administrator deems advisable.

§ 79.31 Additives.

(a) All additives produced or sold for use in motor vehicle gasoline, motor vehicle diesel fuel, and/or motor vehicle engine oil are hereby designated.

(b) All designated additives must be registered within 6 months after the promulgation of this part, except as provided in § 79.23(b).

(c) In accordance with §§ 79.5(b) and 79.21(e), and to the extent such information is known to the additive manufacturer as a result of testing conducted for reasons other than additive regis-

tration or reporting purposes, the additive manufacturer shall furnish the highest, lowest, and average values of the impurities in each designated additive, if greater than 0.1 percent by weight. The methods of analysis in making the determinations shall also be given.

(d) In accordance with §§ 79.5(b) and 79.21(e), and to the extent such information is known to the additive manufacturer, he shall furnish summaries of any information developed by or specifically for him concerning the following items:

(1) Mechanisms of action of the additive;

(2) Reactions between the additive and the fuels listed in paragraph (a) of this section;

(3) Identification and measurement of the emission products of the additive when used in the fuels listed in paragraph (a) of this section;

(4) Effects of the additive on all emissions;

(5) Toxicity and any other public health or welfare effects of the emission products of the additive;

(6) Effects of the emission products of the additive on the performance of emission control devices/systems. Such submissions shall be accompanied by a description of the test procedures used in obtaining the information. Information will be considered to be known to the additive manufacturer if a report thereon has been prepared and circulated or distributed outside the research department or division.

§ 79.32 Motor vehicle gasoline.

(a) The following fuels commonly or commercially known or sold as motor vehicle gasoline are hereby individually designated:

(1) Motor vehicle gasoline, unleaded—motor vehicle gasoline that contains no more than 0.05 gram of lead per gallon;

(2) Motor vehicle gasoline, leaded, premium—motor vehicle gasoline that contains more than 0.05 gram of lead per gallon and is sold as "premium;"

(3) Motor vehicle gasoline, leaded, non-premium—motor vehicle gasoline that contains more than 0.05 gram of lead per gallon but is not sold as "premium."

The Act defines the term "motor vehicle" to mean any self-propelled vehicle designed for transporting persons or property on a street or highway. For purposes of this registration, however, gasoline specifically blended and marketed for motorcycles is excluded.

(b) All designated motor vehicle gasolines must be registered within 8 months after promulgation of this part.

(c) In accordance with § 79.5(a)(2) and 79.11(f), and to the extent such information is known to the fuel manufacturer as a result of testing conducted for reasons other than fuel registration or reporting purposes, the fuel manufacturer shall furnish the data listed below. The highest, lowest, and average values of the listed characteristics/properties are to be reported. For initial registration, data shall be given for any 3-month or longer period prior to the date of submission. For annual reports thereafter, data shall be for the calendar year, except that if the first required annual report covers a period of less than a year, the data may be for such shorter period.

(1) Hydrocarbon composition (aromatic content, olefin content, saturate content), with the methods of analysis identified;

(2) Polynuclear organic material content, sulfur content, and trace element content, with the methods of analysis identified;

(3) Reid vapor pressure;

(4) Distillation temperatures (10 percent point, end point);

(5) Research octane number and motor octane number.

(d) In accordance with § 79.5(a)(2) and 79.11(f), and to the extent such information is known to the fuel manufacturer, he shall furnish summaries of any information developed by or specifically for him concerning the following items:

(1) Mechanisms of action of each additive he reports;

(2) Reactions between such additives and motor vehicle gasoline;

(3) Identification and measurment of the emission products of such additives when used in motor vehicle gasoline;

(4) Effects of such additives on all emissions;

(5) Toxicity and any other public health or welfare effects of the emission products of such additives;

(6) Effects of the emission products of such additives on the performance of emission control devices/systems. Such submissions shall be accompanied by a description of the test procedures used in obtaining the information. Information will be considered to be known to the fuel manufacturer if a report thereon has been prepared and circulated or distributed outside the research department or division.

§ 79.33 Motor vehicle diesel fuel.

(a) The following fuels commonly or commercially known or sold as motor vehicle diesel fuel are hereby individually designated:

(1) Motor vehicle diesel fuel, grade 1-D;

(2) Motor vehicle diesel fuel, grade 2-D.

The Act defines the term "motor vehicle" to mean any self-propelled vehicle designed for transporting persons or property on a street or highway.

(b) All designated motor vehicle diesel fuels must be registered within 12 months after promulgation of this part.

(c) In accordance with §§ 79.5(a)(2) and 79.11(f), and to the extent such information is known to the fuel manufacturer as a result of testing conducted for reasons other than fuel registration or reporting purposes, the fuel manufacturer shall furnish the data listed below. The highest, lowest, and average values of the listed characteristics/properties are to be reported. For initial registration, data shall be given for any 3-month or longer period prior to the date of submission. For annual reports thereafter, data shall be for the calendar year, except that if the first required annual report covers a period of less than a year, the data may be for such shorter period.

(1) Hydrocarbon composition (aromatic content, olefin content, saturate content), with the methods of analysis identified;

(2) Polynuclear organic material content, sulfur content, and trace element content, with the methods of analysis identified;

(3) Distillation temperatures (90 percent point, end point);

(4) Cetane number or cetane index.

(d) In accordance with §§ 79.5(a)(2) and 79.11(f), and to the extent such information is known to the fuel manufacturer, he shall furnish summaries of any information developed by or specifically for him concerning the following items:

(1) Mechanisms of action of each additive he reports;

(2) Reactions between such additives and motor vehicle diesel fuel;

(3) Identification and measurement of the emission products of such additives when used in motor vehicle diesel fuel;

(4) Effects of such additives on all emissions;

(5) Toxicity and any other public health or welfare effects of the emission products of such additives.

Such submission shall be accompanied by a description of the test procedures used in obtaining the information. Information will be considered to be known to the fuel manufacturer if a report thereon has been prepared and circulated or distributed outside the research department or division.

[FR Doc.75-30070 Filed 11-6-75;8:45 am]

SUBCHAPTER N—EFFLUENT GUIDELINES AND STANDARDS

[FRL 453-2]

PART 406—GRAIN MILLS POINT SOURCE CATEGORY

Pretreatment Standards for New Sources

On pages 37052-37054 of the FEDERAL REGISTER of August 25, 1975, there was published a proposal to amend § 406.16, the pretreatment standards for new sources in the Corn Wet Milling Subcategory (Subpart A). The change to § 406.16 provides a formula that has been developed to quantify excessive loads for new corn wet mills to publicly owned treatment works (POTW). This change is in response to the remand to the Environmental Protection Agency (EPA) of new source pretreatment standards by the United States Circuit Court of Appeals for the Eighth Circuit made on May 5, 1975. See CPC International Inc. v. Train, 515 F.2d 1032 (8th Cir. 1975). The remand required EPA to review paragraph (d) of § 128.131 of the general pretreatment standards (40 CFR

128) as it applies to the corn wet milling industry through § 406.16, and to amend the regulation to define in a reasonably specific manner what EPA considers to be an excessive discharge to a POTW over relatively short periods of time. Comments on the proposed amendment were invited. Interested persons were given 20 days in which to submit comments.

Summary of comments. The following organizations responded to the request for written comments contained in the preamble to the proposed regulation: Anheuser-Busch, Inc.; CPC International, Inc.; and National Canners Association.

Each of the comments received was carefully reviewed and analyzed. The following are the significant comments and the EPA's response to them.

1. All of the commenters objected to the fixed value of 2 for K in the proposed formula $P=K(Q+R)-S$. It was suggested by the commenters that K, which represents the ratio of peak design capacity to average design capacity of the publicly owned treatment works (POTW), should be a variable based on individual plant conditions.

As stated in the preamble to the proposed amendment, the decision to set K at 2 appeared appropriate based on the data obtained. Six municipalities indicated variations in daily loadings greater than 2 (in some cases greater than 1.2 times the average), can cause upsets. Regulatory recommendations such as the Ten-States Standards (1) support a peak to average value of 2. Operating data provided in publications such as that by Metcalf and Eddy (2) reaffirm a ratio value of approximately 2. The WPCF Manual of Practice No. 9 (3) reports the ratio of maximum flow to average flow to vary from about 3:1 or 4:1 for one million gallons per day (mgd) systems to 1.3:1 or 2:1 for 100 mgd systems. Because of the quantity of waste from corn wet mills such facilities usually discharge to the larger municipal systems. The WPCF Manual of Practice No. 8 (4) indicates the normal design food-to-microorganism ratio (F:M) is about 0.3, but that good treatment can be achieved with an F:M value of 0.5. This ratio gives a K value of 1.67. Ten-States Standards (1) requires a return sludge pumping ratio of 30 to 75 percent of the design flow for normal and peak conditions, respectively. The return sludge ratio is integrally related to maintaining the F:M ratio and, therefore, the indicated K value is 2.5. The capacity of an aeration system to handle BOD loads and maintain dissolved oxygen levels is critical. Ten-States Standards (1) calls for 1500 cu. ft./lb. BOD5 for normal capacity with a system capability to deliver 200 per cent of this value or a K of 2. Analysis of the above data, together with other information available to EPA, indicates a K value of 2 is appropriate. It is agreed, however, that some POTW may be capable of handling higher or lower pollutant or flow peaks than might be indicated by use of the proposed formula with K equal to 2. As pointed out by one commenter this follows from the fact that the formula is extremely sensitive to the ratio of S (existing peak load to POTW) to Q (average existing waste load to POTW) especially for flow. The flow value is to be taken on an hourly basis, and will therefore have more variations than BOD5 and total suspended solids, which are on a daily basis. The commenter showed that a negative value for P could be realized where the S to Q ratio was 2.5 rather than the 1.5 used in the two examples cited by the Agency in the preamble to the proposed regulation.

The value of (S/Q) would normally be less than K. This follows from the definition of the terms in the equation in that K, which represents the ratio of peak design capacity, to average design capacity is expected to be larger than the ratio of the average existing peak load to the average existing waste load (S/Q). The former ratio represents maximum design conditions. Operating conditions represented by (S/Q) would normally be less than these. It follows therefore, that as (S/Q) approaches 2, the POTW becomes unique as far as the proposed formula is concerned. Where this does occur and where plant operating conditions and performance are found to be satisfactory, a change in the value of K is appropriate. Based on EPA's determination and information submitted by one of the commenters, when the ratio of S/Q exceeds 1.5, a K value of 3 rather than 2 is justified for use in the formula. Data available to EPA indicate that (S/Q) would not be expected to exceed 2 for the size POTW that will be treating new corn wet mill discharges.

2. Two of the commenters objected to the proposed formula because it assumes that the new source corn wet mill peak load discharge to the POTW occurs at the same time as the existing peak load at the POTW. It was argued that, if they do not overlap, there can be no justification for such an approach. This was pointed out by the commenters as a strong reason for having pretreatment standards set by the corn wet mill and the POTW involved.

It is agreed that the formula assumes the overlap of the peak load from the corn wet mill and the peak load at the POTW. As stated in the preamble to the proposed amendment, this assumption is considered necessary to provide protection to the POTW during the time it would be most prone to upsets from uncontrolled loads discharged from a new source corn wet mill. It is still EPA's contention that this assumption is valid and is in keeping with the Court remand to "amend the regulation so as to define in a reasonably specific manner what it considers to be an excessive discharge to a municipal plant over relatively short periods of time." The formula is intended to warn new corn wet mill dischargers of the scope of prohibited conduct in terms of the most likely circumstances in which a discharge from a new facility might upset a POTW—not all the kinds of ways a discharge may upset POTW. The formula has been clarified to reflect that intended for application where peak loads coincide.

When peak loads do not coincide, the likelihood of upsets occurring are considerably reduced. However, at times of non-peak loading, upsets may occur from other factors which are not specifically controlled by this regulation. Of course, such upsets may be subject to local or state regulatory measures. However, it is feasible for a municipality to adapt the formula to control the discharges of new corn wet mills to POTW where peak loads do not overlap. To use this approach, it is suggested the corn wet mill provide the POTW with: (1) An engineering study of the interrelationship of its flow and pollutant loadings with those of the POTW and (2) the mill's proposed control measures that will assure overlapping of peak loads does not occur. When the formula is then applied by the POTW, the value of S in the formula would be modified to correspond to the peak load at the POTW in relation to the programmed discharge of the new corn wet mill.

3. One commenter pointed out that in the formula the parameters Q and R are not defined as to the period of time to be averaged.

These parameters, as well as the others in the formula, are defined in terms of daily BOD5 and total suspended solids discharges and hourly flow levels. It is recommended that in applying the formula for BOD5, total suspended solids and flow, a long term average be used which is based on plant data representative of the plant operation. The value for R should also be determined from available long term average waste load data for the new corn wet mill.

The time spans in the formula are believed reasonable in view of the court requirement to define excessive discharges over a short period of time. In addition, they reflect conventional plant design and monitoring practices. This is particularly true for the medium and large size POTWs that normally treat corn wet mill wastes.

4. One commenter stated that data on BOD5 and total suspended solids is not sufficiently accurate to use in the formula.

This is questioned since the record shows that BOD5 and suspended solids values are routinely used for monitoring plant operation and for obtaining data on treatment efficiency.

The commenter also suggested that placing the flow parameter on an hourly basis was impractical. The Agency has no intention to overburden industry with monitoring requirements. The time span used was set in view of the fact that the size of POTW to which corn wet mills discharge are constantly monitoring flow. Moreover, EPA has information that shows many industries, including corn wet mills monitor discharge flow. Finally EPA had to recognize the fact that the Court required the definition be for short time periods.

5. It was suggested by one commenter that R should be redefined as "the average capacity to be provided by the munic-

ipality for the industrial discharger". By defining R in this manner, it was stated that the door remains open for the industrial discharger to reserve capacity to be used at a future date. Use of the suggested definition would not be satisfactory as the formula is to be used to determine the effect of an actual flow. The present definition of R should in no way interfere with negotiating for future reserve capacity.

6. One commenter pointed out that the calculated peak waste load allowed to several new industries entering the same POTW will vary depending on the order in which the new sources enter the system.

It is agreed this could occur. Each new plant entering the system must be considered a separate case and all allowances must be determined on a new data base specific for the situation at that time.

7. One commenter claimed that the proposed formula seeks to limit discharges from new sources at levels less than two times average capacity.

As shown in the sample calculations in the preamble to the proposed regulation, discharges of 3 to 8 times average capacity are readily possible. The permitted use of a K value of 3 as well as 2 in the formula will further assure adequate discharge levels where POTW operating conditions allow.

8. The recommendation was made by two commenters that dry weather flow be stipulated for all parameters in the proposed regulation. The formula is meant to apply to dry weather conditions and the regulation will so indicate.

9. One commenter objected to use of a formula because there are times during the startup of treatment of wastewaters resulting from the processing of seasonal crops when the volume and quantity of pollutant discharges can quadruple the load to the POTW for three or four days.

It is for this problem of overloading that a formula for control of discharges to a POTW is needed.

(1) *Recommended Standards for Sewage Works*, Great Lakes—Upper Mississippi River Board of State Sanitary Engineers (Ten States), 1971.

(2) Metcalf and Eddy, Inc., *Wastewater Engineering*, McGraw-Hill Book Co., 1972.

(3) *Design and Construction of Sanitary and Storm Sewers*, WPCF Manual of Practice No. 9, 1969.

(4) *Sewage Treatment Plant Design*, WPCF Manual of Practice No. 8, 1967.

Pretreatment standards are hereby adopted and are set forth below.

Effective date. These EPA standards are effective December 8, 1975.

Dated: October 30, 1975.

RUSSELL E. TRAIN,
Administrator.

Part 406, Subpart A, § 406.16 is amended as set forth below:

§ 406.16 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act for a source within the corn wet milling subcategory which is a user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to the navigable waters) shall be the standard set forth in Part 128 of this chapter, for existing sources, except: For the purpose of this section, §§ 128.121, 128.122, 128.132 and 128.133, of this chapter shall not apply and for purpose of this section, § 128.131(d) of this chapter is amended to read as set forth in paragraph (a) of this section. In addition to the prohibitions set forth in § 128.131 of this chapter (as amended in paragraph (a) herein), the following pretreatment standard establishes the quantity or quality of pollutants or pollutant properties controlled by this section which may be discharged to publicly owned treatment works by a new source subject to the provisions of this subpart.

Pollutant or pollutant property	*Pretreatment standard*
pH	No limitation.
BOD5	Do.
TSS	Do.

(a) Process waste water shall not be discharged to a POTW at a flow rate or pollutant mass loading rate which is excessive over any time period during the peak load at a POTW. Excessive discharges are defined as those in which the flow, of BOD5 or total suspended solids (TSS) exceed the respective values of P from the following formula:

$P = K(Q + R) - S$.

Where:

P=maximum allowable peak waste load for the new corn wet milling source to be discharged to the POTW (gallons per one hour for flow and pounds per day for BOD5 and TSS).

Q=average existing waste load to POTW.

R=average waste load for the new corn wet milling source to be discharged to POTW.

S=existing peak load of POTW.

K=2. When the ratio of (S/Q) is greater than 1.5, K=3.

Calculations are to be based on dry weather conditions.

[FR Doc.75-30067 Filed 11-6-75;8:45 am]

[FRL 453-3]

PART 406—GRAIN MILLS POINT SOURCE CATEGORY

Decision Not To Revise New Sources Performance Standards

On August 25, 1975, notice was published in the FEDERAL REGISTER (39 FR 10512), announcing the availability of documents relating to and to request comments on the tentative decision of the Environmental Protection Agency (EPA or Agency) not to revise standards of performance for new sources in the Corn Wet Milling subcategory of the Grain Mills Point Source Category.

The purpose of this further notice is to announce EPA's decision not to revise standards of performance for new sources in the Corn Wet Milling subcategory of the Grain Mills Point Source Category. On May 5, 1975, the U.S. Court of Appeals for the Eighth Circuit remanded to EPA the new source performance standards and the pretreatment standards for new sources for the Corn Wet Milling subcategory of the Grain Mills Point Source Category (40 CFR 406.15 and 406.16) promulgated by EPA under section 306 and 307 of the Federal Water Pollution Control Act Amendments of 1972. EPA has reviewed its new source performance standards for these point sources pursuant to the remand and has concluded that these standards should not be revised.

The review of data, literature, available technology, methodology, and factual conclusions which support this regulation are set forth in substantial detail in EPA's response to the remand entitled "Supplement to Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Corn Wet Milling Subcategory, Grain Processing Segment of the Grain Mills Point Source Category", EPA, August 1975. The document was made available for public review at the time of publication of the notice of availability of supplemental documents and request for comments on August 25, 1975. A record on remand, representing the technical data and other information gathered by the Agency during the initial period of the remand proceeding, was also available for interested members or the public to review at the EPA Information Center.

Interested persons were invited to participate in this evaluation by submitting written comments in triplicate within 20 days from the date of publication. Comments on all aspects of the tentative conclusion were solicited including adequacy of available data, methodology of approach, and suggestions as to what alternative approach should be taken.

The EPA has considered carefully all of the comments received and a discussion of these comments with the Agency's response thereto follows.

(a) Summary of Comments. The following groups responded to the request for comments which was in the notice of availability of supplemental documents: Corn Products; CPC International, Inc., National Canners Association, Grain Processing Corporation, Anheuser-Busch, Inc., CPC International, Inc., and The Hubinger Company. Each of the comments received was carefully reviewed and analyzed. The following is a summary of the significant comments and EPA's response to these comments.

(1) One general comment is that in-depth (deep bed) filtration is not a reliable, effective method to achieve the required New Source Performance Standard on a consistent basis. EPA's expert consultant's interpretation and evaluation of industry filtration study data are asserted to be questionable, and claimed to not fully support the applicability of filtration to corn wet milling wastes. Comparable performance of deep bed filtration for municipal waste is questioned.

Based on review of the literature, expert opinion, and practical application of filtration within other industries with similar wastes, EPA has concluded that deep bed filtration subsequent to effective biological treatment is a viable means of achieving the new source performance standard for the corn wet milling industry. Available evidence supports that deep bed filtration is capable of providing a high level of pollutant reduction performance on a reliable and sustained basis with proper design, operation, and maintenance of the preceding biological treatment system.

Deep bed filtration is a demonstrated and available technology. It is universally applied in the treatment of water supplies for municipalities and industries and can produce effluents containing essentially no suspended solids in these applications. Filtration has been successfully employed in the treatment of municipal and industrial secondary (biologically treated) effluents. The process has been sufficiently demonstrated to enable the development of meaningful design criteria and has been employed in numerous applications. In municipal applications, a well designed filter can be expected to reduce suspended solids by 80 percent or more and to produce an effluent containing less than 10 mg/l TSS. Similar results can be anticipated with industrial wastes if the preceding biological treatment system is well designed and operated. It has also been demonstrated that deep bed filtration performs as an effective back-up system during periods of biological treatment upset and thus helps to insure that a stable effluent will be consistently produced.

Filtration may be successfully applied to corn wet milling wastes. The process has been demonstrated with other high strength organic wastes. Expert opinion supports this applicability, as well as the ability of a well designed treatment system to meet the New Source Performance Standards. The pilot filtration tests at CPC-Pekin and the full-scale operation of deep bed filters at Clinton Corn support the applicability of this technology in the corn wet milling industry. The Pekin test results indicate that excellent TSS removals can be attained, and the ability of filters to act as an effective "back-up" system during biological treatment upset is also demonstrated. At Clinton Corn, deep bed filters have been employed successfully following biological treatment since November 1974. Data from Clinton indicate that deep bed filters can affect average TSS removals of better than 75 percent. Experience at Clinton also indicates that deep bed filters can be operated at reasonable loading rates without problems with clogging, excessive head loss, or excessive backwashing.

Industries that use filtration, and have successfully tested, and are installing filters include: steel manufacturing, petroleum refining, brewing, corn wet milling, wine processing, and food processing. Multi-media filtration has had particular application in the petroleum refining industry, where at least three refineries are known to successfully treat refinery waste waters after biological treatment. These applications represent some of the longest-term use of modern filtration facilities employed with biological treatment systems for treatment of strong industrial waste.

Operational problems to the extent they have been demonstrated or are expected to result, would not preclude the pollutant reduction benefits of filter technology.

In conclusion, EPA did not totally rely upon municipal filtration data for determining performance of deep bed filters for corn wet milling wastes. Deep bed filtration experience with other industries and within the corn wet milling industry itself was also evaluated. There is no evidence that biologically well-treated corn wet milling wastes are less amenable to deep bed filtration than municipal wastes, if the preceding biological treatment facilities are performing well. As experience at the Clinton, Iowa corn wet milling plant indicates, filtration is not a problem for these specific wastes.

Industry in referring to its independent consultant effort, apparently is referring only to one consultant and one pilot plant filtration study, namely that conducted at the Pekin, Illinois corn wet milling plant. The results of this pilot study are not exhaustive or entirely conclusive. The comments ignore the fact that in spite of the judged value of pilot plant work, the industry's engineering consultant recommended, designed, and installed deep bed filters for the existing corn wet mill at Clinton, Iowa. Apparently, filtration would be a planned addition for new plants to be constructed.

(2) A major concern was whether a properly operated biological treatment system (activated sludge) could be expected to produce an effluent of consistent quality and sustained pollutant reduction level to permit continual high-level performance of the subsequent deep-bed filter. The industry is asserted to have a unique problem of waste treatability attributable to waste characteristic variation, treatment facility upsets, and colloidal waste solids not being removed by coagulation, sedimentation, or biological treatment. These claims are reported to be substantiated by independent industry-sponsored studies.

An extensive review of available data on the application of activated sludge and deep bed filtration for treatment of various waste waters was conducted by EPA. Sources of data included the technical literature, field inspections, special consultants, corn wet milling companies, and equipment manufacturers. The review focused on the technology recommended by EPA to meet the New Source Performance Standards; namely, good inplant waste control, maximum water recycling, activated sludge biological treatment, and deep bed filtration. The data clearly substantiates the fact that high strength biodegradable organic wastes, such as those generated by corn wet mills, can be successfully treated with biological treatment processes, particularly complete mix activated sludge. With proper design and operation of treatment facilities, a stable high quality effluent can be attained on a reliable and sustained basis.

In industries generating wastes similar to corn wet milling wastes, such as brewing, distilling, and malting, the data show that consistently high levels of effluent reduction are attainable on a long-term basis. High quality effluents with BOD5 and TSS concentrations less than 30 mg/l are consistently and routinely produced at many treatment facilities. This has been demonstrated with a wide variety of industrial wastes, including those generated by breweries, edible oil refineries, malting plants, distilleries, bakeries, wineries, and fruit and vegetable processing plants.

Activated sludge has yet to be applied to its fullest potential within the corn wet milling industry because of less-than-desired in-plant waste controls, design inadequacies, and operational deficiencies. If these deficiencies were eliminated, the activated sludge process would be capable of successfully treating corn wet milling wastes and produce an effluent with BOD5 and TSS levels of 30 mg/l or less on a sustained basis regardless of the influent BOD and TSS concentration levels. Because of present inadequacies in handling and treatment of process wastes, as amply addressed in the Supplemental Development Document, overall pollution control technology within the corn wet milling industry has been judged uniformly inadequate, necessitating evaluation of treatment technology for similar industries.

Variable waste strength contribution and plant upsets are not unique to the corn wet milling industry. Many other industries experience similar waste variations and treatment conditions, yet have demonstrated an ability to achieve high levels of pollutant reduction on a sustained, reliable basis. In-plant controls and waste equalization facilities can substantially aid in the continued successful performance of the biological treatment systems.

The industry consultant is well aware that improvements in biological treatment systems at existing corn wet milling plants are needed, and in fact, in past studies at several plants has actually recommended major changes to upgrade existing facilities.

(3) A common comment was made that the concept of product mix as affecting waste load and technology was not properly considered in formulation of the new source performance standards.

EPA has acknowledged, and continues to acknowledge, that product mix variations may indeed have some influence on raw waste characteristics of corn wet milling wastes. However, no reliable and meaningful relationship between product mix and waste flow characteristics has been demonstrated to date either by

EPA or industry. EPA's evaluation of industry-supplied data utilizing standard statistical approaches indicated no directly correlatable relationships between raw waste load and other individual factors such as plant age, plant size, product mix, etc.

Industry representatives have commented on several instances that new plants to be constructed will likely convert a large part of their grind into syrup, and this conclusion is amply verified by present trends within the industry. In any case, the new source performance standards would be equally as applicable irrespective of product emphasis. Waste load variation has been determined as not being attributable directly to any one factor or condition alone in a reliable and predictable manner. Obviously, any influence on waste load for this industry caused by various factors to any extent that it may exist is interrelated in a very complex and presently undefinable manner.

The industry has yet to provide data or information to responsibly disprove the considered conclusions of EPA. More importantly, evidence supports that any variations in product mix as affecting raw waste load do not preclude compliance of existing or new sources with present effluent guidelines and new source performance standards. Manufacturing processes employed in the corn wet milling industry are not separate and unique from other processes employed within the food processing industry as a whole. Neither is the inherent waste contribution variability and any treatment difficulties experienced with the corn wet milling industry a unique experience as compared to other industries. Many other related industries (as cited in the Supplemental Development Document) that produce a variety of different products have demonstrated the capability to successfully employ biological treatment and other treatment methods to accomplish high levels of pollutant reduction.

(4) A substantial number of comments expressed concern as to the apparent omission by EPA in recognizing the existing application, need for improved measures, and identification of available methods, and costs of various in-plant pollution control measures associated with New Source Performance Standard technology. The industry asserts that all accomplishable in-plant controls are now generally being applied within the industry as economically justifiable. One commenter claims in-plant controls would have a significant effect on increased waste load variability.

EPA has recognized, and continues to recognize, that the corn wet milling industry has made, and is continuing to make, substantial progress in the installation and initiation of pollutant-reducing in-plant controls. In some plants, very substantial progress has been made in isolating, minimizing, controlling, and recovering accidental spillage thereby reducing pollutant effects on navigable waters. Newer plants have made considerable improvement in treatment facility operation, and more extensive waste monitoring. However, as each plant incorporates in-plant controls to varying degrees, no one plant may be presently identified as exhibiting completely exemplary in-plant controls. Based on industry surveys and plant visitations, specific in-plant controls for pollutant reduction have been identified by EPA for various levels of technology, and are clearly set forth for new sources in the Supplemental Development Document as well as previous development documents prepared by EPA for the corn wet milling industry. Of primary importance is the need for recognition of the fact that maximum in-plant controls may be incorporated for any new source to result in absolute minimization of the resultant waste load and optimization of overall pollution reduction. New sources are not limited by factors oftentimes affecting needed in-plant changes for existing sources such as space, equipment layout, etc. Therefore, comparison of in-plant control features and results for any one existing non-exemplary plant with a potentially exemplary new source would be non-representative. In its evaluation, EPA did not find in-plant controls to be implemented in existing plants to the maximum economic limit as alleged by the industry. Contrary to some industry allegations, incorporation of in-plant controls should definitely reduce waste load variability by dampening, eliminating, or minimizing shock waste loading effects.

Industry representatives have stated to EPA that new plants will incorporate recommended in-plant controls as a matter of good production and engineering practices, irrespective of pollution control requirements. Such a statement has been made by EPA in Chapter 5 of the Supplemental Development Document. Therefore, EPA has properly concluded, based on its own studies and statements of industry representatives, that no additional cost or economic impact would be attributable to in-plant controls to comply with new source performance standards as compared to those same measures installed to facilitate compliance with the 1983 guidelines.

EPA feels that energy requirements and operating costs have been properly evaluated and estimated for new source performance standards based on all available data. Data as presently made available by industry does not sufficiently support any increased cost value or other adjustment associated with these items.

(5) Several commenters questioned the validity of use and citation of summary data in the remand document in support of the success of biological treatment relating to fruit and vegetable and other industry wastes. This matter was of particular concern since the effluent guidelines and new source performance standards for the fruits and vegetables industry have not as yet been published in the FEDERAL REGISTER. Also many of the examples of successful biological treatment systems for other industry wastes incorporate systems other than activated sludge, some employing inordinately long waste retention periods.

Summary data cited in the Supplemental Development Document clearly support the efficiency of biological treatment for a variety of fruit and vegetable processing wastes. The base data was supplied by industry itself and verified by independent sampling and analysis by EPA. As such, the data constitutes a valuable source of information related to the characteristics, treatability, and practical treatment plant performance for an important segment of the food processing industry.

Utilization of this data base shall in no way be contingent upon publication of effluent guidelines for the Fruits and Vegetables industry in the FEDERAL REGISTER. A draft copy of the Fruits and Vegetables development document was made available for industry review in November, 1974. The data was cited only as an example of successful treatment, not as a basis for establishing guidelines in any other industry. In this report, the data has been properly used and interpreted in a technically accurate and reasonable manner. Any interpretation of the basic data together with other information which may ultimately be made for the fruit and vegetable industry for purpose of standards development is a separate consideration.

The data indicates corn wet milling wastes to be readily biodegradable, and amendable to high pollutant reductions utilizing conventional biological treatment systems. In evaluating biological treatment for corn wet milling wastes, experience with treatment of other types of similar industry wastes was properly considered. Many of these successful biological treatment processes are other than conventional activated sludge systems or include activated sludge with appropriate additions or modifications. In formulation of the guidelines and new source performance standards, an appropriately designed activated sludge system was chosen as one means of achieving the standard. Activated sludge as a method of biological waste treatment is well established and widely utilized and demonstrated with reliable and predictable results. Other biological waste treatment "schemes" are available and equally applicable in achieving the guidelines and standards. EPA has not stipulated any treatment mechanism to be universally utilized, but simply has offered activated sludge as one method of achieving the standards. Even though biological treatment systems (activated sludge, waste stabilization lagoons, aerated lagoons, trickling filters, biodiscs, etc.) differ in their operation and physical appearance, the mode of biological treatment and principles of biological treatment action remain unchanged for these biological processes. Waste stabilization lagoons are appropriate for many industries where land is suitable and available. In fact, land may be used for waste treatment and disposal in a variety of applications (spray irri-

gation, solids settling, lagoons, holding ponds, sludge holding and dewatering, effluent polishing, and reaeration), and may be the preferred alternative for new plants where land factors are favorable. However, activated sludge offers a well-founded technology which is practical and available for general application without any notable restraints in its general use. Results are reliable and predictable based on long-standing industry-wide and municipal performance.

(6) Several commenters indicate confusion as to the interpretation and intent of EPA's effluent variability analysis of historical treatment data contained in the Supplemental Development Document and supportive record in relation to its application to the new source performance standard.

Effluent variability as reflected in the new source performance standards are based solely on treatment technology and variations anticipated for a well-designed, well-operated treatment system as experienced within operating biological treatment systems on an overall multi-industry basis. EPA has never asserted that statistically derived variability factors are a desirable or even appropriate means for determining effluent guidelines and new source performance standards for the corn wet milling industry. Factors were calculated and are presented in the Supplemental Development Document only as an illustration that the new source performance standard is reasonable and attainable in relation to existing overall industry practice. There obviously is no statistical data available with respect to treatment systems for new sources. In this respect, variability data for existing sources would not be entirely representative of and comparable with effluent variability to be expected for new sources inasmuch as no present corn wet milling plant is now completely "exemplary" in terms of the established new source performance standard. Upsets in most instances at existing plants (e.g. Clinton Corn) may be attributed to specific events or occurrences of poor operation (e.g. spills) rather than product variability changes or other production-related factors. It should be emphasized that no existing plants incorporate full in-plant controls or equalization that materially affect raw waste load variability and sustained biological treatment performance.

(7) Several other commenters note that raw waste loading at corn wet mills has materially increased over that determined in earlier studies resulting from the recent need for compliance with air pollution criteria. An additional source of waste water in the form of wet scrubber water is generated which should properly be considered in determining the total plant raw waste load.

Effluent guidelines and standards for the wet corn milling industry have been and continue to be based on the most current data base and information regarding the industry presently available. Information on air pollution has only recently been made available to EPA in any meaningful but incomplete fashion. The data submitted by industry is in the form of summary information and is judged insufficient by EPA for purposes of thorough evaluation and decision making. The validity of the summary data and industry's conclusions derived are subject to serious question without further substantiation. Even though allocation of pollutant loads from air pollution control devices has not been specifically made for the corn wet milling industry for purposes of limitations and standards, such pollutant discharges are in no way exempted, and may be regulated and evaluated on an individual plant-by-plant basis.

It should be noted that a number of methods exists for removal of particulate material from exhaust stacks, not all of which are by any means water related. Non-water quality related methods exist as alternative measures which may be applied. One plant presently within the corn wet milling industry re-uses the wet scrubber water within the milling process. Data supplied by industry and otherwise available to EPA is not sufficient to allow an accurate, well-based determination of the qualities of wet scrubber waters, the effects of various in-process controls, or specific alternative control technologies. Without adequate data for substantiation and use in formulating these nationally-based guidelines and standards, consideration for such waste loads must be made on an individual plant-by-plant basis. Maximum in-plant controls should be utilized and effective non-water quality related alternatives sought.

(b) Economic impact. The costs required for new corn wet mills of various sizes to meet the New Source Performance Standards were reevaluated and are indicative of current pollution control technology. These costs are based on January 1975 dollar values and include waste treatment facilities and necessary in-plant controls or cooling system designs.

Any additional costs that may be attributable directly to pollution abatement from inprocess control for new sources were not able to be specifically identified by either EPA or the corn wet milling industry. Indeed, such pollutant reduction measures will reportedly be installed within a new plant for production reasons with or without pollutant restraints. Therefore, pollution control costs as estimated for New Sources Standards are equal to or less than that expected for existing plants to comply with 1983 guidelines.

(c) Basis for decision not to revise new source performance standard. On the basis of the original and additional investigative work performed, EPA finds no justification for revision of the New Source Performance Standard for the Corn Wet Milling Subcategory of the Grain Mills Category on either technological or economic grounds. Therefore, EPA has determined not to revise the standard, and therefore, the New Source Performance Standard as promulgated by the Agency for the Grain Mills Point Source Category on March 20, 1974 (39 FR 10512) shall remain applicable.

Dated: October 30, 1975.

RUSSELL E. TRAIN,
Administrator.

[FR Doc.75-30068 Filed 11-6-75;8:45 am]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 248—COVERAGE AND CONDITIONS OF ELIGIBILITY FOR MEDICAL ASSISTANCE

PART 249—SERVICES AND PAYMENT IN MEDICAL ASSISTANCE PROGRAMS

August 1972 OASDI Benefit Increase; Freedom of Choice Exemption for Puerto Rico, Guam, and the Virgin Islands; Expiration of Certain "Pass-along" Provisions

The purpose of this regulation is to implement Pub. L. 94-48, approved July 1, 1975, which requires the following changes in the regulations for the medical assistance programs administered under title XIX, Social Security Act (Medicaid):

1. Section 1 of Pub. L. 94-48 extends the requirement that individuals eligible for financial assistance and entitled to OASDI benefits for August 1972 who become ineligible for financial assistance solely because of the 20 percent increase in OASDI benefits shall continue to be eligible for Medicaid as though they were "categorically needy," i.e., still eligible for a money payment.

2. Section 2 of Pub. L. 94-48 amended section 1902(a)(23) of the Act by adding a clause specifically excepting Puerto Rico, the Virgin Islands, and Guam from the requirement that States permit individuals eligible for Medicaid to obtain medical assistance from any qualified provider of their choice. This enactment abrogates the effect of previous Congressional enactments (Pub. L. 90-248, Section 227(b) as amended by Pub. L. 92-603, section 271A(a)) under which a temporary exemption from the freedom of choice requirement that had been granted to these jurisdictions would have expired on June 30, 1975.

The amendments to the regulations set forth below implement these provisions. Notice of proposed rulemaking has been dispensed with since the amendments merely reflect the statutory provisions and proposed rulemaking procedures would unnecessarily delay Medicaid agencies in taking appropriate action.

In addition to the above changes, the regulations are also being revised to delete obsolete provisions for "pass-along" of certain increases in social security benefits. Under sections 306 of Pub. L. 92-603, and 1007 of Pub. L. 91-172 as modified by section 304 of Pub. L. 92-603,

the requirement for disregard of such increases expired on December 31, 1973. At the same time, a new § 248.1(a)(3) has been added to specify that the disregard still applies with respect to redeterminations of Medicaid financial eligibility for certain "grandfathered" groups. Since this is also a technical change required by statute, notice of proposed rulemaking is unnecessary.

Chapter II, Title 45, Code of Federal Regulations is amended as set forth below:

1. In § 248.1, a new paragraph (a)(3) is added and paragraph (b)(3) is revised, as follows:

§ 248.1 State plan requirements and options for coverage under the medical assistance program.

(a) * * *

* * * * *

(3) *Special provision applicable to "grandfathered" groups.* In any case in which a determination must be made under this section as to whether an individual continues to meet financial eligibility conditions in December 1973, such determination must include provision for the pass-on of increased OASDI benefits in accordance with section 306 of Pub. L. 92-603 and 1007 of Pub. L. 91-172 (as modified by section 304 of Pub. L. 92-603), as such pass-alongs were in effect in December 1973.

(b) * * *

(3) With respect to both families with children and aged, blind, or disabled individuals include:

(i) Any individual who would be eligible for aid under title IV-A of the Act or benefits or supplementary payments under title XVI (as may be applicable) except for any eligibility condition or other requirement that is specifically prohibited in a program of medical assistance under title XIX.

(ii) Any individual:

(A) Who, for the month of August 1972, was receiving or eligible for financial assistance under the State's plan approved under title I, IV-A, X, XIV, or XVI of the act and who was also entitled to monthly insurance benefits under title II of the act for the month of August 1972, and

(B) who, except for the increase in monthly insurance benefits under title II resulting from enactment of Public Law 92-336, would have been eligible for financial assistance for the current month. Under this requirement:

(*1*) An individual qualifies as receiving or eligible for financial assistance for August 1972 if, with respect to such month:

(*i*) He was receiving financial assistance; or

(*ii*) He met all conditions of eligibility for financial assistance under title I, IV-A, X, XIV, or XVI as in effect in August 1972 but had not applied, provided the State title XIX plan included such individuals as categorically needy in August 1972; or

(*iii*) He was in a medical facility or intermediate care facility, and had he left, would have been eligible for financial assistance, provided the State title XIX plan included such individuals as categorically needy in August 1972.

(2) An individual is considered as though he were eligible for financial assistance for the current month if with respect to such month, except for the increase in monthly insurance benefits under title II resulting from enactment of Pub. L. 92-336:

(*i*) He would meet all conditions of eligibility for financial assistance (however, he need not file an application). In such case he is eligible under the current title XIX plan to the same extent as individuals who are receiving financial assistance; or

(*ii*) He is in a medical or intermediate care facility and, if he left, would be eligible for financial assistance, provided the State title XIX plan includes such individuals as categorically needy. In such case he is considered as though he were categorically needy and is eligible under the title XIX plan to the same extent as other categorically needy individuals in such a facility.

* * * * *

2. Section 248.10(b)(3) is revised to read as follows:

§ 248.10 Coverage and conditions of eligibility for medical assistance.

* * * * *

(b) * * *

(3) Provide that medical assistance, to the same extent and under the same conditions as it is furnished to the categorically needy, will also be furnished to any individual:

(i) Who, for the month of August 1972, was receiving or eligible for financial assistance under the State's plan approved under title I, IV-A, XIV, or XVI of the act and who was also entitled to monthly insurance benefits under title II of the act for the month of August 1972, and

(ii) Who, except for the increase in monthly insurance benefits under title II resulting from enactment of Pub. L. 92-336, would have been eligible for financial assistance for the current month. Under this requirement:

(A) An individual qualifies as receiving or eligible for financial assistance for August 1972 if, with respect to such month:

(*1*) He was receiving financial assistance; or

(2) He met all conditions of eligibility for financial assistance under titles I, IV-A, X, XIV, or XVI as in effect in August 1972 but had not applied, provided the State title XIX plan included such individuals as categorically needy in August 1972; or

(3) He was in a medical facility or intermediate care facility, and, had he left, would have been eligible for financial assistance, provided the State title XIX plan included such individuals as categorically needy in August 1972.

(B) An individual is considered as though he were eligible for financial assistance for the current month if with respect to such month, except for the increase in monthly insurance benefits under title II resulting from enactment of Pub. L. 92-336:

(*1*) He would meet all conditions of eligibility for financial assistance (however, he need not file an application). In such case he is eligible under the current title XIX plan to the same extent as individuals who are receiving financial assistance; or

(2) He is in a medical or intermediate care facility and, if he left, would be eligible for financial assistance, provided the State title XIX plan as then in effect includes such individuals as categorically needy. In such case he is considered as though he were categorically needy and is eligible under the title XIX plan to the same extent as other categorically needy individuals in such a facility.

* * * * *

3. Section 249.20 is revised to read as follows:

§ 249.20 Free choice of providers of medical services: State plan requirement.

A State plan for medical assistance under title XIX of the Social Security Act must (except in the case of Puerto Rico, the Virgin Islands, and Guam) provide that any individual eligible for medical assistance under the plan may obtain the services available under the plan from any institution, agency, pharmacy, or practitioner, including an organization which provides such services or arranges for their availability on a prepayment basis, which is qualified to perform such services. However, services provided on a prepayment basis may be limited in accordance with section 1902(a)(23) of the Social Security Act. This provision does not prohibit the State agency from establishing the fees which will be paid to providers for furnishing medical and remedial care available under the plan or from setting reasonable standards relating to the qualifications of providers of such care.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Effective date. The regulations shall be effective July 1, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.714; Medical Assistance Program)

Dated: October 3, 1975.

JOHN A. SVAHN,
Acting Administrator, Social and Rehabilitation Service.

Approved: November 3, 1975.

DAVID MATHEWS,
Secretary.

[FR Doc.75-30031 Filed 11-6-75;8:45 am]

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Reserved Beds in Long-Term Care Facilities

Final regulations relating to payment for reserved beds in long-term care facilities under Medicaid (Title XIX, Social Security Act) were published on De-

cember 17, 1974, (39 FR 43631). The regulation specified the conditions under which Federal financial participation (FFP) will be available in State payments to reserve a bed in a long-term care facility for recipients undergoing hospitalization or on therapeutic home visits.

Since then, correspondence has been received from State and Congressional sources taking issue with the limits on FFP for home visits. The usual criticism is that three days are insufficient for patients who must travel a distance or, in the case of intermediate care facility patients, who have opportunities for extended visits with relatives during such times as summer vacation periods. The comments do not take exception to the total number of days (18) allowed, but suggest that the individual 3-day limits be eliminated or changed e.g., 6 days per calendar quarter not to exceed the annual number of 18 days.

Other comments were critical of requirements for prior approval of absences due to hospitalization. The letters noted that physicians determine the need for hospitalization as part of utilization review requirements.

Another point at issue was the requirement to determine whether or not a bed is otherwise required for occupancy. It was contended that the demand for beds is a function of factors which are not clearly reflected in simple occupancy rates.

In the light of these comments, the purpose of this amendment is to revise the basis under which FFP is allowable in State payments for reserved beds in long-term care facilities. The basis for this change is the Department's desire to correct some of the problems that have created undue hardships for recipients and to simplify administration of State Medicaid programs with respect to payments for reserved beds. The revision allows FFP in costs to reserve beds of patients for leaves of absence up to 18 days annually, with no other limits on absences per quarter. It also removes restrictions such as those noted above (prior authorization, occupancy assessments, etc.). Since the entire provision for these payments is a State option, the Department believes these restrictions are unnecessary for purposes of control and are burdensome in administration. FFP during periods of hospitalization remains available for up to 15 days for any single hospital stay.

The Department finds that there is good cause to dispense with notice of proposed rulemaking since the changes respond to numerous comments received both prior to publication of the regulations on December 17 and, as noted above, during the months since publication. An additional period for further comment would unnecessarily delay changes requested by States and recipient groups and concurred in by the Department.

Section 250.30(d), Part 250, Chapter II, Title 45, is revised to read as follows:

§ 250.30 Reasonable charges.

* * * * *

(d) *Federal financial participation.*—(1) *General* Federal financial participation is available for payments within the upper limits described in paragraph (b) of this section, in accordance with the provisions of the State plan.

(2) *Payments during recipient's absence from long term care facility.* (i) Federal financial participation is available in vendor payments which are necessary to reserve a bed in a long term care facility (skilled nursing facility, intermediate care facility, tuberculosis or mental hospital, or chronic care part of a general hospital facility) for a recipient during a temporary absence in a hospital for an acute condition or for a leave of absence (defined to include visits with relatives and friends, and leaves to participate in State-approved therapeutic or rehabilitative programs).

(ii) The following conditions will be met in any instance in which a bed is reserved:

(*a*) The State plan provides for such payments:

(*b*) In the case of a leave of absence, the patient's plan of care provides for such absence.

(iii) Federal financial participation in the cost of reserving a bed for purposes of paragraph (d)(2) of this section is available for (*a*) periods of hospitalization for acute conditions not to exceed 15 days per any single hospital stay and for (*b*) leaves of absence not to exceed 18 days in total during any 12-month period. The limitations do not apply in the case of patients in institutions for the mentally retarded or persons with related conditions (see § 249.13(a)(1)(xi)(E) of this chapter). Where the limitations for therapeutic visits interfere with a State approved therapeutic or rehabilitative program, the State agency may submit a request for special limits to the Regional Commissioner. In addition, the State shall obtain, and submit to the Regional Commissioner as requested, data on long-term care recipients who make home visits.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Effective date. The regulations in this section shall be effective on November 7, 1975.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated: September 18, 1975.

JOHN C. YOUNG,
Acting Administrator,
Social and Rehabilitation Service.

Approved: October 30, 1975.

DAVID MATHEWS,
Secretary.

[FR Doc.75-29939 Filed 11-6-75;8:45 am]

CHAPTER XVI—LEGAL SERVICES CORPORATION

PART 1601—BY-LAWS OF THE LEGAL SERVICES CORPORATION

Adoption and Effective Date

Proposed By-laws of Legal Services Corporation, the corporation established by section 1003(a) of the Legal Services Corporation Act (the "Act"), 42 U.S.C. § 2996b, were published in the FEDERAL REGISTER on August 11, 1975 (40 FR 33751–55). The Corporation received both oral and written comments from the public. These comments were considered at meetings of the Committee on By-laws and Regulations held in Washington, D.C. on August 25, September 8, October 4, October 19, and October 20, 1975 and by the full Board of Directors on September 9 and October 4, 1975. At its meeting on October 4, 1975, the Board revised and then adopted the By-laws and directed that as revised they be published in the FEDERAL REGISTER to become effective 30 days after their publication. The By-laws so adopted and published herein contain the following changes (in addition to typographical and clarifying language changes) from the proposed text:

1. The last section of § 1.01 of the proposed text (now § 1601.1) relating to the status of the Corporation in relation to the United States Government was amended to conform more precisely to section 1005(e)(1) of the Act.

2. A new § 1601.3 was added to consolidate definitions that appeared in various subsequent sections in the proposed by-laws.

3. Section 3.02(c) of the proposed text was deleted because of the definitions of "Director" and "member of the Board" in § 1601.3(d).

4. In § 3.05(a) of the proposed text (now § 1601.11), the capacities in which a Director of the Corporation may serve or may have served another firm or organization for purposes of being disqualified from participating in Board proceedings with respect to matters benefiting such firm or organization were broadened to include consultant, attorney, and agent and any other capacity specified by the Board. The financial or ownership interest in another firm or organization for purposes of such disqualification was broadened by the insertion of the words "direct or indirect." Inclusion of the President in the coverage of this subsection was deleted since he will be governed by the conflict-of-interest provisions under § 6.11 of the proposed text (now § 1601.39). The last sentence of § 3.05(a) of the proposed text (now § 1601.11(a)) was modified to preserve the Corporation's right to have a transaction declared void or voidable and at the same time its right to hold a Director liable for an unfair transaction.

5. Section 3.06(b) of the proposed text (now § 1601.12(b)) was amended to make clear that for purposes of removal on account of non-attendance at meetings, a Director who arrives late at a meeting or is required to leave early is not considered to have been absent.

6. Section 3.06(c) of the proposed text (now § 1601.12(c)) was amended to make clear that whatever the ground for removal of a Director, the process must be instituted by five or more Directors except when the ground is failure to attend the required number or percentage of meetings.

7. Section 3.08 of the proposed text (now § 1601.14). A sentence was added making clear that if the Board authorizes a Director to serve the Corporation in any other capacity, he may not receive compensation in both capacities.

8. In § 4.05 of the proposed text (now § 1601.19), the time for giving of general notice of a Board meeting to the public was changed from "promptly upon" to "concurrently with" the giving of notice to the Directors, and the requirement of general notice was extended to any rescheduling of a meeting.

9. Section 4.07(a) of the proposed text (now § 1601.21(a)) was amended to provide that if the number of Directors in office is seven or fewer, two-thirds of them must be present to establish a quorum.

10. Section 4.08 of the proposed text (now § 1601.22), relating to the holding of public meetings and executive sessions, was published in alternative forms. Most of the public comments received related to this Section. Most of such comments urged that, as proposed in alternative § 4.08 of the proposed text, the By-laws contain a list of the matters which could be discussed in executive session. The Board concluded that it was impossible to prepare a list that would adequately provide for the kinds of matters that might have to be considered in executive session. At the same time, it concluded that criteria should be established for the holding of executive sessions. Accordingly, § 4.08 of the proposed text (now § 1601.22) was amended to include the following:

Subsection (a) provides, in the same language as that of section 1004(g) of the Act, that the determination to hold an executive session must be made by two-thirds of the Directors eligible to vote and must be limited to specific matter "on a specific occasion." If an executive session is held in the course of a public meeting, the chairman of the meeting must announce the subject matter before the executive session is held.

Subsection (b) recites the governing principle that "the public is entitled to the fullest information regarding the decision-making process of the Corporation consistent with the protection of personal privacy or with compelling interests of the Corporation or the public."

11. A new § 1601.23 was added making clear that communications from the public are welcome and that members of the public may address a Board meeting upon invitation of the chairman of the meeting unless the Board otherwise directs.

12. Section 4.10 of the proposed text (now § 1601.25). Choosing between alternatives in the proposed provision for action by the Board without a meeting, the Board decided that such action should require unanimous consent in writing rather than written consent of two-thirds of the Directors.

13. Section 5.01 of the proposed text (now § 1601.26) was amended to make the Chairman of the Board an *ex officio* non-voting member of each committee of the Board.

14. Section 5.02(a) of the proposed text (now § 1601.27(a)) was amended to provide that, in the case of a committee having an even number of voting members, the quorum requirement is one-half rather than a majority of the members, and if a voting member is absent, the Chairman of the Board, if present, may be counted for quorum purposes.

15. Section 5.02(b) of the proposed text (now § 1601.27(b)) was amended to include a provision that failure to provide general notice of a committee meeting shall not affect the validity of action taken thereat.

16. In section 5.02(c) of the proposed text (now § 1601.27(c)), the requirement that two-thirds of the committee members must make the determination to hold an executive session was limited, consistently with section 1004(g) of the Act, to executive sessions held with respect to matter on which a committee had been given the power of the Board to act. In the case of other committees, executive sessions may be held upon a vote of a majority, or one-half if the number of voting members of the committee is even.

17. Section 6.03 of the proposed text (now § 1601.30) was amended to require the vote of a majority of the Directors in office for removal of the President.

18. In § 6.06(a) of the proposed text (now § 1601.30) was amended to require lations promulgated pursuant to the Act were added to the provisions to which the President is subject.

19. A new § 1601.36 was added providing for the office, and specifying the duties, of the Comptroller. In view of this addition, the duty to keep accounts was deleted from the duties of the Treasurer in §6.08 of the proposed text (now § 1601.35).

20. In Section 6.09 of the proposed text (now § 1601.37), specific authority was given for delegation, to a committee or another officer, of the Board's authority to fix the compensation of officers other than the President or a Vice President.

21. Section 6.11 of the proposed text (now § 1601.39) was amended to provide that the rules and regulations governing outside interests of officers and employees may forbid any participation in certain corporate action, rather than participation "personally and substantially."

22. In § 10.01(b) of the proposed text (now § 1601.43(b)), a clarifying amendment, conforming to subsection (a), provides for indemnification of parties to "completed" as well as threatened and pending actions.

23. Section 11.01 of the proposed text (now § 1601.44) was amended to provide that amendment of the By-laws may be accomplished by vote of a majority rather than 60 percent of the Directors in office.

Accordingly, the By-laws of Legal Services Corporation shall become effective on December 8, 1975, in the following form:

Subpart A—Nature, Powers, and Duties of Corporation; Definitions

Sec.

1601.1 Nature of the corporation.
1601.2 Power and duties.
1601.3 Definitions.

Subpart B—Offices and Agents

1601.4 Principal office.
1601.5 Agent.
1601.6 Other offices and agents.

Subpart C—Board of Directors

1601.7 General powers.
1601.8 Number, terms of office, and qualifications.
1601.9 The chairman of the board.
1601.10 Qualification.
1601.11 Outside interests of directors.
1601.12 Removal.
1601.13 Resignation.
1601.14 Compensation.

Subpart D—Meetings of Directors

1601.15 Regular meetings.
1601.16 Special meetings.
1601.17 Notice and waiver of notice.
1601.18 Agenda.
1601.19 General notice.
1601.20 Organization of directors' meetings.
1601.21 Quorum, manner of acting, and adjournment.
1601.22 Public meetings; executive sessions.
1601.23 Public participation.
1601.24 Minutes.
1601.25 Action by directors without a meeting.

Subpart E—Committees

1601.26 Establishment and appointment of committees.
1601.27 Committee procedures.

Subpart F—Officers

1601.28 Officers.
1601.29 Election, term of office, and qualifications.
1601.30 Removal.
1601.31 Resignation.
1601.32 Vacancies.
1601.33 The president.
1601.34 The secretary.
1601.35 The treasurer.
1601.36 The comptroller.
1601.37 Compensation.
1601.38 Prohibition against using political test or qualification.
1601.39 Outside interests of officers and employees.

Subpart G—Deposits and Accounts

1601.40 Deposits and accounts.

Subpart H—Seal

1601.41 Seal.

Subpart I—Fiscal Year

1601.42 Fiscal year.

Subpart J—Indemnification

1601.43 Indemnification.

Subpart K—Amendments

1601.44 Amendments.

AUTHORITY: Sec. 1008(e), 88 Stat. 387 (42 U.S.C. 2996g(e)).

Subpart A—Nature, Powers, and Duties of Corporation; Definitions

§ 1601.1 Nature of the corporation.

Legal Services Corporation is the corporation established by section 1003 of the Legal Services Corporation Act, 42 U.S.C. 2996b. The Act establishes the Corporation in the District of Columbia as a private nonmembership, nonprofit

corporation for the purpose of providing financial support for legal assistance in noncriminal proceedings or matters to persons financially unable to afford legal assistance. Except as otherwise specifically provided in the Act, the Corporation is not considered a department, agency, or instrumentality of the United States Government.

§ 1601.2 Powers and duties.

The powers and duties of the Corporation are as set forth in the Act. The powers of the Corporation include, to the extent consistent with the Act, the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, D.C. Code Title 29, Chapter 10, other than the power to cease corporate activities.

§ 1601.3 Definitions.

As used in these By-laws, except where the context otherwise requires—

(a) "Act" means the Legal Services Corporation Act, 42 U.S.C. 2996–2996*l*, which was added to the Economic Opportunity Act of 1964 as Title X thereof by an Act of Congress cited as the Legal Services Corporation Act of 1974, Pub. L. 93–355, approved July 25, 1974, 88 Stat. 378;

(b) "Board" means the Board of Directors of the Corporation.

(c) "Corporation" means the Legal Services Corporation established by section 1003 of the Act, 42 U.S.C. 2996b;

(d) "Director" or "member of the Board" means a voting member of the Board of Directors appointed by the President of the United States;

(e) The pronouns "he," "him," and "his" mean, respectively, "he or she," "him or her," and "his or her";

(f) "Member of the immediate family" means, with respect to any individual, a spouse, child, parent, brother, or sister of such person, or a spouse or relative of any of the foregoing who has the same home as such person;

(g) "Person" means an individual, corporation, association, partnership, trust, or other entity;

(h) "Recipient" means a grantee, contractee, or recipient of financial assistance described in clause A of section 1006(a)(1) of the Act;

(i) "Telegraph" includes any means of record communication.

Subpart B—Offices and Agents

§ 1601.4 Principal office.

The Corporation shall maintain its principal office in the District of Columbia.

§ 1601.5 Agent.

The Corporation shall maintain in the District of Columbia designated agent to accept service of process for the Corporation.

§ 1601.6 Other offices and agents.

The Corporation may also have offices and agents at such other places, either within or without the District of Columbia, as the business of the Corporation may require.

Subpart C—Board of Directors

§ 1601.7 General powers.

The property, affairs, and business of the Corporation shall be under the direction of the Board, subject to the provisions of the Act.

§ 1601.8 Number, terms of office, and qualifications.

(a) The Board shall consist of eleven voting members and the President of the Corporation *ex officio*. The voting members shall be appointed by the President of the United States by and with the advice and consent of the Senate. No more than six of the voting members shall be of the same political party. A majority of the voting members shall be members of the bar of the highest court of a state. None of the voting members shall be a full-time employee of the United States.

(b) The term of office of each voting member of the Board shall be three years, except that five of the members first appointed have been designated by the President of the United States to serve for a term of two years. Each member of the Board shall continue to serve until his successor is appointed and qualified. The term of the initial members of the Board shall be computed from July 14, 1975, the date of the first meeting of the Board. The term of each member of the Board other than the initial members shall be computed from the date of termination of the preceding term. Any member of the Board appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be reappointed to more than two consecutive terms immediately following such member's initial term.

§ 1601.9 The chairman of the board.

The initial Chairman of the Board, during the period July 14, 1975 to July 13, 1978, shall be a member of the Board initially designated as Chairman by the President of the United States or, if he should resign or otherwise vacate his office or his Board membership, the member subsequently so designated by the President of the United States. Thereafter, annually or at such other time as there may be a vacancy in this office, the Board shall elect a Chairman of the Board from among its voting members who shall serve in such capacity until his successor has been duly elected and qualified, or until he shall resign or otherwise vacate his office or his Board membership. The Chairman of the Board shall, if present, preside at all meetings of the Board, shall carry out all other functions required of him by the Act and these By-laws, and shall perform such other duties as from time to time may be assigned to him by the Board.

§ 1601.10 Qualification.

A person shall be deemed to have qualified as a Director, or as the Chairman of the Board, when upon his appointment or selection, as the case may be, he has affirmed or executed a statement, in a form provided by the Board, to discharge his duties faithfully.

§ 1601.11 Outside interests of directors.

(a) No member of the Board may participate in any decision, action, or recommendation with respect to any matter which directly benefits such member or pertains specifically to any firm or organization with which such member is then associated or has been associated within a period of two years. For the purposes of this paragraph, (1) a member of the Board shall be deemed "associated" with a firm or organization if he (i) is serving or has served within the past two years as a director, officer, trustee, employee, consultant, attorney, agent, or partner thereof, or in any of such other capacities as the Board may from time to time determine, (ii) is negotiating or has any arrangement concerning prospective employment therewith, or (iii) has or has had within the past two years any direct or indirect financial or ownership interest therein; and (2) the term "member of the Board" includes a member of the immediate family of a member of the Board. If a Director violates this paragraph in connection with any transaction, the validity of the transaction, unless void by law or voidable by the Corporation, shall not be affected by the violation, but the Director by law may be liable to the Corporation for damages.

(b) Pursuant to procedures to be established by the Board from time to time, each member of the Board, upon assuming office and at least annually thereafter, shall file with the Secretary a statement identifying any firm or organization with which he is then or has been within the past two years associated (as defined in paragraph (a) of this section) and the nature of the association In the event the association is a result of a financial or ownership interest, that fact shall be reflected in the statement, but the member need not reveal the degree of financial interest. Such statements shall be available for public inspection.

§ 1601.12 Removal.

(a) A Director may be removed, by a vote of seven members at a meeting of the Board, for persistent neglect of or inability to discharge duties, for malfeasance in office, or for offenses involving moral turpitude, and for no other cause.

(b) When a Director shall fail to appear at three consecutive meetings of the Board or at one-half of the meetings held during a two-year period, the Secretary shall notify him in writing that the agenda for the next meeting of the Board will include the question whether he should be removed for persistent neglect of or inability to discharge duties.

(c) Except as provided in paragraph (b) of this section, the Board shall consider whether a Director shall be removed only when five or more Directors have stated in writing that they be-

lieve there is reasonable cause for such action, giving specific allegations in support of such belief.

(d) A Director may not be removed unless (1) notice of the basis of removal has been given to such Director at least thirty days before a vote is taken concerning his removal and (2) the Director has been afforded the opportunity to contest his removal by making written submissions to the other members of the Board and by appearing in person, with or without counsel present, at the meeting at which the vote concerning removal is taken.

§ 1601.13 Resignation.

A Director may resign at any time by giving written notice of his resignation to the President of the United States and to the President of the Corporation. Notice of a resignation shall be posted at the offices of the Corporation in an area to which the public has access. A resignation shall take effect at the time received by the President of the United States unless another time is specified therein. The acceptance of a resignation shall not be necessary to make it effective.

§ 1601.14 Compensation.

Directors shall be entitled to receive, at appropriate rates prescribed from time to time by the Board, not in excess of the rates established for consultants to the Federal Government, per diem compensation for their services as members of the Board or of any committee thereof and reimbursement for travel, subsistence, and other expenses necessarily incurred in connection therewith. A Director shall not serve the Corporation in any other capacity or receive compensation for such services, except as authorized by the Board. In no event shall a Director receive compensation in more than one capacity.

Subpart D—Meetings of Directors

§ 1601.15 Regular meetings.

(a) Regular meetings of the Board shall be held at least four times a year, on the first Friday of March, June, October, and December, if not a legal holiday or, if a legal holiday, then on the next business day following, at 10 a.m., or at such other date and time as shall be determined by a majority of the members of the Board. Such regular meetings shall be held in the District of Columbia unless a majority of the members of the Board otherwise determine. Notice of the place of a regular meeting shall be mailed to each Director at least ten days before the date of the meeting or shall be telegraphed or delivered at least five days before such date.

(b) In the event a majority of the members of the Board agree to postpone a regular meeting, notice of such postponement shall be mailed to each Director at least five days before the scheduled date for such meeting or shall be telegraphed or delivered at least three days before such scheduled date. In the event a majority of the members of the Board agree to reschedule a regular meeting to a date in advance of the scheduled date for such meeting, notice of such rescheduling shall be mailed to each Director at least twenty-one days before the rescheduled date for such meeting or shall be telegraphed or delivered at least fifteen days before such rescheduled date. Every such notice shall specify the place, day, and hour of the rescheduled meeting.

§ 1601.16 Special meetings.

Special meetings of the Board may be called by the Chairman of the Board or shall be called upon receipt by him of a written request from five or more members of the Board or from the President of the Corporation and four or more members of the Board. Notice of any such meeting shall be mailed to each Director at least seven days before the date on which the meeting is to be held or shall be telegraphed or delivered at least three days before such date. Every such notice shall specify the place, day, and hour of the meeting.

§ 1601.17 Notice and waiver of notice.

(a) Notice of a meeting of the Board when mailed shall be deemed given when deposited in the United States mail, postage paid, addressed to the Director at his address appearing on the books of the Corporation or supplied by him for the purpose of this notice. Notice may be delivered at such address to a person having apparent authority to accept such delivery for such Director. Notice by telegraph shall be sent, charges prepaid, to such address.

(b) A waiver of notice of a meeting in writing signed by the Director entitled to such notice, whether before or after the time of such meeting, shall be deemed equivalent to the timely giving of such notice. Attendance of a Director at any meeting shall constitute a waiver by him of notice of such meeting except where he attends for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened.

§ 1601.18 Agenda.

For each regular and special meeting, the Chairman of the Board or the President of the Corporation shall cause to be prepared an agenda of matters to be discussed at the meeting and shall make reasonable effort to mail the agenda to all Directors as far in advance of the meeting as practicable. When feasible, the agenda shall be posted at the offices of the Corporation, in an area to which the public has access, at least three days before the date on which the meeting is to be held. Any matters appearing on the agenda which the Chairman of the Board or the President of the Corporation believes should be discussed in an executive session in accordance with § 1601.22 shall be so noted. Matters not appearing on the agenda may also be discussed and acted upon at the meeting, but the Chairman of the Board or the President of the Corporation shall endeavor to include as many matters on the agenda as can be reasonably anticipated.

§ 1601.19 General notice.

Concurrently with the giving of notice to the Directors of any meeting of the Board or any rescheduling thereof, such notice shall be filed for publication in the FEDERAL REGISTER and posted at the offices of the Corporation in an area to which the public has access. Reasonable effort shall be made to communicate such notice, at least three days before the meeting, to the chairman of each state advisory council appointed pursuant to section 1004(f) of the Act and to every recipient. Failure to provide general notice in accordance with this Section shall not affect the validity of Board action at such meeting.

§ 1601.20 Organization of directors meeting.

At each meeting of the Board, the Chairman of the Board or, in his absence, a temporary chairman chosen by a majority of the members of the Board present shall preside. The Secretary of the Corporation shall act as secretary at all meetings of the Board. In the absence from any such meeting of the Secretary, the chairman of the meeting shall appoint a person to act as secretary of the meeting.

§ 1601.21 Quorum, manner of acting, and adjournment.

(a) At each meeting of the Board, the presence of six Directors or, if the number of Directors in office is seven or fewer, two-thirds of such Directors shall constitute a quorum for the transaction of business. Except as otherwise specifically provided by law or these By-laws, the vote of a majority of the Directors present at the time of a vote, provided that a quorum is present at such time, shall be the act of the Board. If a quorum is present when a meeting is convened at which an action is subsequently voted upon, the action shall be the valid action of the Board unless a Director suggests the absence of a quorum and there is, in fact, no quorum then present. A Director who is present at a meeting of the Board but is required to abstain from participation in the vote upon any matter, whether he remains in the meeting or withdraws therefrom during the vote, may be counted for purposes of determining whether or not a quorum is present, and if a quorum is present, the vote of a majority of the Directors who are eligible to vote with respect to such matter shall be the act of the Board.

(b) A majority of the Directors present at a duly convened meeting, whether or not they shall comprise a quorum, may temporarily adjourn the meeting. Whenever a meeting is temporarily adjourned to a date not more than five business days following such adjournment, it shall not be necessary to give any notice of the adjourned meeting or of the business to be transacted thereat otherwise than by an announcement at the meeting at which such adjournment is taken.

(c) Each Director shall be entitled to one vote. Voting rights of Directors may not be exercised by proxy.

§ 1601.22 Public meetings; executive sessions.

(a) All meetings of the Board shall be open to the public unless two-thirds of the Directors eligible to vote determine that consideration of specific matter on a specific occasion shall be closed to the public. That part of a meeting closed to the public shall be known as an executive session. Agenda and non-agenda items may be considered in an executive session. An executive session shall consider only matter for which the required determination has been made. The chairman of the meeting shall announce the subject of the executive session prior thereto.

(b) In determining whether an executive session is required the Board shall be governed by the principle that the public is entitled to the fullest information regarding the decision-making process of the Corporation consistent with the protection of personal privacy or with compelling interests of the Corporation or the public.

§ 1601.23 Public participation.

The Board welcomes written and other communication from members of the public. Members of the public may address a meeting of the Board upon invitation of the chairman of the meeting unless the Board otherwise directs.

§ 1601.24 Minutes.

The minutes of each meeting of the Board, including an executive session, shall record the names of the Directors present, the actions taken, and the result of each vote. If there is a division on a vote, the minutes shall record the vote of each Director. Minutes shall reflect discussions held in executive session, including as much information as possible about such discussions without compromising the purpose for which such meeting was closed to the public. A copy of the minutes of each meeting shall be supplied to each member of the Board in advance of the next meeting and shall be presented for approval by the Board at such meeting. The minutes of each meeting shall be available for inspection by the public in the form supplied to, and in the form approved by, the Directors.

§ 1601.25 Action by directors without a meeting.

Any action which may be taken at a meeting of the Board may be taken without a meeting if a consent in writing, setting forth the action so taken, is signed by all of the Directors and general notice of the proposed action is published in the manner prescribed by § 1601.19 on or before the date when such consents are first solicited. Any such action so taken shall be included on the agenda of the next meeting of the Board for discussion, ratification, or such other action as may be indicated by the circumstances.

Subpart E—Committees

§ 1601.26 Establishment and appointment of committees.

The Board may by resolution of a majority of the Directors in office establish (and thereafter dissolve) such executive, regular, standing, or temporary committees as the Board may deem appropriate to perform such functions as it may from time to time designate. The authority of any such committee shall expire at the time specified in such resolution, which shall be no later than two years after its establishment. The Board may appoint Directors to serve on such committees including one to serve as the chairman, or may delegate to the Chairman of the Board the authority to make such appointments. A person appointed as a member of a committee shall serve as such only at the pleasure of the Board. The Chairman of the Board shall be an *ex officio* nonvoting member of each committee.

§ 1601.27 Committee procedures.

(a) Except as otherwise provided in these By-laws or in the resolution establishing the committee, a majority of the voting members thereof, or one-half of such members if their number is even, shall constitute a quorum: *Provided*, That if the Chairman of the Board is present, he may be counted in lieu of any absent voting member for quorum purposes. The vote of a majority of the voting members present at the time of a vote, if a quorum is present at such time, shall be the act of the committee. Meetings of each committee shall be called by the chairman of the committee or any two members of the committee, with notice thereof provided to each committee member including the Chairman of the Board. An agenda shall not be required for a committee meeting, but shall be furnished with the notice when feasible.

(b) Notice of a committee meeting shall be provided to members of the committee in the manner required for notice of special meetings of the Board by §§ 1601.16 and 1601.17(a). Notice may be waived in the manner described in § 1601.17(b). When feasible, general notice of a committee meeting shall be given in the manner described in § 1601.19, but failure to provide general notice shall not affect the validity of action at such committee meeting.

(c) All meetings of a committee shall be open to the public unless a majority of the voting members of the committee, or one-half of such members if their number is even, determine that part or all of the meeting shall be in executive session closed to the public; provided that, in the case of a committee to which has been delegated the power of the Board to act on any matter, an executive session shall not be held with respect to such matter unless two-thirds of the committee members eligible to vote make such determination pursuant to the provisions of § 1601.22.

(d) Minutes shall be kept of each committee meeting in the manner described in § 1601.24. The minutes shall be available for inspection by the public.

(e) Any Director and the President of the Corporation shall have access to the records of any committee irrespective of whether he is a member of the committee.

Subpart F—Officers

§ 1601.28 Officers.

The officers of the Corporation shall be a President, a Secretary, a Treasurer, a Comptroller, and such other officers as the Board determines to be necessary. The President of the Corporation shall be appointed by a majority of the Directors in office. Other officers shall be appointed by the Board after consultation with the President of the Corporation. The officers shall have such authority and perform such duties, consistent with the Act and these By-laws, as may from time to time be determined by the Board or, with respect to the other officers, by the President of the Corporation consistently with any such determination of the Board. The President of the Corporation shall provide supervision and direction to the other officers in the performance of their duties.

§ 1601.29 Election, term of office, and qualifications.

The officers of the Corporation shall be appointed annually at the October meeting of the Board or whenever a vacancy arises. Each officer shall hold his office until his successor shall have been duly appointed or until he shall resign or shall have been removed in the manner provided in § 1601.30. Any two offices may be held by the same person, except the offices of the President of the Corporation and Secretary. All officers shall serve at the pleasure of the Board.

§ 1601.30 Removal.

The President of the Corporation may be removed by a majority of the Directors in office, and any other officer may be removed by the Board pursuant to the quorum and voting provisions of § 1601.21 but such removal shall be without prejudice to the contract rights, if any, of the person so removed.

§ 1601.31 Resignation.

Any officer may resign at any time by giving written notice of his resignation to the Board. Such resignation shall take effect at the time received, unless another time is specified therein. The acceptance of such resignation shall not be necessary to make it effective.

§ 1601.32 Vacancies.

Any vacancy in any office shall be filled as provided in § 1601.28.

§ 1601.33 The president.

(a) The President of the Corporation shall be its Chief Executive Officer and shall have the responsibility and author-

ity, in accordance with the Act, rules and regulations promulgated pursuant to the Act, and these Bylaws, subject to the direction of and policies established by the Board, for (1) the day-to-day administration of the affairs of the Corporation; (2) the appointment of such employees of the Corporation as he determines necessary to carry out the purposes of the Corporation and the removal of such employees; (3) the making of grants and the entering into of contracts; and (4) the exercise of such other powers incident to the office of the President of the Corporation and the performance of such other duties as the Board may from time to time prescribe.

(b) The President of the Corporation shall be a member of the bar of the highest court of a State and shall be a nonvoting *ex officio* member of the Board of Directors.

§ 1601.34 The secretary.

The Secretary shall (a) ensure that all notices are duly given in accordance with the Act and these By-laws; (b) be the custodian of the seal of the Corporation and affix such seal to all documents the execution of which is authorized by the Board or by any officer or employee of the Corporation to whom the power to authorize the affixing of such seal shall have been delegated; (c) keep, or cause to be kept, in books provided for the purpose, minutes of the meetings of the Board and of each committee of the Board; (d) ensure that the books, reports, statements, and all other documents and records required by law are properly kept and filed; (e) sign such instruments as require the signature of the Secretary; and (f) in general, perform all the duties incident to the office of the Secretary and such other duties as from time to time may be assigned to him.

§ 1601.35 The treasurer.

The Treasurer shall (a) have charge and custody of, and be responsible for, all funds and securities of the Corporation and (with the exception of petty cash) deposit all such funds and securities in such banks, trust companies, or other depositories as shall be selected in accordance with the provisions of these By-laws; (b) receive, and give receipts for, moneys due and payable to the Corporation from any source whatsoever; (c) sign such documents as shall require the signature of the Treasurer; (d) render to the Board at each regular meeting and at such times as the Board may require a report on the financial condition of the Corporation; and (e) in general, perform all the duties as from time to time may be assigned to him. The Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such sureties as the Board shall determine.

§ 1601.36 The comptroller.

The Comptroller shall keep or cause to be kept full and correct records and accounts of the business, transactions, receipts, and disbursements of the Corporation and at all reasonable times shall exhibit such records and accounts to any Director upon application at the office of the Corporation where such records are kept; and shall perform such other duties as from time to time may be assigned to him.

§ 1601.37 Compensation.

The compensation of the officers shall be fixed from time to time by the Board or, in the case of an officer other than the President or a Vice President, by a committee or another officer to whom such authority is delegated, at rates not in excess of amounts permitted by law. No officer of the Corporation may receive any salary or other compensation for services from any source other than the Corporation during his period of employment by the Corporation except as authorized by the Board.

§ 1601.38 Prohibition against using political test or qualification.

No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Corporation.

§ 1601.39 Outside interests of officers and employees.

The board may from time to time adopt rules and regulations governing the conduct of officers or employees with respect to matters in which they have any interest adverse to the interests of the Corporation. Such rules and regulations may forbid an officer or employee from participating in corporate action with respect to any contract, grant, transaction, or other matter in which, to the knowledge of such officer or employee, he or any member of his immediate family has any interest, financial or otherwise, unless (a) such officer or employee makes full disclosure of the circumstances to the Board or its delegate and the Board or its delegate determines that the interest is not so substantial as to affect the integrity of the services of such officer or employee, or (b) on the basis of standards to be established in such rules and regulations, the interest is too remote or too inconsequential to affect the integrity of such services. Such rules and regulations may also prohibit or establish appropriate limits upon (1) the ownership by an officer or employee, or member of his immediate family, of securities of any firm, corporation, or other entity doing a substantial volume of business with the Corporation and (2) the present or future association by an officer or employee (or former officer or former employee), or member of his immediate family, with any firm, corporation, or other entity doing a substantial volume of business with the Corporation.

Subpart G—Deposits and Accounts

§ 1601.40 Deposits and accounts.

All funds of the Corporation, not otherwise employed, shall be deposited from time to time in general or special accounts in such banks, trust companies, or other depositories as the Board may select, or as may be selected by any officer, agent, or employee of the Corporation to whom such power has been delegated by the Board. For the purpose of deposit and for the purpose of collection for the account of the Corporation, checks, drafts, and other orders for the payment of money that are payable to the order of the Corporation may be endorsed, assigned, and delivered by any officer of the Corporation designated by the Board.

Subpart H—Seal

§ 1601.41 Seal.

The Corporation shall have a corporate seal, which shall include the words "Established by Act of Congress July 25, 1974" and shall be in the form adopted by the Board.

Subpart I—Fiscal Year

§ 1601.42 Fiscal year.

The fiscal year of the Corporation shall begin on October 1.

Subpart J—Indemnification

§ 1601.43 Indemnification.

(a) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by or in the right of the Corporation), by reason of the fact that he is or was a Director, officer, employee, or agent of the Corporation, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Corporation and, with respect to any criminal action, suit, or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or upon a plea of *nolo contendere* or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in the best interests of the Corporation and, with respect to any criminal action, or proceeding, had reasonable cause to believe that his conduct was unlawful.

(b) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the Corporation to procure a judgment in its favor, by reason of the fact that he is or was a Director, officer, employee, or agent of the Corporation, against expenses (including attorneys' fees) actually and reasonably incurred by him in connection with the defense or settlement of such action or suit if he acted in good faith and in a manner he reasonably believed to be in the best interests of the Corporation, except that no indemnification shall be made in respect to any claim, issue, or matter as to which such person

shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the Corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that, despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper.

(c) To the extent that a Director, officer, employee, or agent of the Corporation has been successful on the merits or otherwise in the defense of any action, suit, or proceeding referred to in paragraph (a) and (b) of this section or in the defense of any claim, issue, or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

(d) Any indemnification under paragraph (a) and (b), of this section (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of the Director, officer, employee, or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in paragraph (a) and (b) of this section. Such determination shall be made (1) by the Board by a majority vote of a quorum consisting of Directors eligible to vote who were not parties to such action, suit, or proceeding, or (2) if such quorum is not obtainable or, even if obtainable, a quorum of disinterested Directors so directs, by independent legal counsel in a written opinion.

(e) Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the Corporation in advance of the final disposition of such action, suit, or proceeding as authorized by the Board in any case upon receipt of an undertaking by or on behalf of the Director, officer, employee, or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized in this Section.

(f) The indemnification provided by this Section shall not be deemed exclusive of any other rights to which a person seeking indemnification may be entitled under any By-law, agreement, or vote of disinterested Directors or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a Director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person.

Subpart K—Amendments

§ 1601.44 Amendments.

These By-laws may be amended by a vote of a majority of the Directors in office: *Provided*, That (a) such amendment is not inconsistent with the Act, (b) the notice of the meeting at which such action is taken shall have stated the substance of the proposed amendment, (c) the notice of such meeting shall have been mailed, telegraphed, or delivered to each Director at least five days before the date of the meeting, and (d) when feasible, the proposed amendment shall have been published in the FEDERAL REGISTER at least thirty days before the meeting and interested parties shall have been afforded a reasonable opportunity to comment thereon.

Effective date: December 8, 1975.

DAVID S. TATEL,
Counsel to the Corporation.

[FR Doc.75-29922 Filed 11-6-75;8:45 am]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER N—DANGEROUS CARGOES

[Docket No. HM-129; Amdt.; CGD 74-276]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD CARGO VESSELS

Portable Tank Markings

The purpose of this amendment is to make the portable tank marking requirements for water transportation in 46 CFR 146.05-15(e)(1)(i) compatible with the portable tank marking requirements for land transportation in 49 CFR 173.401(a)(1).

Interested persons have been afforded an opportunity to participate in this rulemaking by notice of proposed rulemaking that was published in the FEDERAL REGISTER on January 29, 1975 (40 FR 4318) and by public hearing that was held on February 25, 1975. No oral presentations were made, however, five written comments were received. One comment indicated that the proposed marking change to 46 CFR is still inconsistent with the requirements of 49 CFR 173.401(a)(1). The change in 46 CFR by this amendment does not duplicate the requirements of 49 CFR, however, it does permit the use of letter heights of one-tenth the diameter of the tank as required by 49 CFR 173.401(a)(1). Another comment suggested a letter height of four inches for tanks over two feet in diameter and two inches for tanks under two feet in diameter. While this suggestion has merit, it is considered beyond the scope of the rulemaking because this amendment is intended only to make the portable tank marking requirements for water shipment compatible with those for land shipment. Also, to incorporate such a marking change would result in further inconsistency with portable tank marking requirements for land shipment. Several comments recommended the adoption of the two-inch minimum letter height (regardless of tank diameter) proposed in Docket HM-103; Notice 73-10. This recommendation is not being incorporated in the amendment as it would result in further inconsistency with the present requirements of 49 CFR 173.401(a)(1).

Compliance with this amendment prior to the effective date is considered by the Bureau as compliance with existing regulations.

In consideration of the foregoing, Part 146 of Title 46 Code of Federal Regulations is amended as follows:

§ 146.05-15 [Amended].

Section 146.05-15 paragraph (e)(1)(i) is amended by striking the words "The height of all required lettering must be at least 2 inches or one-tenth the diameter of the tank (subject to a maximum of 5 inches), whichever is greater" and inserting the words "The height of all required lettering must be 2 inches or one-tenth the diameter of the tank, whichever is higher, but need not be higher than 5 inches" in place thereof.

Effective: December 31, 1975.

(46 U.S.C. 170(7), 49 CFR 1.53(f))

Issued in Washington, D.C., on November 3, 1975.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.75-29934 Filed 11-6-75;8:45 am]

[Docket No. HM-130; Amdt. CGD 74-292]

PART 146—TRANSPORTATION OR STORAGE OF EXPLOSIVES OR OTHER DANGEROUS ARTICLES OR SUBSTANCES AND COMBUSTIBLE LIQUIDS ON BOARD CARGO VESSELS

Portable Tank Gross Weights

The purpose of these amendments to Part 146 of Title 46, Code of Federal Regulations, is to allow the carriage of a portable tank having a gross weight of 55,000 pounds or less on board a vessel.

Interested persons have been afforded an opportunity to participate in this rulemaking by notice of proposed rulemaking that was published in the FEDERAL REGISTER on June 9, 1975 (40 FR 24532), and by public hearing that was held on July 1, 1975. Ten written comments were received, all of which endorsed the proposed amendment. One of the commenters suggested that paragraphs §§ 146.21-15(b), 146.26-10(b) and 146.26-20(f) should also be amended by striking the figures "20,000" wherever they appear and inserting "55,000" in place thereof. This suggestion has been incorporated in the amendment.

Compliance with these amendments before the effective date is considered by the Bureau as compliance with existing regulations.

In consideration of the foregoing, Part 146 of Title 46 Code of Federal Regulations is amended as follows:

§ 146.05-5 [Amended].

1. By revoking § 146.05-5(h) which increased the gross weight limitation for DOT specification tanks from 8,000 pounds to 20,000 pounds.

§§ 146.21-100, 146.23-100, 146.24-100, 146.25-100, 146.26-100 [Amended].

2. By striking the figures "8,000" and "20,000" wherever they appear in §§ 146.-21-100, 146.23-100, 146.24-100, 146.25-200, and 146.26-100 and inserting "55,-000" in place thereof.

§ 146.07-1 [Amended].

3. By striking the figure "20,000" in the second and third sentences in § 146.-

07-1(b)(4) and inserting the figure "55,000" in place thereof.

§§ 146.21-15, 146.26-10, 146.26-20 [Amended].

4. By striking the figure "20,000" wherever it appears in §§ 146.21-15(b), 146.26-10(b), and 146.26-20(f), and inserting the figure "55,000" in place thereof.

Effective: December 31, 1975.

(46 U.S.C. 170(7), 49 CFR 1.53(f))

Issued in Washington, D.C., on November 3, 1975.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.75-29936 Filed 11-6-75;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20474; RM-2442]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Paso Robles, Calif.

Report and order—(Proceeding terminated). In the Matter of Amendment of § 73.202(b), Table of assignments, FM Broadcast Stations. (Paso Robles, California).

1. The Commission has before it the "Notice of proposed rulemaking," adopted May 6, 1975, 40 FR 21742, inviting comments on a proposal by F. Ray Bryant and Nancy L. Bryant, who are jointly licensed to operate Stations KPRL(AM) and KPRA(FM) (Channel 232A), Paso Robles, California, to amend the FM Table of Assignments by substituting Channel 223 for Channel 232A and to modify their KPRA license to specify operation on Channel 223. The adoption of this proposal would not require any other changes in the FM Table of Assignments. The only comments filed regarding this proposal were those of the petitioners.

2. Paso Robles, with a population of 7,168,[1] is located midway between San Francisco and Los Angeles, California and is in the center of the northern part of San Luis Obispo County (pop. 105,690). At the present time, local aural service consists solely of petitioners' two stations—Class IV AM Station KPRL and KPRA(FM), which is one of five FM assignments in San Luis Obispo County.[2]

3. Petitioners allege that Channel 223 should be substituted for Channel 232A because present intermixture of Class A and Class B channels in San Luis Obispo County is "competitively unhealthy." Two Class B channels are presently being operated from the City of San Luis Obispo; and a third channel has been applied for at Morro Bay or Atascadero, California. In addition, petitioners state that Station KWAV(FM) (Channel 245) at Monterey, California, "cuts heavily into the Paso Robles market." Consequently, petitioners argue, a Class B assignment is needed in Paso Robles so that its FM station can survive competitively.

4. Petitioners have also presented data to indicate that Paso Robles and the surrounding area are growing. They state that the Paso Robles-Atascadero market has a population of 20,000. However, they assert, this figure will be increasing because of the development of nearby recreational areas such as Lake Nacimiento and San Antonio Lake which are about 16 miles northwest of Paso Robles. We are informed that already these and other nearby recreational facilities attract many weekend tourists. Petitioners point out that 550,000 tourists visited here in 1970 and that this figure is expected to rise to 750,000 by the end of 1975 and to 1,000,000 by 1980. Petitioners believe that the assignment of a Class B channel to Paso Robles will enable KPRA to keep pace with and to provide service to this growing Lake Nacimiento area.

5. Another reason relied upon by petitioners for the assignment of a Class B channel to Paso Robles is that this will provide the scattered populations in the surrounding rural areas with either first or second FM service. According to petitioners' Roanoke Rapids-Goldsboro, N.C. study, 9 F.C.C. 2d 672 (1967), the 1 mV/m contour of Channel 223 will extend 33 miles and will provide first FM service to 471 persons in a 230 square-mile area and second FM service to 2,076 persons in a 1,030 square-mile area. As a result, the petitioners conclude that the Class B assignment at Paso Robles will enable KPRA to render better service to its area because of increased coverage capability.

6. The petitioners' preclusion study, confirmed by the Commission's engineering staff, shows that preclusion will occur on five channels. The preclusion on Channels 220, 221A, and 222 is minimal because it affects very small land areas that contain communities with populations less than one thousand persons or communities which already either have local FM service or receive FM service from a nearby community. The primary preclusion will occur on the co-channel 223 at Coalinga, California (pop. 6,161), in Fresno County (pop. 413,053), and at Avenal, California (pop. 3,035), in Kings County (pop. 64,610). In addition, Coalinga will be precluded from being assigned Channel 224A. However, petitioners' preclusion study correctly suggests that Channel 232A, if deleted from Paso Robles, may be assigned to Coalinga, Avenal, or most of the area precluded from the use of Channel 224A. Also, Class B Channels 258, 275, and 295 would be available for assignment at or near Paso Robles in the event that future broadcast needs require a Class B channel assignment.

7. In view of the fact that Station KPRA(FM) is located in a growing region, consisting of many rural areas, with scattered populations, we believe that the public interest would be served by the substitution of Channel 223 for Channel 232A at Paso Robles, California. The assignment is made because, as mentioned, preclusionary effects are negligible and such an assignment would bring a first FM service to about 500 persons and a second FM service to about 2,000 persons. This would comply with the first and third priorities used in establishing the FM Table of Assignments in 1963—that insofar as possible, an FM channel should be assigned to provide first and then second FM service to as much of the population of the United States as possible. Further notice of proposed rulemaking, Docket No. 14185, adopted July 25, 1962 (FCC 62-867). Incorporated by reference in paragraph 25 of the Third Report, Memorandum Opinion and Order (40 F.C.C. 747, 758 (1968)). This decision is not based on petitioners' argument that it would eliminate intermixture. Our policy against intermixture of channels applies to assignments within the same community. On rare occasions, under appropriate circumstances and where communities are so close to each other that they might be considered to be in the same "market," we have extended the principle to apply to a market. Fairmont, West Virginia, 40 F.C.C. 1021, 1024 (1965). In the instant case it is not only questionable whether the stations mentioned by petitioners are in the same market, but petitioners appear to be advancing the proposition that intermixture of classes of channels within a county is contrary to our policy. No such county non-intermixture policy exists.

8. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules.

9. *Accordingly, it is ordered,* That effective December 15, 1975, the FM Table of Assignments, § 73.202(b) of the Commission's rules, is amended, insofar as the city below is concerned, to read:

City	*Channel No.*
Paso Robles, California	223

10. *It is further ordered,* That effective December 15, 1975, and pursuant to Section 316 of the Communications Act of 1934, as amended, the outstanding license of F. Ray Bryant and Nancy L. Bryant (joint tenants), for Station KPRA(FM), Paso Robles, California, is modified to specify operation on Channel 223 in lieu of Channel 232A subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than December 15, 1975, of its acceptance of this modification.

(b) The licensee shall submit to the Commission by January 5, 1976, all nec-

[1] All population data are from the 1970 U.S. Census, unless otherwise indicated.

[2] Of the five FM assignments in San Luis Obispo County, there are three Class B channels and two Class A channels. Channels 227 and 241 are assigned to the city of San Luis Obispo and are presently occupied by Stations KZOZ(FM) and KUNA(FM), respectively. (Station KZOZ is a "grandfathered" station with power in excess of the maximum standards.) Channel 283, assigned to Morro Bay, is unoccupied but has been applied for by three applicants at Morro Bay (BPH-8586, BPH-8465, BPH-9067) and a fourth applicant at Atascadero (BPH-8915). Channel 237A is assigned to Arroyo Grande but is used by Station KPGA(FM) at Pismo Beach. The fifth Class A channel, of course, is at Paso Robles.

essary information complying with the applicable technical rules for modification of authorization to cover the operation of Station KPRA(FM) on Channel 223 at Paso Robles, California.

(c) The licensee may continue to operate on Channel 232A under its outstanding authorization for one year from the effective date of this Order, or effect the change sooner should it so desire. Ten days prior to commencing operation on Channel 223, the licensee shall submit the same measurement data normally required in an application for an FM broadcast station license.

(d) The licensee shall not commence operation on Channel 223 until the Commission specifically authorizes it to do so.

11. *It is further ordered*, That the Secretary of the Commission shall send a copy of this Report and Order by Certified Mail, Return Receipt Requested, to P. Ray Bryant and Nancy L. Bryant, joint tenants, the licensees of KPRA (FM), Paso Robles, California.

12. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307))

Adopted: October 30, 1975.

Released: November 4, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-30024 Filed 11-6-75;8:45 am]

[Docket No. 19928]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations in Certain Cities in Illinois and Indiana

Report and order—(Proceeding terminated). In the matter of amendment of § 73.202(b), Table of assignments, FM Broadcast Stations. (Danville apd Hoopeston, Illinois; Attica, Crawfordsville, Frankfort, Fowler, Greencastle, Lafayette, Logansport, North Vernon and Terre Haute, Indiana), Docket No. 19928, RM-1971, RM-2244, RM-2161, RM-2353, RM-2203.

1. The Commission here considers the six alternative FM assignment proposals for communities in Illinois (Hoopeston and Danville) and Indiana (Lafayette and Terre Haute) raised by the conflicting FM assignment proposals in RM-1971 (Hoopeston), RM-2161 (Lafayette), RM-2203 (Danville) and RM-2244 (Terre Haute)[1] and advanced for consideration and public comment in the Notice of proposed rulemaking released herein on January 31, 1974 (39 FR 4586), together with the counterproposals and comments received on the proposals.

2. The six alternative proposals are the following: [2]

	City	Channel No. Add—	Channel No. Delete—
I.	Hoopeston, Ill.	241	
	Fowler, Ind.	252A	240A
II.	Hoopeston, Ill.	265A	
	Danville, Ill.	241	
	Fowler, Ind.	252A	240A
III.	Hoopeston, Ill.	265A	
	Fowler, Ind.	252A	240A
	Lafayette, Ind.	243	244A
IV.	Hoopeston, Ill.	265A	
	Terre Haute, Ind.	242	
V.	Danville, Ill.	241	
	Hoopeston, Ill.	265A	
	Fowler, Ind.	252A	240A
	Terre Haute, Ind.	243	
VI.	Danville, Ill.	241	
	Hoopeston, Ill.	265A	
	Fowler, Ind.	252A	240A
	Lafayette, Ind.	243	244A

3. Comments and/or reply comments in response to the Notice were timely filed by the following parties: [3]

David Steinhart, Hoopeston, petitioner in RM-1971.

Vermilion Broadcasting Corporation, licensee of AM Station WITY, Danville, petitioner in RM-2203.

Radio Lafayette, Incorporated, licensee of AM Station WAZY (daytime-only) and Station WAZY-FM (Channel 244A), Lafayette, petitioner in RM-2161.

Citizens Broadcasting Company, licensee of AM Station WAAC (daytime-only), Terre Haute, petitioner in RM-2244.

WCVL, Inc., licensee of AM Station WCVL and permittee of FM Station WLFQ (Channel 280A), Crawfordsville, Indiana. Its comments include a counterproposal for Lafayette (or Attica), Indiana, which is discussed below.

Logansport Broadcasting Corp., licensee of AM Station WSAL and Station WSAL-FM (Channel 272A), Logansport, Indiana. Its comments also advance alternative proposals for Logansport (RM-2353) upon which Public Notice (Report No. 904), as corrected by Public Notice (Report No. 906), was given on April 9 and April 22, 1974, respectively, advising that its proposals would be treated as counterproposals herein. Its proposals are also discussed below. (Comments only.)

Kickapoo Broadcasting Co., licensee of FM Station WIAI (Channel 256), Danville.

Tiprad Broadcasting Co., Inc., former licensee of FM Station WXUS (Channel 224A), Lafayette. (Comments only.) [4]

Wabash Valley Broadcasting Corporation, licensee of Station WTHI-TV, (Channel 10), Terre Haute. (Comments only.)

Eastern Broadcasting Corporation, licensee of AM Station WBOW, and FM Station WBOQ (Channel 298), Terre Haute. (Comments only.)

Raftis Broadcasting Company, licensee of Station WVTX-FM (Channel 264), Terre Haute. (Comments and supplement thereto only.)

Wabash College Radio, Inc., licensee of FM Station WNDY (Channel 292A), Crawfordsville, Indiana. (Reply comments only.)

Kaspar Broadcasting Company, Inc., licensee of Station WILO-FM (Channel 259), Frankfort, Indiana. (Reply comments only.)

Dorrell Ochs, licensee of Station WOCH-FM (Channel 291), North Vernon, Indiana. (Reply comments only.)

4. We have carefully considered all arguments and data contained in the comments received from the above parties on the FM assignment proposals and counterproposals before us, together with that contained in the petitions and related pleadings which were considered in deciding to hold rule making on the Hoopeston, Danville, Lafayette and Terre Haute proposals. Of these proposals, we have decided, for the reasons discussed below, that only two of them—the proposals to assign Channel 265A to Hoopeston for a first assignment and to assign Channel 243 in place of Channel 244A to Lafayette as a second Class B (third FM) assignment, as proposed in Plan III, paragraph 2 above—have sufficient merit to warrant adoption. Since we find the counterproposals submitted by WCVL, Inc., and Logansport Broadcasting Corp. not worthy of adoption for reasons apart from their conflicts and/or relationship to the other proposals before us, we will first discuss them. Unless otherwise indicated, all population data are from the 1970 U.S. Census.

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[1] In RM-1971, petitioner (David Steinhart) requested the assignment of Class B Channel 241 to Hoopeston for a first FM assignment by substituting Channel 252A for Channel 240A (unused) at Fowler, Indiana.

In RM-2161, petitioner (Radio Lafayette, Incorporated) requested the assignment of Class B Channel 243 to Lafayette for a second Class B (third FM) assignment by deleting Channel 244A from Lafayette, occupied by Station WAZY-FM, licensed to Radio Lafayette, and by replacing the Fowler Channel 240A assignment with Channel 252A.

In RM-2203, petitioner (Vermilion Broadcasting Corporation) requested the assignment of Class B Channel 241 to Danville for a third Class B assignment by substituting Channel 252A for Channel 240A at Fowler.

In RM-2244, petitioner (Citizens Broadcasting Company) requested the assignment of either Class B Channel 242 or Channel 243 to Terre Haute for a fifth Class B assignment.

[2] In Alternative I, the proposed Hoopeston Channel 241 assignment would require a transmitter site at least 11 miles south of Hoopeston.

In II, the proposed Danville Channel 241 assignment would require a site at least 6 miles northwest of Danville.

In III, the proposed Lafayette Channel 243 assignment would require a site at least 14 miles west southwest of Lafayette.

In IV, the proposed Terre Haute Channel 242 assignment would require a site approximately 18 miles north from the center of Terre Haute.

In V, the proposed Danville Channel 241 assignment would require a site at least 6 miles northwest of Danville, and the proposed Terre Haute Channel 243 assignment would require a site approximately 16 miles northwest of Terre Haute and 4 miles east of Paris, Illinois.

In VI, the proposed Danville Channel 241 assignment would require a site approximately 11 miles northwest of Danville, and the proposed Lafayette Channel 243 assignment would require use of a site approximately 10 miles west of Lafayette. This proposal would also limit use of Channel 240A, Clinton, Illinois, to an antenna site at least 4 miles west of Clinton. A construction permit (BPH-9104) was granted on December 10, 1974, for a Clinton Channel 240A station (WHOW-FM) at a site 4 miles south of Clinton.

[3] A late-filed letter from WFBM, Inc., licensee of FM Station WFBQ (Channel 234), Indianapolis, Indiana, is also accepted for consideration in connection with RM-2353 despite its untimeliness as we are persuaded that our Public Notices on the Logansport alternative proposals in RM-2353 did not provide sufficient details on them to put WFBM on notice that it could be affected by one of the alternatives proposed; and that it promptly filed upon learning its implications.

[4] An application for voluntary assignment of license (BALH-2058) from Tiprad to Twin Cities Broadcasting, Inc., filed October 3, 1974, was granted on February 12, 1975.

5. *Counterproposal of WCVL, Inc.* In its comments, WCVL, Inc., the licensee of AM Station WCVL and Station WLFQ, Channel 280A, at Crawfordsville,[4] requests adoption of a variant of the proposal to assign a second Class B channel to Lafayette in alternative Plan III (para. 2, supra) in lieu of any of the six alternative proposals. Its counterproposal differs from alternative Plan III only in that it proposes the assignment of Channel 280A, as well as Channel 243, to Lafayette by deleting Channel 280A from Crawfordsville, as follows:

City	Channel No.	
	Add—	Delete—
Hoopeston	265A	
Fowler	252A	240A
Lafayette	243, 280A	244A
Crawfordsville		280A

Also, as an alternative to the Channel 243 assignment proposed for Lafayette, WCVL proposes the assignment of Channel 243 for a first FM assignment to Attica, Indiana, a community (1970 population, 4,262) located approximately 21 miles southwest of Lafayette and 25 miles northwest of Crawfordsville.

6. The stated objective of WCVL's counterproposal is to make the proposed Lafayette (or Attica) Channel 243 assignment available for application to it, as well as others, for use primarily for the regional service for which it believes there is a greater need in this Indiana area than there is for a second Class B outlet at Lafayette. By assigning Channel 280A, as well as Channel 243 to Lafayette, WCVL states that Station WAZY–FM, whose operating frequency (Channel 244A) would be required to be deleted if Channel 243 were to be assigned to Lafayette (or Attica), could be shifted to operation on Channel 280A if its licensee (Radio Lafayette) did not desire to compete for Channel 243 with it and other possible applicants for Channel 243 or, if it did compete, was not the winning applicant. If Station WAZY–FM's licensee were to compete and prevail, WCVL states that Channel 280A should remain in Crawfordsville.

7. Proponents of the conflicting and related proposals for Terre Haute (Citizens Broadcasting Company) and for Lafayette (Radio Lafayette) oppose the WCVL counterproposal. Citizens contends that, in addition to the objections it has raised to the Lafayette Channel 243 assignment proposal of Radio Lafayette, the WCVL counterproposal is objectionable because it would shift Channel 280A from Crawfordsville to Lafayette and make a mockery of the recently concluded proceeding in Docket No. 19512 wherein Crawfordsville was preferred to West Lafayette for the Channel 280A assignment based on a finding that Crawfordsville's need for a second FM outlet outweighed that of West Lafayette for a first FM assignment. Radio Lafayette contends that the "regional" use of Channel 243 proposed by WCVL is but a euphemism for de facto allocation of the channel to Crawfordsville. It argues that, as a general policy, wide-coverage Class B channels are not assigned to small communities and that in instances where exceptions have been made, it has been where the community is the center of a large surrounding rural area and is far removed from large population centers. It submits that since Crawfordsville (population, 13,847), is located approximately 26 miles south of Lafayette and 28 miles northwest of Indianapolis, both large metropolitan cities, it does not qualify for a Class B assignment under this exception to general policy. Radio Lafayette also contends that if Channel 243 is assigned to Lafayette, section 307(b) of the Act mandates that it be used primarily to serve the Lafayette-West Lafayette community and surrounding area rather than for a regional service primarily for the rural areas surrounding Crawfordsville.

8. Radio Lafayette further submits that, since Crawfordsville is served by WCVL's local AM station and has two occupied Class A FM assignments, and receives a number of 1 mV/m FM services from other nearby cities, it and the surrounding area are being adequately served. It also notes that there are a number of unoccupied Class A assignments which could augment service to the Crawfordsville area and that its contemplated Lafayette Channel 243 station would also place a 60 dBu contour over the area.

9. We find no merit in this WCVL proposal. Aside from the question of whether Lafayette warrants the proposed Channel 243 assignment, we would be opposed to the assignment of an FM channel to it or any other metropolitan city of its size (population, 44,955) except upon a showing that it would serve a need and demand in the proposed city of assignment. The WCVL showing not only does not contain such a showing but would have us negate such an assumption. Since wide-coverage Class B channels are normally not assigned to small communities, we would also be opposed to the assignment of a Class B channel to a small community located in close proximity to a much larger community, as Attica is with respect to Lafayette, for use for a regional service, as proposed, especially when the assignment could be made to the larger community, as is the case with respect to the WCVL proposal, and it has not been shown that the proposed assignment would serve any special need of the small community for a local outlet.

10. Moreover, we oppose deletion of Channel 280A from Crawfordsville. After a lengthy rule making proceeding in Docket No. 19512, we decided that, in light of the technical limitations restricting the nighttime coverage of Crawfordsville's only AM outlet (WCVL's station) and the operating problems of Crawfordsville's only FM station, a student-managed station (WNDY, Channel 292A), the assignment and use of Channel 280A at Crawfordsville could meet the demand for a first year-round local aural service throughout all of Montgomery County (in which Crawfordsville is located) and that this represented a better use of the frequency than would its assignment and use at West Lafayette as a first local outlet and an eighth aural outlet and service in the Lafayette-West Lafayette metropolitan area. WCVL was the proponent of the Crawfordsville Channel 280A proposal and is now the licensee of the new Channel 280A station at Crawfordsville. We find no basis in the WCVL showing herein for now concluding that the public interest would be served by depriving Crawfordsville of its new local FM outlet by reassigning Channel 280A to Lafayette.

11. *Logansport, Indiana, Counterproposal (RM–2353).* Logansport Broadcasting Corp. (WSAL), licensee of AM Station WSAL and Station WSAL–FM (Channel 272A), at Logansport, advances three alternative plans for providing Logansport (population 19,255), the seat of Cass County (population 40,456), located approximately 32 miles northeast of Lafayette and 22 miles northwest of Kokomo, Indiana, with a first Class B assignment in substitution for the Channel 272A assignment utilized by Station WSAL–FM. The only other Logansport FM assignment, Channel 237A, is occupied by Station WVTL at Monticello, Indiana (population, 4,869), located in White County (population 20,995), approximately 21 miles west of Logansport. WSAL's alternative Plans I and II would substitute Channel 291 for Channel 272A at Logansport. Its Plan III would replace Channel 272A with Channel 249 at Logansport. Since only its Plan I is supported by an engineering statement, the others cannot be considered as being full-fledged proposals entitled to consideration.[5] Therefore, only the first of its three plans will be discussed.

12. WSAL's Plan I for assigning Channel 291 in place of Channel 272A at Logansport, which would require changes in assignments occupied by existing stations in three other Indiana communities at North Vernon (WOCH–FM, Channel 291), Lafayette (WXUS–FM, Channel 224A) and Crawfordsville (WNDY, Channel 292A), is as follows:

[4] Channel 280A was assigned to Crawfordsville for a second FM assignment by our Second Report and Order of March 7, 1973, in Docket No. 19512, a proceeding originally instituted to consider a proposal, among others, to assign Channel 280A to West Lafayette, Indiana (contiguous to Lafayette), for a first FM assignment, in response to a counterproposal of WCVL (39 F.C.C. 2d 1027).

[5] Plans II and III call for assigning Channel 291 in place of 272A at Logansport or Channel 259 for 272A at Logansport, respectively. Each involves related changes, and neither would warrant adoption on its merits in any event.

City	Channel No.	
	Add—	Delete—
Crawfordsville, Ind	[1] 224A	292A
Fowler, Ind	252A	240A
Lafayette, Ind	240A	224A
Logansport, Ind	291	272A
North Vernon, Ind	292A	291

[1] WSAL alternatively suggests that an educational channel instead of channel 224A should be assigned to Crawfordsville for use by Station WNDY, a student-operated commercial station, in place of channel 292A. While stating that it believes such a channel would be available for assignment to Crawfordsville, it does not specify any.

13. This proposed WSAL plan conflicts with the alternative proposals in paragraph 2, supra, for the assignment of Channel 241 to Hoopeston or Danville or of Channel 243 to Lafayette, as well as with the WCVL Lafayette (or Attica) Channel 243 counterproposal. The conflict exists because this WSAL plan would reassign Channel 240A from Fowler to Lafayette in place of Channel 224A at Lafayette, and with Channel 240A at Lafayette, spacing requirements would not permit a Channel 241 assignment at either Hoopeston or Danville or a Channel 243 assignment at Lafayette or Attica. WSAL's Plan I, however, does not conflict with the alternative proposals in paragraph 2 above for the assignment of Channel 242 or Channel 243 to Terre Haute.

14. In support of the assignment of a Class B channel to Logansport, WSAL avers that Logansport is the trading, social and cultural center of a highly developed agricultural area and that its population of 19,255 is not a true indication of its importance to northcentral Indiana. Other information is provided on the manufacturing, food packing and other area activities.

15. WSAL states that the program service of its AM station (WSAL), a Class IV station operating with a power of 1 kW day and 250 watts night, has always been oriented toward the farmers and farm communities within a radius of 30 to 35 miles of the city and that its AM programming has been largely duplicated by its FM station (WSAL–FM). It contends that, since the interference-free service area of WSAL is severely restricted in the early morning, late afternoon and evening throughout much of the year, most of the farmers needing its AM service do not have acceptable reception nor does its FM station, even though operating with maximum Class A facilities, significantly augment its AM service. WSAL claims that there is a paucity of needed FM service in the Logansport area, particularly to the north and northwest, which could be provided by a Class B station at Logansport. Such a station, it says, would be able to provide a first FM service to 6,560 persons in an area of 134 square miles and a second FM service to 9,918 persons in an area of 413 square miles. No showing is made of availability of AM service in these areas. Making the proposed Logansport Channel 291 assignment would require Station WOCH–FM at North Vernon to relinquish its Class B channel for a Class A channel, 272A. Since Station WOCH–FM is short-spaced by 26.6 miles to Station WPBF (Channel 290) at Middletown, Ohio, a situation existing prior to the adoption of the present Table of FM Assignments in 1963, and operates with less than maximum Class A facilities, WSAL urges that the change would improve the North Vernon's station's potential for service. WSAL contends that if Station WOCH–FM were to operate with maximum Class A facilities, it could increase its present 1 mV/m service area by 71.5 percent and the population served by 63 percent.

16. Dorrell Ochs, the licensee of Station WOCH–FM at North Vernon, opposed the WSAL counterproposal, and asserted that he was preparing and shortly would file an application to increase power to 50 kW [1] which would provide a new FM service to 97,442 persons in an area of 1,056 square miles. He contends that WSAL errs in assuming that he cannot improve his Class B facilities at North Vernon due to adjacent short spacing with Station WPBF at Middletown, since the conditional terms of the license for Station WPBF, which now operates with maximum Class B facilities, would allow WOCH–FM also to operate with maximum Class B facilities, and this is the case. Ochs also contends that the WSAL showing is not sufficiently documented to demonstrate a need for a Class B facility at Logansport that warrants deleting the occupied North Vernon Class B assignment, noting that Logansport experienced a population decrease of 8.8 percent and Cass County a population decrease of 1.2 percent over the 1960–70 period whereas North Vernon and Jennings County, in which North Vernon is located, experienced population increases of 6.4 percent and 12.7 percent, respectively, during the same period. Ochs argues that North Vernon and the surrounding areas have a greater need for the occupied North Vernon Class B assignment than Logansport, and that it would be contrary to existing case law and precedent to adopt the WSAL counterproposal requiring involuntary modification of its FM station license on the basis of the WSAL showing.

17. WSAL's Plan I is also opposed by Wabash College Radio, Inc. (Wabash), licensee of Station WNDY at Crawfordsville, which would be required to change its operating frequency from Channel 292A to either Channel 224A or an unspecified educational channel.[2] Wabash contends that, even if the WSAL counterproposal were technically feasible, which it questions, it would be contrary to the public interest to require a number of existing stations to change their facilities merely to permit an existing FM station to improve its coverage. Wabash also opposes operating Station WNDY on an educational FM assignment since the station is operated by students as a training laboratory and commercial operation is necessary to provide meaningful training. It also avers that the revenues derived from commercial operation are important to the continued operation of its station.

18. Both Radio Lafayette, Incorporated, and Vermilion Broadcasting Corporation, express opposition to the WSAL Plan I counterproposal which conflicts with their proposals for Lafayette and Danville under consideration herein. Radio Lafayette contends that WSAL by its counterproposal would have the Commission establish a precedent of compelling any Class B station which is not using maximum permissible facilities to exchange its Class B channel authorization for a Class A channel authorization, thus depriving the licensee of any opportunity to improve its facilities in the future.

19. We find no public interest basis for concluding that adoption of WSAL's Plan I for the assignment of a Class B channel to Logansport would be warranted. Considering the size of Logansport (population, 19,255), its two local radio services, and the other FM services available to the Logansport area from the nearby Monticello Class A station and the Kokomo Class B station (WWKI), we believe that the public interest value of a Class B assignment over a Class A assignment for increased service in the Logansport area is outweighed by the consideration that the WSAL proposal, besides disturbing existing stations in other communities, would decrease their potential for service in their areas. That being the case, we now turn to the original proposals.

20. *Hoopeston, Illinois (RM–1971).* Class B Channel 241 or Channel 265A have been proposed for assignment to Hoopeston for a first FM assignment and a first aural broadcast outlet. Hoopeston, with a population of 5,461, is located in Vermilion County (population 97,047), approximately 23 miles north of Danville (population 42,570), the seat of Vermilion County. While Hoopeston is without a radio broadcast outlet of its own, the Hoopeston area receives service from the four Danville stations (two unlimited-time AM and two Class B FM stations) and from other AM and FM stations at Watseka and Chicago, Illinois.

21. The Channel 241 proposal, initially advanced by David Steinhart in RM–1971, would require a change in the unoccupied Fowler, Indiana, Channel 240A assignment for which Channel 252A was proposed, and use of Channel 241 at a transmitter site at least 11 miles south of Hoopeston to meet spacing requirements to cochannel stations at Owensboro, Kentucky (WSTO) and Clinton, Iowa (KROS–FM). Further, as previously detailed in the Notice, the Hoopeston Channel 241 proposal conflicts with the Danville Channel 241, the Lafayette

[1] BPH–9233, granted December 30, 1974.

[2] Although WSAL's Plan I would also require Station WXUS–FM (Channel 224A), Lafayette, to change its operating frequency, its licensee (then Tiprad Broadcasting Co., Inc.) filed no reply comments stating its position on the proposal.

Channel 243 and the Terre Haute Channel 242 proposals before us for consideration herein. It would also conflict with the Lafayette (or Attica) and Logansport counterproposals.

22. The Channel 265A proposal, suggested by the proponents of the conflicting Class B assignment proposals for Danville (RM–2202), Lafayette (RM–2161) and Terre Haute (RM–2244) to resolve conflicts between their proposals and the Hoopeston Channel 241 proposal, can be made without affecting any other FM assignment or requiring any restriction in the selection of an antenna site for a Channel 265A station in the area in or near Hoopeston. This Hoopeston Class A proposal also, unlike the Hoopeston Channel 241 proposal, does not conflict with any of the other assignment proposals for Danville, Lafayette (or Attica), Terre Haute and Logansport under consideration herein.

23. The Hoopeston Channel 265A proposal was advanced for consideration not only as a means of resolving conflicts between Steinhart's Class B proposal for Hoopeston and the Class B proposals for Danville, Lafayette and Terre Haute but also because, while we were satisfied by Steinhart's prior showing, which has been adequately discussed in the Notice, that a first FM assignment to Hoopeston would serve a need and demand, we were not convinced by it that any basis exists for concluding that Hoopeston would warrant a Class B assignment. As the Notice stated, in the absence of a showing of overriding public interest reasons for doing so, we would not normally assign a wide-coverage Class B channel to a community the size of Hoopeston considering its proximity to the larger community of Danville, particularly when it appears that an available Class A channel (which is designed for use in relatively small communities of its size to meet needs for a local outlet) could be assigned to Hoopeston.

24. None of the commenting parties, including the petitioner (Steinhart), give reason for concluding that a Class B assignment to Hoopeston would better meet Hoopeston's need for a local broadcast outlet than would a Class A channel. Opponents of a Class B assignment to Hoopeston, contend that such an assignment is unnecessary and unwarranted. Radio Lafayette also avers that, while Steinhart's Class B proposal for Hoopeston was supported by a showing that the assignment would provide service to unserved and underserved areas, most of such areas would also receive service from a Class A facility.[9] Steinhart states that a Class A assignment is acceptable to him and that he would promptly construct and put a first new FM station at Hoopeston in operation. He urges that Hoopeston warrants a Class A assignment in view of its size, its lack of any aural broadcast outlet, and his prior showing as to its available economic support for an FM station. He also stresses that Hooperston is not a suburb or bedroom community for a larger city, that it is relatively isolated, and that a first local FM station would provide it with a much needed source of local information and a needed outlet for expression of local views and concerns.

25. The record herein does not support a finding that Hoopeston warrants a Class B assignment. We believe, however, that it does support a finding that the public interest will be served by assigning Hoopeston a Class A channel. Since proposed Channel 265A is technically feasible for a Hoopeston assignment without affecting existing assignments and can, we are convinced, be satisfactorily used for a local station at Hoopeston, the assignment is being made.

26. With the Hoopeston assignment question resolved by the assignment of Channel 265A to the community, as proposed in Plans II–VI, we turn to the other aspects of those plans which present the possibility of making a Class B assignment to either Danville (Plan II), Lafayette (Plan III) or Terre Haute (Plan IV), or, alternatively, to both Danville and Terre Haute (Plan V) or to both Danville and Lafayette (Plan VI) by judicious selection of transmitter sites. However, while it appeared when the Notice was issued that alternative Plan VI would permit Class B assignments to both Danville and Lafayette, it is now evident that this is not technically feasible.[10] The choices presented by the alternative plans are therefore limited to making one Class B assignment to either Danville, Lafayette or Terre Haute or to making two such assignments only at Danville and Terre Haute (Plan V). We now discuss the assignment proposals for these communities.

27. *Danville, Illinois (RM–2203).* As stated in the Notice, Danville (population, 42,570), the seat of Vermilion County (population 97,047) and its largest city, has the only aural broadcast outlets in the county. These consist of two unlimited-time AM stations (WITY and WDAN) and two Class B FM stations (WIAI and WMBS) which occupy the only Danville FM assignments. The Class A assignment we are assigning to Hoopeston, also located in Vermilion County (some 23 miles north of Danville), will provide for a third FM outlet in the county.

28. Vermilion Broadcasting Corporation (Vermilion), the licensee of AM Station WITY at Danville and the proponent of the proposal in RM–2203 to assign Channel 241 to Danville for a third Class B assignment, again urges that the assignment be made, and it supports the alternative plans set forth in paragraph 2 above which would permit the assignment (Plans II and V). Vermilion also affirms its intention to apply for Channel 241 if it is assigned to Danville and, if authorized, to build the station promptly. In opposing comments, Kickapoo Broadcasting Company (Kickapoo), licensee of one of he two FM stations at Danville (WIAI), registers its continued opposition to this proposal. Citizens Broadcasting Company and Radio Lafayette also indicate opposition to the Danville Channel 241 proposal insofar as it would conflict with their proposals for the assignment of Channel 242 to Terre Haute, and of Channel 243 to Lafayette. Citizens, however, supports Plan V which would assign Channel 241 to Danville and Channel 243 to Terre Haute.

29. We are satisfied that the assignment of Channel 241 to Danville for a third FM assignment, as proposed (Alternatives II and V), could be made without affecting any existing FM assignment other than the unoccupied Fowler Channel 240A assignment if used at an antenna site at least six miles northwest of Danville. This assumes, of course, that the conflicting proposals for Lafayette (Alternative II) and for Terre Haute (Alternative IV), as well as the conflicting counterproposals for Lafayette (or Attica) and Logansport FM assignments are rejected. We are also satisfied by the preclusion study submitted with Vermilion's comments that its Danville Channel 241 proposal is not objectionable on that score. We are not persuaded, however, that Danville warrants a third FM assignment.

30. In the Notice we indicated that we had reservations about Vermilion's request for a third Class B assignment at Danville since the requested assignment would exceed our criterion of no more than two channels for cities of less than 50,000 in population and that, in the absence of a compelling public interest reason we would not normally conclude that Danville is entitled to an additional assignment.[11] To justify a third Class B FM assignment at Danville, Vermilion devotes its comments in large part to showing that Danville has potential for economic and population growth and that the problems which have delayed the development of new industries there are in the process of being solved so that

[9] Radio Lafayette's comparative study indicates that all of the claimed area (15.7 square miles) and population (130 persons) that would receive a first FM service from a Hoopeston Class B assignment would also be served by a Class A facility, and that, of the claimed 21,069 persons in an area of 363 square miles that would receive a second FM service from a Hoopeston Class B assignment, all but 2,193 of the residents in an area of 533 square miles would be served by a Hoopeston Class A station.

[10] As indicated in footnote 2, supra, the technical feasibility of Plan VI depends, among other things, on use of the Clinton, Illinois, Channel 240A assignment at a transmitter site at least four miles west of Clinton. Since the licensee of AM Station WHOW at Clinton was granted a construction permit on December 10, 1974, authorizing use of Channel 240A at the site of its AM station about four miles south of Clinton, this rules out the possibility of making the proposed assignments to both Danville and Lafayette, as contemplated by Plan VI.

[11] For the criteria, see Further Notice of Proposed Rule Making, Docket No. 14185 (FCC 62–687), incorporated by reference in the Third Report, Memorandum Opinion and Order, 40 F.C.C. 747 (1969).

it is now anticipated by local authorities that by the 1980 Census Danville will have a population of 50,000.

31. In its opposing comments, Kickapoo contends that Vermilion's showing provides no reason for departing from our assignment criteria and assigning a third FM channel to Danville. It submits that, considering that the local and other radio and other mass media services available to Danville include service from eight AM stations (2 Danville, 1 Paris, 1 Champaign, 4 Chicago stations), six FM stations (2 Danville, 1 Watseka, 1 Terre Haute, 1 Paris and 1 Champaign stations), four TV stations (1 Danville, 1 Champaign, 1 Decatur and 1 Urbana stations), two local cable TV stations, and one local daily newspaper, there is nothing to suggest that Danville is in "need" of a third FM channel assignment.

32. As to the growth potential of Danville, it is Kickapoo's position that the optimistic outlook painted by Vermilion is at the most speculative. It contends that neither Vermilion nor the Vermilion County Planning Commission have shown any study to support the claim that Danville's population will increase to 50,000 or more in the reasonably near future. Kickapoo also notes that the 1974 letter of the Vermilion County Planning Commission upon which Vermilion relies acknowledges that the Commission's projection of a population of 50,000 for Danville by 1980 is not based on "firm population projections." Kickapoo also states that the 1970 Census shows that the growth rate of Danville over the 1960–1970 period was but 1.7 percent (from 41,856 to 42,570 in population), and that since Danville still has a serious industrial water supply problem, has not implemented its urban renewal program, and the 1970 Census indicates a decreasing number of labor force candidates (age 20–29), the growth of Danville cannot be expected. Kickapoo further points to a 1972 report prepared for the Vermilion County Planning Commission on population characteristics of Vermilion County and Danville which concluded that development opportunities in Danville and in the county are "extremely limited." In reply, Vermilion, supported by a letter from the Vermilion County Planning Commission, states that the Commission now considers that 1972 report outdated. Vermilion also submitted a letter of April 3, 1974, from the Danville Director of Urban Renewal to show that the urban renewal project for the city has been and is being implemented to some extent by land acquisitions, business relocations and projections for new businesses.

33. Kickapoo further contends that even if it is assumed that the population of Danville would exceed 50,000 by 1980 this would not be justification for now assigning an additional FM assignment to Danville, particularly since it would preclude use of the channel elsewhere. It also urges in its reply comments that, with the substantial inflationary trend throughout the country, the drop in housing starts which is occurring and being felt in Danville, as well as Danville's industrial makeup deficiencies in water pressure, etc., and Danville's significant unemployment problem (approximately 7 percent), it would be unwise to set a precedent for assigning a channel to a community years before it can show that it meets the basic population criteria for the assignment.

34. Danville, with a 1970 population of 42,570 and two Class B FM assignments, now has its fair apportionment of the available FM channels in terms of our population criteria used for implementing the mandate of section 307(b) of the Communications Act, but, as we have often stated, these criteria are guidelines and not immutable standards. Additional channels have been provided when there was no paucity of available FM channels or when the assignment presented a way of bringing FM service to unserved or underserved areas. Here, none of these points have been shown to apply. Thus we have no basis for concluding that Danville warrants an additional Class B FM assignment. Danville is well served by aural broadcast stations and this channel would not bring a first or second FM service to any significant area and population. Available Class B channels are in short supply in this Illinois-Indiana area. Even if Danville could grow to 50,000 by 1980, the case for a third FM assignment there is not strong. On balance, we believe that neither the need for an additional Class B assignment at Danville nor the potential of such an assignment for implementing our FM goals and objectives for a fair apportionment of the available channels and expanding FM service to unserved and underserved areas is sufficient to permit a conclusion that the public interest would be served by making the assignment and thereby further reducing the already limited other channel assignment possibilities in this general area which would have such potential.

35. *Terre Haute, Indiana (RM–2244).* The alternative proposals of Citizens Broadcasting Company (Citizens) in RM–2244 for the assignment of either Class B Channel 242 or Class B Channel 243 to Terre Haute for a fifth Class B assignment are embodied in Plan IV (its Channel 242 proposal) and alternative Plan V (its Channel 243 proposal). In its comments, Citizens urges adoption of Plan V which, in addition to permitting the Hoopeston Channel 265A assignment (as would the alternative plans for Danville, Lafayette and Terre Haute) which we have decided merits adoption, would permit two Class B assignments—Channel 243 to Terre Haute and Channel 241 to Danville. We have, however, decided that Danville does not warrant an additional Class B assignment. For the reasons discussed below, we reach the same conclusion respecting an additional Class B assignment for Terre Haute.

36. Terre Haute (population, 70,286), the seat of Vigo County (population, 114,528) and the central city of the Terre Haute Standard Metropolitan Statistical Area (population, 175,143) which encompasses Vigo, Clay, Sullivan and Vermilion counties in Indiana, has seven commercial aural broadcast outlets. These consist of three AM stations (two unlimited-time operations and petitioner's daytime-only operation) and four Class B FM stations. Station WISU (Channel 209), an educational station licensed to the trustees of Indiana State University, is also at Terre Haute.

37. Under the population criteria, Terre Haute, with a population of 70,286, would warrant four FM assignments and it has four Class B assignments. As the Notice indicated, the fundamental issue is whether Terre Haute, nevertheless, warrants an additional FM assignment. To assist in evaluating the need for additional FM service in the Terre Haute area, the Notice requested information as to the service potential of the alternative Channel 242 and Channel 243 proposals for Terre Haute, based on the criteria used for such studies In re Roanoke Rapids-Goldsboro, N.C., 9 F.C.C. 2d 672 (1967). It also requested additional information to assist in evaluating the claim of Raftis Broadcasting Company (Raftis), licensee of Station WVTS–FM at Terre Haute, in opposition to the Citizens petition. Raftis had asserted that neither a Terre Haute Channel 242 nor Channel 243 station operating from the site required to meet spacing requirements would, because of shadowing problems, be able to provide the required 3.16 mV/m signal over Terre Haute.

38. Citizens contends that the terrain between the required site areas for both Channel 242 and Channel 243 and Terre Haute is essentially flat and permits no possibility of shadowing. Raftis, however, submitted with its opposing comments a map showing the shadowed areas and radial profile graphs of terrain analysis in support of its claim that operation of a Terre Haute station at either of the required Channel 242 and 243 sites would not provide a line-of-sight over Terre Haute and would neither enable the station to place a 3.16 mV/m signal over all of Terre Haute nor a signal of sufficient strength to overcome the blanketing effect of Stations WTHI–FM and WISU(FM) which are located at the same site in Terre Haute.

39. In reply, Citizens asserts that the Raftis topographic map shows only three small unpopulated areas to be subject to shadowing due to terrain obstructions and that the losses due to terrain shadowing would not be such as to reduce the field strength to less than 70 dBu. As to shadowing by tall buildings, Citizens avers that Raftis applied the diffraction loss (6 dB) incorrectly; that the signal would be diffracted not only on the top edges of the buildings but by each of their sides and would reinforce the signals behind the buildings; and that signals would also be reflected from the sides of adjacent buildings and would tend to fill in areas behind the buildings. Citizens further maintains that the existence of a few buildings which would obstruct line-of-sight conditions is not

unique to Terre Haute but is a condition that exists to some extent in cities as large or larger than Terre Haute and that the high signal level required over cities is in recognition of the shadowing effects of tall buildings.

40. The Raftis exhibit, we believe, provides support for Citizen's contentions respecting the claimed shadow problem. There are four tall buildings casting shadows over a small portion of the city and three small areas in the shadow of terrain obstructions. FM stations are expected to provide a totally shadow-free service,[12] and we are satisfied that a Terre Haute station operating on either Channel 243 or Channel 242 from sites restricted by the spacing requirements would be able to provide a 70 dBu signal over the city without undue shadowing. As to blanketing, Raftis implies that a station operating from a site located some distance from a community would not be able to provide service to the community because of strong signals from stations located within the community. At most, the blanketing would occur in the immediate vicinity of the in-town transmitters. (The two Terre Haute FM stations in question—WTHI-FM and WISU—are located at the same site.) Since stations are required to limit emission of signals on channels which are more than 600 kHz from the carrier frequency to 80 decibels below the level of unmodulated carrier, there is no reason why a local station with its transmitter located out-of-town could not provide more than adequate service to Terre Haute.

41. Wabash Valley Broadcasting Corporation, licensee of Station WTHI-TV (Channel 10) at Terre Haute, as well as of Station WTHI(AM) and Station WTHI-FM, because of concern over the potential of the Channel 242-243 proposals herein for second harmonic interference to the reception of its Channel 10 television service, urges adoption of alternative Plan IV which proposes Channel 242 for Terre Haute. Since Plan IV proposes the assignment of Channel 242 only, and a Terre Haute Channel 242 station would be located closer to its television station where the intensity of its television signal would be higher, it feels that this proposal would have the least potential for interference to its Channel 10 television station. We are not persuaded, however, that the possibility of second harmonic interference is an insurmountable problem or is reason for rejecting any of the FM proposals before us.[13] If such interference should occur, the FM licensee would be expected to rectify any interference problems caused to TV reception in accordance with the procedures outlined in the Public Notice of September 1, 1967 (FCC 67-1012) concerning FM Interference to TV Reception. Further we observe that Citizens states that should either Channel 242 or Channel 243 be assigned to Terre Haute and it obtain authorization therefor, it would take all reasonable steps to minimize the possibility of interference to Station WTHI-TV.

42. As to the service potential of the alternative Terre Haute Channel 242 and Channel 243 proposals, Citizens states that neither channel has potential for providing a first or second FM service to any significant areas and populations because of the many Class A stations and assignments to small communities along the Indiana-Illinois border. Its engineering exhibit indicates that a Terre Haute Channel 243 operation would not provide a first service to any area but would provide a second FM service to 272 persons in an area of 40 square miles. It also shows that a Terre Haute Channel 242 operation would provide a first FM service to 59 persons in an area of four square miles and a second FM service to 3,446 persons in an area of 149 square miles.

43. While we believe that the alternative Terre Haute Channel 242 and Channel 243 proposals are not objectionable for technical reasons, we have not been shown such special circumstances or public interest considerations sufficient to warrant a conclusion that Terre Haute warrants a fifth Class B assignment. Citizens urges as one consideration that Plan V would permit two new Class B stations at Danville and Terre Haute and thus result in a more efficient use of the available frequencies than adoption of the conflicting plan for assignment of Channel 243 to Lafayette which would only change an existing Class A transmission service at Lafayette to a Class B service. (The conflicting WCVL Channel 243 counterproposal would add a new Lafayette or Attica transmission service.) While this would perhaps be a decisive consideration if either or both Danville and Terre Haute lacked their full complement of FM assignments under the criteria employed for achieving an overall fair, equitable and efficient distribution of radio frequencies, it lacks force since they do and, considering the extreme scarcity of Class B assignment possibilities in this area, it is evident that making the requested Class B assignments at Terre Haute and Danville (Plan V) would not only preclude the requested Class B channel substitution at Lafayette but would further limit, if not preclude, other possibilities for Class B assignments to meet future needs of other communities in compliance with the criteria used for achieving overall fairness and efficiency in the nationwide FM assignment plan.

44. Citizens also urges that Terre Haute warrants an additional FM assignment because of its size and because it is the largest of the cities for which Class B assignments are proposed herein. This also is not a compelling reason for assigning an additional Class B channel to Terre Haute since, with a population of 70,286, it now has the maximum number of FM channels normally allowed under the population guideline for cities up to 100,000 in population. Moreover, three other FM assignments (two Class A and one Class B), all occupied, have been made in the Terre Haute area at West Terre Haute, Paris and Brazil. In the circumstances, it does not appear that there is any reason to assume that Terre Haute has been treated unfairly in comparison to other cities of similar or larger size in the apportionment of the available FM channels or that its size is in itself a justifiable reason for preferring it to smaller cities, such as Lafayette, for a Class B assignment. Further, as two of the Terre Haute FM licensees contend (Eastern Broadcasting Corporation and Raftis), the growth pattern of Terre Haute is not indicative of any need of Terre Haute for an additional Class B assignment. As Raftis points out, Terre Haute had a 3 percent population decline over the 1960–1970 period (decreasing from 72,500 in 1960 to 70,286 in population in 1970) and it states that the decline is projected to continue in this decade. Raftis further points out that neighboring West Terre Haute also had a 10 percent decrease in population over the 1960–1970 period and that all of the counties in the Terre Haute SMSA except Vigo County, which had a 5.6 percent increase in population over the 1960–1970 period, likewise declined in population. Raftis also makes mention of the fact that the Commission's AM-FM Market Financial Data reports for 1969, 1970, 1971 and 1972 (also for 1973) show losses, before taxes, for the Terre Haute market.

45. Citizens urges that the requested assignment to Terre Haute, followed by issuance of a construction permit to it, would more nearly equalize the distribution of AM and FM stations in the city, since it is the only licensee of a daytime-only AM station and the only AM licensee without a companion FM station in Terre Haute. However, as Raftis points out, it and the licensees of other independent FM stations in the area are also without a "companion" AM station, and if the winning applicant for any new FM assignment at Terre Haute were other than Citizens, as is possible, even this claimed benefit of its proposal would not result. Further, if Citizens' objective of more nearly equalizing the distribution of AM and FM stations within Terre Haute were to be considered sufficient reason for providing a community with more FM assignments than it qualifies

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[12] See Richlands, Va., 47 F.C.C. 2d 722 (1974).

[13] Wabash also urges that, if adopted, the proposed Danville Channel 241 assignment should be conditioned on use of a site at least six miles northwest of Danville and in an isolated rural area to avoid interference to Station WTHI-TV. While the site location for a Danville Channel 241 operation which would be required to meet spacing requirements happens also to be at least six miles in the rural area to the northwest of Danville, such a condition would not be warranted solely because of the potential for second harmonic interference since the required site for the Danville FM station would be more than 70 miles from the WTHI-TV site, and beyond its predicted Grade B contour.

for under the population criteria for a fair, equitable and efficient distribution of frequencies among communities in implementation of Section 307(b) of the Act, the criteria would become useless for furthering its objective.

46. In sum, we find no basis in this record for concluding that another possible assignment to Terre Haute inconsistent with the population guidelines would have significant public interest potential for satisfying our priorities for bringing a first or second FM service to a larger area or for satisfying any special need for an additional FM service in the Terre Haute area. Since it is also clear from this record that there is a problem of Class B channel availability in this general area and that neither Channel 242 nor Channel 243 may be assigned to Terre Haute without further limiting other possibilities for assignments with such potential, we believe that the overall public interest and Section 307(b) of the Act dictate denial of these alternative Class B assignment proposals for Terre Haute.

47. *Lafayette, Indiana (RM-2161).* Since Plan VI for assigning Class B channels to both Lafayette (Channel 243) and Danville (Channel 241) is not technically feasible (paragraph 26, *supra*), we will limit our discussion here to Plan III for assigning Channel 243 to Lafayette. This proposal, advanced by Radio Lafayette, Incorporated, in RM-2161 and supported by it in its comments, would assign Channel 243 to Lafayette for a second Class B assignment (third FM) by deleting the occupied Lafayette Channel 244A assignment upon which Radio Lafayette operates Station WAZY-FM and by changing the unused Fowler Channel 240A assignment to Channel 252A. As stated in the Notice, this proposal would be technically feasible provided that the antenna for a Lafayette Channel 243 operation is located at least 14 miles west southwest of Lafayette to meet spacing requirements to Channel 242 (WBBM-FM), Chicago, Illinois, and to Channel 243 (WQMS), Hamilton, Ohio.

48. Lafayette (population 44,955), the seat of Tippecanoe County (population 109,378) and the central city of the Lafayette-West Lafayette Standard Metropolitan Statistical Area (coextensive with Tippecanoe County) has two commercial AM stations, one of which is Radio Lafayette's daytime-only station (WAZY) and the other an unlimited-time station (WASK). Lafayette also has three commercial FM stations which operate on Class B Channel 287 (WASK-FM) and on Channel 244A (WAZY-FM, also licensed to Radio Lafayette) and Channel 224 (WXUS), the only FM channels assigned. Lafayette also has an educational FM station (WJEF), which operates on Channel 220A. Contiguous to Lafayette is West Lafayette (population 19,157), also in Tippecanoe County and an integral part of the Lafayette-West Lafayette Urbanized Area (these communities are separated only by the Wabash River and connected by bridges), which, while it has no AM or FM commercial outlet or FM assignment, has an unlimited-time AM educational station (WBAA), licensed to Purdue University.

49. The fundamental question raised by the Lafayette Channel 243 proposal is whether the mixture of classes of FM assignments in Lafayette should be changed from one Class B and two Class A FM assignments to two Class B and one Class A FM assignments. In the Notice, we stated that such a change in the intermixture of FM assignments in a community would not ordinarily be made, absent a strong showing that the public interest gains to be had by the change would not be offset by its adverse effect upon the remaining local Class A station, and expressed some reservation as to whether such a showing could be made for the Lafayette Channel 243 proposal. To assist in its further evaluation, we called for additional showings from the petitioner in regard to the preclusionary effect of the proposal and its potential for serving unserved or underserved areas. We also raised the question of the feasibility of an alternative transmitter site for Radio Lafayette's Class A station for meeting its claimed coverage problems in the Lafayette area.

50. The revised preclusion showing contained in Radio Lafayette's comments supports its contentions that the proposed Lafayette Channel 243 assignment would foreclose future assignments only on Channel 241 and Channel 242 and that there are no communities in or near the Channel 241 preclusion area, other than Hoopeston and Danville, or in or near the Channel 242 preclusion area, other than Terre Haute, which would appear to warrant a Class B assignment. Since we have decided that Hoopeston, Danville and Terre Haute do not warrant a Class B assignment, the preclusionary effect of the Lafayette Channel 243 proposal presents no problem or bar to its adoption.

51. Based on a new coverage study, provided by Radio Lafayette, using Roanoke Rapids-Goldsboro criteria, as requested, a Lafayette Channel 243 station would provide a first FM service to an area of 2.5 square miles encompassing 95 residents and a second FM service to an area of 196 square miles containing 8,289 persons. Radio Lafayette further submits that, insofar as potential for service to unserved and underserved areas is concerned, the Lafayette Channel 243 proposal is clearly preferable to the Class B proposals for Danville and Terre Haute which were not supported by any claim of significant service to such areas and to the Hoopeston Class B proposal also, considering that most of the areas that would receive a first or second service from that proposal would also receive such service from the Class A channel being assigned to Hoopeston.

52. Radio Lafayette's comments also indicate that it has given consideration to the question of whether relocation of its FM station's antenna site, now located four miles south of the center of Lafayette, might prove a satisfactory solution to its claimed coverage problems in serving downtown Lafayette and the areas to the north, northwest and northeast. It contends that, due to zoning and height restrictions because of the three airports surrounding the city, the possibility of Radio Lafayette being able to acquire a suitable antenna site overlooking Lafayette or within the city itself appears unlikely. It further states that a cursory analysis made by the Des Plaines, Illinois, office of the Federal Aviation Administration, as indicated by the FAA letter accompanying its comments, would seem to indicate that its Class A station could not even increase the height of its existing tower, let alone relocate it, since the existing antenna is located within the restricted five mile radius of both Halsmer and Purdue University airports. Radio Lafayette also contends that, if it were possible to move its Class A station four miles north into the city enabling it to provide a stronger signal over downtown Lafayette, such a change would impair its Class A signal in the rapidly expanding areas surrounding the city and not enable it to cover all of Tippecanoe County. Radio Lafayette further maintains that any relocation of its Class A station's antenna site to a central location within Lafayette would be economically impracticable since the cost of relocation would be approximately $100,000 and the move would neither substantially improve its service to the community nor enable it to meet the future needs of the growing Lafayette-West Lafayette area; and that, on the other hand, a Class B facility, which could be constructed for around $61,000 at an antenna site outside of all airport control zones, would provide far greater coverage and assure the greater Lafayette community of quality FM reception.

53. Radio Lafayette states that should Channel 243 be substituted for Channel 244A at Lafayette it cannot forecast what potential adverse impact this might have on the remaining local Class A station. It urges, however, that since Channel 243 appears to be the last possible Class B channel that can be assigned to Lafayette (without disturbing other existing stations), it has demonstrated that Channel 243 is the only viable method of effectively meeting the needs of the rapidly expanding Lafayette area and section 307(b) of the Act and the public interest must prevail over the more narrow policy of avoiding further intermixture of facilities in Lafayette and dictate the assignment of Channel 243 to Lafayette. Lafayette Radio states that upon assignment of Channel 243 to Lafayette and (as requested) modification of its license for Station WAZY-FM to specify operation on Channel 243 instead of Channel 244A, it will seek authority to construct and operate a 50 kW 500 foot HAAT stereo broadcast station.

54. Tiprad Broadcasting Co., Inc. (Tiprad), former licensee of FM Station WXUS, Channel 224A, Lafayette, which would be the remaining local Class A station should Channel 243 be substituted

for Channel 244A (WAZY–FM) at Lafayette, opposes the proposed channel substitution. It contends that since Lafayette now has five commercial aural broadcast stations (two AM, 3 FM) and one noncommercial educational station, the proposed change for WAZY–FM would serve no demonstrable public need; that while it might enhance the economic position of its licensee, it would put Station WXUS in an undesirable position, as Lafayette's only Class A FM station competing with two local Class B FM stations, as well as the two local AM stations; and that use of Channel 243 at Lafayette would preclude use of Channels 243 and 244A to better advantage in areas with less existing service. Tiprad avers that the claimed poor coverage of Radio Lafayette's Class A station (WAZY–FM) over Lafayette is not justification for the proposed channel change and would be a wasteful use of a Class B frequency; that if Station WAZY–FM has a principal city coverage problem, it could be eliminated or reduced by use of maximum Class A facilities and relocation of its site within the city; and that Radio Lafayette has offered only glib assurances about the difficulty of obtaining a better site and no documented showing of any attempt to find a better site and to obtain maximum, or at least improved, facilities (in terms of height).[14] Tiprad also urges that Radio Lafayette's claims that its Lafayette Channel 243 proposal would provide a new service to unserved or underserved areas is not convincing since its showing of "white" and "gray" areas only takes into account the availability of FM services. It maintains that, if all aural services are considered (AM or FM), it appears that a significant part of the "white" or unserved area is near Rennsselaer, Indiana, and receives primary service from the local AM station there (WRIN). However, Tiprad fails to mention that Station WRIN at Rennsselaer is a daytime-only operation. Tiprad also maintains that if Channel 265A is assigned to Hoopeston, as we have decided to do, the "gray" or underserved area that would receive a second FM service from a Lafayette Channel 243 facility would be less than claimed by Radio Lafayette. While Tiprad does not state the extent of the underserved area that would be affected, staff study indicates that only an estimated 17 square miles out of the 196 square miles that the Radio Lafayette showing indicates would receive a second FM service from a Lafayette Channel 243 station would be affected.

[14] Since Tiprad's comments were filed on the same day as those of Radio Lafayette it is evident that it is referring to Radio Lafayette's showing in this regard in its prior petition and pleadings and not to the further and more substantial showing contained in Radio Lafayette's comments, documented by letters indicating that FAA, legal and realtor advice was sought in its exploration of the possibility of a suitable alternative antenna site for its Class A station.

55. We do not, of course, make or, for that matter, refrain from making FM assignments for the personal benefit of particular licensees but in the overall public interest which, in our view, would be served by adoption of the Lafayette Channel 243 proposal. While Tiprad and others have expressed concern that this would place Station WXUS in an undesirable position, and we recognize that the status quo in the Lafayette FM situation would seemingly have some competitive advantages for its licensee, we believe that the record herein compels the conclusion that it would be inconsistent with the public interest to deny the public in the Lafayette area opportunity for a second wide-coverage local FM service in consideration of maintaining equality and parity between the two local Class A stations.

56. Several considerations have led us to this decision. In the first place, the assignment of a second Class B channel to Lafayette would comport with our assignment criteria in view of its size and that of West Lafayette which is an integral part of the Lafayette-West Lafayette Urbanized Area, and particularly since this appears to be a growing area. (E.g., during the 1960–1970 period, Lafayette increased in population by 6.2 percent; West Lafayette by 51.1 percent; and Tippecanoe County by 22.7 percent.) Secondly, second Class B assignment at Lafayette would, in our view, serve a need for a local full-time wide-coverage aural broadcast service from a second source since, while Lafayette has two AM and three local FM commercial services, only one of the AM stations is an unlimited-time station and both it and the only wide-coverage Class B station at Lafayette are under common ownership. Thirdly, we are satisfied from our consideration of the conflicting proposals and technical showings of their proponents herein, as well as by independent staff study, that using Channel 243 at Lafayette has the most potential for effective use of the scarce spectrum space in this area and would provide opportunity for a substantial underserved area and population to have needed FM service. We are also convinced from our study of assignment possibilities and this record that the subject Lafayette Channel 243 proposal, requiring only a change in the unused Class A assignment at Fowler for which the proposed replacement is technically feasible, presents the only possible way of providing Lafayette with a second Class B assignment without disturbing existing stations elsewhere and without denying opportunity for an assignment to another community with a greater need for a first or additional FM service.

57. Since we have decided that the assignment of Channel 243 to Lafayette is warranted in the public interest, we are deleting Channel 244A on which Station WAZY–FM operates. Radio Lafayette has asked for an Order to Show Cause to change the operating frequency of Station WAZY–FM from Channel 244A to Channel 243, but this is not necessary since it is clear from its request that it assents to such action. However, prior to the changeover, the several conditions mentioned in paragraph 59 below must first be met.

58. In view of the foregoing, and pursuant to authority contained in sections 4(i), 5(d)(1), 303, and 307(b) of the Communications Act of 1934, as amended and § 0.281(b)(6) of the Commission rules: *It is ordered*, That effective December 15, 1975, the FM Table of Assignments, § 73.202(b) of the rules and regulations, is amended to read as follows for the communities listed below:

City:	*Channel No.*
Hoopeston, Ill	265A
Lafayette, Ind	224A, 243, 287

59. *It is further ordered*, That effective December 15, 1975, and pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding license held by Radio Lafayette, Incorporated, for Station WAZY–FM, Lafayette, Indiana, is modified to specify operation on Channel 243 in lieu of Channel 244A, subject to the following conditions:

(a) The licensee shall inform the Commission in writing by no later than December 15, 1975, of its acceptance of this modification.

(b) The licensee may continue to operate on Channel 244A under its outstanding authorization until it is ready to operate on Channel 243 or the Commission sooner directs but no later than 3 a.m., local time, August 1, 1976.

(c) At least 30 days before it wishes to commence operation on Channel 243, or within 30 days after it receives notification from the Commission if the Commission sooner directs the change set forth in (b) above, but not later than July 1, 1976, the licensee of Station WAZY–FM shall submit to the Commission the technical information normally required of an applicant for a construction permit on Channel 243 at Lafayette, Indiana.

(d) Ten days prior to commencing operation on Channel 243, the licensee shall submit the same measurement data normally required in an application for an FM broadcast station license.

(e) Radio Lafayette, Incorporated, shall not commence operation on Channel 243 until the Commission specifically authorizes it to do so.

60. *It is further ordered*, That the proposals of David Steinhart in RM–1971 to assign Channel 241 to Hoopeston, Illinois; of Vermilion Broadcasting Corporation in RM–2203 to assign Channel 241 to Danville, Illinois; and of Citizens Broadcasting Company in RM–2244 to assign Channel 242 or Channel 243 to Terre Haute, Indiana, as well as the alternative Lafayette or Attica Channel 243 counterproposal advanced herein by WCVL, Inc., and the alternative counterproposals advanced herein by Logansport Broadcasting Corp. (RM–2353) for the assignment of either Channel 229 or 259 to Logansport, Indiana, are denied.

61. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Adopted: October 30, 1975.

Released: November 5, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-30025 Filed 11-6-75;8:45 am]

Title 49—Transportation

CHAPTER I—MATERIALS TRANSPORTATION BUREAU, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—HAZARDOUS MATERIALS

[Docket No. HM-22, Amdt. 171-31]

PART 171—GENERAL INFORMATION AND REGULATIONS

Matter Incorporated by Reference

The purpose of this amendment to the Hazardous Materials Regulations is to update the reference to sections VIII (Division I) and IX of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code.

On September 2, 1975, a notice of proposed rulemaking was published Docket No. HM-22; Notice No. 75-8 (40 FR 40171), proposing to make the above change. One comment was received which supported the proposed change.

In consideration of the foregoing, 49 CFR Part 171 is amended by revising § 171.7(d)(1) to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(1) ASME Code means sections VIII (Division I) and IX of the 1974 edition of the "American Society of Mechanical Engineers Boiler and Pressure Vessel Code," and addenda thereto through June 30, 1975.

* * * * *

Effective date. December 30, 1975. However, immediate compliance with the regulations, as amended herein, is authorized.

(Transportation of Explosives Act (18 U.S.C. 831-835); 49 CFR 1.53(g))

Issued in Washington, D.C., on November 3, 1975.

JAMES T. CURTIS, Jr.,
Director,
Materials Transportation Bureau.

[FR Doc.75-29935 Filed 11-6-75;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Corrected Service Order No. 1176-A]

PART 1033—CAR SERVICE

Kansas City Southern Railway Company Authorized To Operate Over Certain Tracks of St. Louis-San Francisco Railway Company

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of October, 1975.

Upon further consideration of Corrected Service Order No. 1176 (39 FR 13264, 32138, 33300; 40 FR 8823 and 38162) and good cause appearing therefor:

§ 1033.1176 [Removed]

It is ordered, That: § 1033.1176 *The Kansas City Southern Railway Company Authorized to Operate Over Certain Tracks of St. Louis-San Francisco Railway Company* be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2). Interprets or applies secs. 1(10-17), 15(4) and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That this order shall become effective at 11:59 p.m., October 30, 1975; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-30080 Filed 11-6-75;8:45 am]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Moosehorn National Wildlife Refuge, Maine

Correction

In FR Doc. 75-28192, appearing on page 49092 in the issue of Tuesday, October 21, 1975, the headings should read as set forth above.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 52]

VARIOUS CANNED FRUITS

Proposed United States Standards for Grades

Notice is hereby given that the United States Department of Agriculture is considering amending the United States Standards for Grades of various canned fruits.

These grade standards are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use by producers, buyers, and consumers. Official grading services are also provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of such services.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same, in duplicate, not later than December 8, 1975, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made pursuant to this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

NOTE: Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

STATEMENT OF CONSIDERATION LEADING TO THE PROPOSED AMENDMENTS

The Federal Food and Drug Administration published an order to amend nine canned fruit standards in the FEDERAL REGISTER of February 7, 1975 (40 FR 5762). These amendments affected the standards of identity for:

(1) Canned Peaches (21 CFR 27.2).
(2) Canned Apricots (21 CFR 27.10).
(3) Canned Prunes (21 CFR 27.15).
(4) Canned Pears (21 CFR 27.20).
(5) Canned Seedless Grapes (21 CFR 27.25).
(6) Canned Cherries (21 CFR 27.30).
(7) Canned Berries (21 CFR 27.35).
(8) Canned Fruit Cocktail (21 CFR 27.40).
(9) Canned Figs (21 CFR 27.70).

An order confirming the effective date, which began on March 11, 1975 with all products shipped in interstate commerce to comply after December 31, 1975 was published in the FEDERAL REGISTER of July 9, 1975 (40 FR 28791).

One of the principal features of this order was to promote consistency with anticipated world-wide standards for these products.

In the case of the standards of identity for Canned Peaches a new style designated as "halves and pieces" was added. In the case of the standards of identity for Canned Peaches and Canned Pears the name of the style previously designated as "mixed pieces of irregular sizes and shapes" was changed to "pieces or irregular pieces."

The requirement for packing media in the case of all nine fruits was amended to permit the use of fruit juices either single strength, mixed with water, or mixed with a nutritive sweetner.

In the case of canned peaches the density requirements for Extra Heavy sirup, Heavy sirup, and Light sirup were changed as follows:

	Previous brix	Changed to—
Extra heavy sirup.	24° or more, but not more than 35°.	22° or more, but not more than 35°.
Heavy sirup...	19° or more, but less than 24°.	18° or more, but less than 22°.
Light Sirup....	14° or more, but less than 19°.	14° or more, but less than 18°.

The density ranges in the standards of identity for the other fruits remain the same as previously designated.

The proposed amendments to the United States standards for grades of the various canned fruits contained herein are essentially the same as those in the order published by the Federal Food and Drug Administration. In the case of canned dried prunes the section on drained weight would be amended to add the Food and Drug method of ascertaining the drained weights published three years ago. No other changes are proposed.

Dated: October 31, 1975.

DONALD E. WILKINSON,
Administrator.

The proposed amendments are as follows:

(1) CANNED CLINGSTONE PEACHES

(a) Section 52.2561 *Product description* would be amended to delete paragraph (b) and to include "solid-pack" as follows:

§ 52.2561 **Product description.**

"Canned clingstone peaches" is the product represented as defined in the standard of identity for canned peaches (21 CFR 27.2 and 27.6) issued pursuant to the Federal Food, Drug, and Cosmetic Act. For the purposes of the standards in this subpart, and unless the text indicates otherwise the terms "canned peaches" or "canned clingstone peaches," include "canned yellow clingstone peaches", "canned spiced yellow clingstone peaches," "canned solid-pack yellow clingstone peaches," and "canned artificially sweetened yellow clingstone peaches" as defined in the aforesaid standards of identity.

(b) Section 52.2562 *Style* would be amended to include a new style of "halves and pieces" and to rephrase the current style designation of "mixed pieces of irregular sizes and shapes" as follows:

§ 52.2562 **Styles.**

(a) "Halves" consisting of peeled and pitted peaches, cut approximately in half along the suture from stem to apex.

(b) "Halves and pieces" consisting of peeled and pitted peaches in which the halves are more than 50 percent, by weight.

(c) "Quartered" consisting of peeled and pitted peaches cut into four approximately equal parts.

(d) "Sliced" consisting of peeled and pitted peaches cut into sectors smaller than quarters.

(e) "Diced" consisting of peeled and pitted peaches cut into approximate cubes.

(f) "Whole" consisting of peeled, unpitted, whole peaches with or without stems removed.

(g) "Pieces or irregular pieces" consisting of peeled, pitted, and cut units of canned peaches that are predominantly irregular in size and shape which do not conform to a single style of halves, quartered, sliced, or diced and which may consist of:

(1) Units (commonly called "salad cuts" or "salad pieces") which may have been prepared originally as peach halves but which are irregular in size and shape in that more than one-fourth of the unit appears to have been removed at the outer curved surface and which have been cut further into pieces;

(2) Units which may have been prepared originally as peach slices but which are irregular in size and shape in that they have been cut further into pieces; or

(3) Mixtures of two or more of the following styles which may or may not be of normal shape: Halves, quartered, sliced, or diced.

(c) Section 52.2565 *Liquid media and Brix measurements* would be amended to read as follows:

§ 52.2565 Liquid media and Brix measurements.

Designation	Brix measurements
"Extra heavy sirup;" or "Extra heavily sweetened fruit juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	22° or more but not more than 35°.
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	18° or more but less than 22°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	14° or more but less than 18°.
"Slightly sweetened water;" or "Extra Light sirup;" "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	10° or more but less than 14°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.
"Artificially sweetened"	Do.

(2) CANNED FREESTONE PEACHES

(a) Section 52.2601 *Product description* would be amended to delete paragraph (b); to include "solid-pack," and to include "artificially sweetened" peaches as follows:

§ 52.2601 Product description.

"Canned freestone peaches" means "canned yellow freestone peaches" or "canned yellow free peaches" as such product is represented as defined in the standard of identity for canned peaches (21 CFR 27.2 and 27.6) issued pursuant to the Federal Food, Drug, and Cosmetic Act. For the purposes of the standards in this subpart, and unless the text indicates otherwise, the terms "canned peaches" or "canned freestone peaches" include "canned yellow freestone peaches," "canned spiced yellow freestone peaches," "canned solid-pack yellow freestone peaches," and "canned artificially sweetened yellow freestone peaches," as defined in the Food and Drug Standard of Identity.

(b) Section 52.2602 *Styles* would be amended to include a new style of "halves and pieces" and to rephrase the current style designation of "mixed pieces of irregular sizes and shapes" as follows:

§ 52.2602 Styles.

(a) "Halves" consisting of peeled and pitted peaches cut approximately in half along the suture from stem to apex.

(b) "Halves and pieces" consisting of peeled and pitted peaches in which the halves are more than 50 percent, by weight.

(c) "Quartered" consisting of peeled and pitted peaches cut into four approximately equal parts.

(d) "Sliced" consisting of peeled and pitted peaches cut into sectors smaller than quarters.

(e) "Diced" consisting of peeled and pitted peaches cut into approximate cubes.

(f) "Whole" consisting of peeled, unpitted, whole peaches with or without stems removed.

(g) "Pieces or irregular pieces" consisting of peeled, pitted, and cut units of canned peaches that are predominantly irregular in size and shape which do not conform to a single style of halves, quartered sliced, or diced and which may consist of:

(1) Units (commonly called "salad cuts" or "salad pieces") which may have been prepared originally as peach halves but which are irregular in size and shape in that more than one-fourth of the unit appears to have been removed at the outer surface and which have been cut further into pieces;

(2) Units which may have been prepared originally as peach slices but which are irregular in size and shape in that they have been cut further into pieces; or

(3) Mixtures of two or more of the following styles which may or may not be of normal shape: halves, quartered, sliced, or diced.

(c) Section 52.2605 *Liquid media and Brix measurements* the designations and Brix measurements would be amended to read as follows:

§ 52.2605 Liquid media and Brix measurements.

Brix measurements	Designations
"Extra heavy sirup;" "Extra heavily sweetened fruit juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	22° or more but not more than 35°.
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	18° or more but less than 22°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	14° or more but less than 18°.
"Slightly sweetened water;" or "Extra light sirup;" or "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	10° or more but less than 14°.

Designations	*Brix measurements*
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.
"Artificially sweetened"	Do.

(3) CANNED APRICOTS

(a) In § 52.2641 the product description would be amended to include the Food and Drug citation for "artificially sweetened" canned apricots as follows:

§ 52.2641 Product description.

(a) *Canned apricots.* "Canned apricots," is the product represented as defined in the Standards of Identity for canned apricots (21 CFR 27.10 and 27.14) issued pursuant to the Federal Food, Drug, and Cosmetic Act, and prepared in one of the styles specified in § 52.2642; in one of the liquid media specified in§ 52.2644; and is sealed in a container and so processed by heat as to prevent spoilage. The food may be seasoned with one or more of the optional ingredients permitted in the Food and Drug Standards of Identity.

§ 52.2642 [Amended]

(b) In § 52.2642(d) the name of the style previously designated as "mixed pieces of irregular sizes and shapes" would be changed to "pieces or irregular pieces."

(c) In § 52.2644 Liquid media and Brix measurements the designations and Brix measurements would be amended to read as follows:

§ 52.2644 Liquid media and Brix measurements.

* * * * *

Designations	*Brix measurements*
"Extra heavy sirup" or "Extra heavily sweetened fruit juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	25° or more but not more than 40°.
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	21° or more but less than 25°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	16° or more but less than 21°.
"Slightly sweetened water;" or "Extra light sirup;" or "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	10° or more but less than 16°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.
"Artificially sweetened"	Do.

(4) CANNED SOLID-PACK APRICOTS

(a) In § 52.2641 the product description would be amended to conform to the Food and Drug standard of identity for canned solid-pack apricots as follows:

§ 52.2641 Product description.

(a) * * *

(b) "Canned solid-pack apricots," is the product represented as defined in the standards of identity for canned apricots (21 CFR 27.10) issued pursuant to the Federal Food, Drug, and Cosmetic Act, and prepared in one of the styles specified in § 52.2642 and is sealed in a container and so processed by heat as to prevent spoilage. The food may be seasoned with one or more of the optional ingredients permitted in the aforementioned standards of identity.

(5) CANNED DRIED PRUNES

(a) Section 52.5601 *Product description* would be amended to cite the Food and Drug Standard of Identity for Canned Prunes and to cover Pitted Prunes as follows:

§ 52.5601 Product description.

"Canned dried prunes" is the product represented as defined in the standards of identity for canned prunes (21 CFR 27.15) issued pursuant to the Federal Food, Drug Standard of Identity for Canned Prunes and to cover Pitter Prunes as follows:

(b) Section 52.5604 Sirup density would be amended to read as follows:

§ 52.5604 Liquid media and Brix measurements.

"Cut-out" requirements for liquid media in canned dried prunes are not incorporated in the grades of the finished product since sirup or any other liquid medium as such, is not a factor of quality for the purposes of these grades. The designations of liquid packing media and the Brix measurements, where applicable, are as follows:

Designations	*Brix measurements*
"Extra heavy sirup;" or "Extra heavily sweetened frut juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	30° or more but not more than 45°.
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	24° or more but less than 30°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	20° or more but less than 24°.
"Slightly sweetened water;" or "Extra light sirup;" or "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	Less than 20°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.

(c) Section 52.5606 Recommended minimum drained weights would be amended in its entirety to read as follows:

§ 52.5606 Recommended minimum drained weights.

(a) *General.* (1) The minimum drained weight recommendations for the various styles in Table II are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(2) The recommended minimum drained weights are based on equalization of the product 30 days or more after the product has been canned.

(b) *Method for ascertaining drained weight.* The drained weight is determined by emptying the contents of the container upon a U.S. Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937±3 percent, square openings) so as to distribute the product evenly, inclining the sieve to approximately a 17 to 20 degree angle to facilitate drainage, and allowing the product to drain for two minutes.

The drained weight is the weight of the sieve and prunes less the weight of the dry sieve. A sieve 8 inches in diameter is used for No. 3 size cans (404 x 414) and smaller sizes, and a sieve 12 inches in diameter is used for containers larger than the No. 3 size can.

(c) *Compliance with recommended minimum drained weights.* A lot of canned prunes is considered as meeting the minimum drained weight recommendations if the following criteria are met:

(1) The average of the drained weights from all the sample units in the sample meets the recommended minimum drained weight specified in Table I; and

(2) Any sample unit(s) which fails to meet the recommended minimum drained weight is within the range of good commercial practice.

TABLE I

Container size or name	Recommended drained weight (in ounces)		
	Metal containers		Glass containers
	Regular pack	Heavy pack	Regular pack
8 oz.	5½		
No. 1 tall	10¾		
No. 2	13		
No. 2½	19	29	18
No. 10	70	110	

(e) Canned dried prunes that meet the recommended drained weight requirements for "Heavy Pack" will be certified as "Heavy Pack" in addition to the grade statement.

(6) CANNED PEARS

(a) Section 52.1612 Styles would be amended to read as follows:

§ 52.1612 Styles.

(a) "Halves" are peeled pears, with cores and stems removed, cut longitudinally from stem to calyx into approximate halves.

(b) "Quarters" are peeled pears, with cores and stems removed, cut longitudinally from stem to calyx into approximate quarters.

(c) "Slices" are peeled pears, with cores and stems removed, cut longitudinally from stem to calyx into approximate equal segments smaller than quarters.

(d) "Dice" or "diced" canned pears are peeled pears, with cores and stems removed, cut into approximate cubes.

(e) "Whole" canned pears are peeled, cored, or uncored, whole pears with or without stems removed.

(f) "Pieces or irregular pieces" are peeled and cored cut units of canned pears that are predominantly irregular in size and shape which do not conform to a single style of halves, quarters, slices, or dice and which may consist of:

(1) Units (commonly called "salad cuts" or "salad pieces" or "chunk style"), which may have been prepared originally as pear halves but which are irregular in size and

shape in that more than one-fourth of the unit appears to have been removed at the outer curved surface and which have been cut further into pieces; or

(2) Mixtures of two or more of the following styles which may or may not be of normal shape: Halves, quarters, slices, dice, or whole.

Section 52.1614 *Liquid media and Brix measurements*—the designations and Brix measurements would be amended as follows:

§ 52.1614 **Liquid media and Brix measurements.**

Designations	*Brix measurements*
"Extra Heavy sirup;" or "Extra heavily sweetened fruit juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	22° or more but not more than 35°.
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	18° or more but less than 22°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	14° or more but less than 18°.
"Slightly sweetened water;" or "Extra light sirup;" or "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	Less than 14°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.
"In clarified juice"	Do.
"Artificially sweetened"	Do.

(7) CANNED GRAPES

(a) Section 52.4021 *Product description* would be amended to read as follows:

§ 52.4021 **Product description.**

(a) "Canned grapes" is the product represented as defined in the Standards of Identity for canned grapes (21 CFR 27.25) issued pursuant to the Federal, Food, Drug, and Cosmetic Act. For the purpose of these standards canned grapes are prepared from the light seedless varietal type and are stemmed.

(b) Section 52.4023 *Liquid media and Brix measurements*—the designations and Brix measurements would be amended to read as follows:

§ 52.4023 **Liquid media and Brix measurements.**

Designations	*Brix measurements*
"Extra heavy sirup;" or "Extra heavily sweetened fruit juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	22° or more but not more than 35°.
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	18° or more but less than 22°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	14° or more but less than 18°.
"Slightly sweetened water;" or "Extra light sirup;" or "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	Less than 14°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.

(8) CANNED RED TART PITTED CHERRIES

Section 52.773 *Designations of liquid media and Brix measurements*—the designations and Brix measurements would be amended to read as follows:

§ 52.773 **Liquid media and Brix measurements.**

Designations	*Brix measurements*
"Extra heavy sirup;" "Extra heavily sweetened fruit juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	28° or more but not more than 45°.
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	22° or more but less than 28°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	18° or more but less than 22°.
"Slightly sweetened water;" or "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	Less than 18°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.

(9) CANNED SWEET CHERRIES

(a) Section 52.821 Identity would be amended to read as follows:

§ 52.821 Product description.

(a) "Canned sweet cherries" is the product represented as defined in the Standards of Identity for Canned Cherries (21 CFR 27.30 and 27.34) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(b) Section 52.825 Liquid media and Brix measurements.

The designations and Brix measurements would be amended to read as follows:

§ 52.825 Liquid media and Brix measurements.

Designations	*Brix measurements*
"Extra heavy sirup;" or "Extra heavily sweetened fruit juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	25° or more but not more than 35°.
"Heavy sirup;" "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s).	20° or more but less than 25°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	16° or more but less than 20°.
"Slightly sweetened water;" or "Extra light sirup;" or "Slightly sweetened fruit juice(s) and water;" or 'Slightly sweetened fruit juice(s)."	Less than 16°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.
"Artificially sweetened"	Do.

(10) CANNED BLACKBERRIES AND OTHER SIMILAR BERRIES

(a) Section 52.551 Product description would be amended to read as follows:

§ 52.551 Product description.

(a) "Canned blackberries" and other similar berries such as "boysenberries," "dewberries," "loganberries," and "youngberries" is the product represented as defined in the standards of identity (21 CFR 27.35) issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(b) Section 52.553 The title of this section and the designations and Brix measurements would be amended to read as follows:

§ 52.553 Liquid media and Brix measurements.

Designations	*Brix measurements*
"Extra heavy sirup;" or "Extra heavily sweetened fruit juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	24° or more but not more than 35°.
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	19° or more but less than 24°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	14° or more but less than 19°.
"Slightly sweetened water;" or "Extra light sirup;" or "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	Less than 14°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.

(11) CANNED BLUEBERRIES

(a) Section 52.581 *Product description* would be amended to read as follows:

§ 52.581 Product description.

(a) Canned blueberries is the product represented as defined in the Standards of Identity (21 CFR 27.35) for canned berries issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(b) Section 52.584 would be amended in its entirety to read as follows:

§ 52.584 Liquid media and Brix measurements.

(a) Brix measurement requirements for the liquid media in canned blueberries are not incorporated in the grades of the finished product since sirup, or any other liquid medium, as such, is not a factor of quality for the purpose of these grades. The designations of liquid packing media and Brix measurements, where applicable, are as follows:

Designations	*Brix measurements*
"Extra heavy sirup;" or "Extra heavily sweetened fruit juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	25° or more but not more than 35°.

Designations	*Brix measurements*
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	20° or more but less than 25°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	15° or more but less than 20°.
"Slightly sweetened water;" or "Extra light sirup;" or "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	Less than 15°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.

(12) CANNED RASPBERRIES

(a) Section 52.3311 *Product description* would be amended to read as follows:

§ 52.3311 Product description.

Canned raspberries is the product represented as defined in the Standards of Identity (21 CFR 27.35) for canned berries issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(b) Section 52.3314 would be amended in its entirety to read as follows:

§ 52.3314 Liquid media and Brix measurements.

(a) Brix measurements for the liquid media in canned raspberries are not incorporated in the grades of the finished product since sirup, or any other liquid medium, as such, is not a factor of quality for the purpose of these grades. The designations of liquid packing media and Brix measurements, where applicable, are as follows:

Designations	*Brix measurements*
"Extra heavy sirup;" or "Extra heavily sweetened fruit juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	27° or more but not more than 35°.
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	20° or more but less than 27°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	15° or more but less than 20°.
"Slightly sweetened water;" or "Extra light sirup;" or "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	11° or more but less than 15°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.

(13) CANNED FRUIT COCKTAIL

(a) Section 52.1051 would be amended to read as follows:

§ 52.1051 Product description.

"Canned fruit cocktail" is the product represented as defined in the Standards of Identity (21 CFR 27.40 and 27.43) for canned fruit cocktail and canned artificially sweetened fruit cocktail, respectively, issued pursuant to the Federal Food, Drug, and Cosmetic Act.

(b) Section 52.1054 Liquid media and Brix measurements—the designations and Brix measurements would be amended to read as follows:

§ 52.1054 Liquid media and Brix measurements.

* * * * *

Designations	*Brix measurements*
"Extra heavy sirup;" or "Extra heavily sweetened fruit juice(s) and water;" or "Extra heavily sweetened fruit juice(s)."	22° or more but not more than 35°.
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	18° or more but less than 22°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	14° or more but less than 18°.
"Slightly sweetened water;" or "Extra light sirup;" or "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	10° or more but less than 14°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.
"Artificially sweetened"	Do.

(14) CANNED KADOTA FIGS

(a) In § 52.2821, paragraph (a) would be amended and paragraph (c) would be deleted in its entirety to read as follows:

§ 52.2821 Product description.

(a) *Canned figs.* "Canned figs" is the product represented as defined in the Standard of Identity (21 CFR 27.70 and 27.73) for canned figs and canned artificially sweetened canned figs, respectively, issued pursuant to the Federal Food, Drug, and Cosmetic Act.

* * * * *

(c) [Deleted]

(b) Section 52.2824 would be amended to read as follows:

§ 52.2824 Liquid media and Brix measurements.

Cut-out requirements for liquid media in Canned Kadota Figs are not incorporated in the grades of the product since sirup or any other liquid medium, as such, is not a factor of quality for the purpose of these grades. The cut-out Brix measurements, as applicable, for the respective designations are as follows:

Designations	*Brix measurements*
"Extra heavy sirup;" or "Extra heavily sweetened fruit juice(s) and water" or "Extra heavily sweetened fruit juice(s)."	26° or more but not more than 35°.
"Heavy sirup;" or "Heavily sweetened fruit juice(s) and water;" or "Heavily sweetened fruit juice(s)."	21° or more but less than 26°.
"Light sirup;" or "Lightly sweetened fruit juice(s) and water;" or "Lightly sweetened fruit juice(s)."	
"Slightly sweetened water;" or "Extra light sirup;" or "Slightly sweetened fruit juice(s) and water;" or "Slightly sweetened fruit juice(s)."	11° or more but less than 16°.
	16° or more but less than 21°.
"In water"	Not applicable.
"In fruit juice(s) and water"	Do.
"In fruit juice(s)"	Do.
"Artificially sweetened"	Do.

[FR Doc.75-29893 Filed 11-6-75;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

[15 CFR Part 60]

PUBLIC INFORMATION

Proposed Rulemaking

On August 4, 1975, the Secretary of Commerce, through Department of Commerce Organization Orders 35-IA and 35-2A, abolished the Social and Economic Statistics Administration (SESA). Because the Bureau of the Census had been a component of SESA, appeals under the Fredom of Information Act were made to the Administrator of SESA. The Bureau of the Census proposes that initial determinations under the Freedom of Information Act be made by the Associate Director for Administration and determinations on appeal be made by the Director. The Bureau also proposes to add a definition of reasonable time to § 60.11 to clarify the period that records required for the conduct of business must be kept within the Freedom of Information facility. Other minor non-substantive changes have meen made.

Interested parties have 30-days within which to submit comments which will be considered before final action is taken on these proposed amendments. Comments should be addressed to:

Attorney-Adviser, Bureau of the Census, Room 3039, Federal Building 3, Suitland, Maryland 20233.

Copies of all written comments will be available for examination by interested persons at the above address during and after the 30-day period. The proposed amendments may be changed in light of the comments received. In consideration of the above, it is proposed to amend 15 CFR Part 60 as it appeared in the FEDERAL REGISTER May 7, 1975 (40 FR 19810) in the manner set forth below.

Dated: November 3, 1975.

VINCENT P. BARABBA,
Director, Bureau of the Census.

Sec.

60.1 Scope and purpose.
60.2 Policies.
60.3 Definitions.
60.4 Publication in the FEDERAL REGISTER.
60.5 Availability of materials for inspection and copying.
60.6 Confidentiality of data collected by the Bureau of the Census.
60.7 Requests for records.
60.8 Initial determinations of availability of records.
60.9 Appeals from initial denials or untimely delays.
60.10 Fees.
60.11 Arrangements for public inspection and copying of available records.

AUTHORITY: 5 U.S.C. 552, as amended by Pub. L. 93-502; 5 U.S.C. 553; 5 U.S.C. 301; 40 FR 11551.

§ 60.1 Scope and purpose.

(a) This part revises the rules whereby the Bureau of the Census is to make publicly available the materials and indexes specified in 5 U.S.C. 552(a)(2), and the records requested under 5 U.S.C. 552(a)(3). This revision is to conform the rules to the requirements of the Freedom of Information Act (5 U.S.C. 552), as amended by Pub. L. 93-502, 88 Stat. 1561, effective February 19, 1975.

(b) These rules supplement Department Administrative Order 205-12, which contains policies, delegations of authority, and other rules implementing 5 U.S.C. 502. These rules also supplement the rules published on March 12, 1975, by the Department of Commerce (40 FR 11551).

§ 60.2 Policies.

(a) Policies and other factors to be considered in issuing the rules in this part are set forth in Department Administrative Order 205-12.

(b) Requests for records made under 5 U.S.C. 552(a)(3) apply only to existing records, and the Bureau is not required, in response to a request, to create records by combining or compiling information contained in existing records, or otherwise to prepare new records. However, Bureau officials may, upon request, provide or create new information in record form pursuant to user charge statutes, such as 15 U.S.C. 1525-1527, or in accord with authority otherwise provided by law.

§ 60.3 Definitions.

(a) To the extent that terms used in this part are defined in 5 U.S.C. 551, they shall have the same definition herein.

(b) As used in this part, "Act" means the "Freedom of Information Act," as amended, 5 U.S.C. 552.

§ 60.4 Publication in the Federal Register.

(a) Materials required to be published pursuant to the provisions of 5 U.S.C. 552(a)(1) have been and shall continue to be so published, in one of the following ways:

(1) By publication in the FEDERAL REGISTER of the Department Orders of the Department of Commerce, including any supplements and appendices thereto, and of appropriate Secretary of Commerce Circulars and Department Administrative Orders;

(2) By publication in the FEDERAL REGISTER of agency rules and regulations, and by their subsequent inclusion in the Code of Federal Regulations;

(3) By publication in the FEDERAL REGISTER of appropriate general notices; and

(4) By other forms of publication, when incorporated by reference in the FEDERAL REGISTER with the approval of the Director of the Federal Register.

(b) Those materials which are published in the FEDERAL REGISTER pursuant to 5 U.S.C. 552(a)(1) shall, to the extent practicable and to further assist the public, be made available for inspection and copying at the facility identified in § 60.5(c).

§ 60.5 Availability of materials for inspection and copying.

(a) The Director, Bureau of the Census shall, as provided in 5 U.S.C. 552(a)(2) and subject to other provisions of law, establish and maintain a reference facility for the public inspection and copying of:

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Those statements of policy and interpretations which have been adopted by the Bureau and are not published in the FEDERAL REGISTER;

(3) Administrative staff manuals and instructions to staff that affect a member of the public;

(4) Current indexes providing identifying information for the public as to any matter which is (i) issued, adopted, or promulgated after July 4, 1967, and (ii) required to be made available or published by section 552(a)(2);

(5) Records of the final votes of each member in every proceeding of any agency comprised of more than one member;

(6) Rules and decisions denying requests for records which otherwise implement or relate to the Act; and

(7) Materials published in the FEDERAL REGISTER pursuant to 5 U.S.C. 552(a)(1) and such other materials which each unit may consider desirable and practical to make available for the convenience of the public.

(b) The Bureau may, to prevent unwarranted invasion of personal privacy, delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction, and shall, in each such case, explain in writing the justification for the deletion.

(c) The Secretary of Commerce has determined (DAO 205–12, subparagraph 5.02a.5.) that it is unnecessary and impracticable to publish quarterly or more frequently and distribute (by sale or otherwise) copies of each index and supplements thereto, as provided in 5 U.S.C. 552(a)(2). Upon request, copies of such indexes shall be provided at the public reference facility at a cost not to exceed the direct cost of duplication.

(d) The above materials may be inspected in the Census Freedom of Information Records Inspection Facility located at the Library Branch, Room 2455, Federal Building 3, Bureau of the Census, Washington, D.C. 20233 (Suitland, Maryland). This facility is open to the public Monday through Friday of each week, except on official Federal holidays, between the hours of 9 a.m. and 4:30 p.m. There are no fees or formal requirements for such inspections. Upon request, however, the facility will arrange to have copies of the above materials made at the cost shown in § 60.10.

(e) Correspondence concerning the materials available in the facility should be sent to the above address. The telephone number of the facility is 763–5040, Area Code 301.

§ 60.6 Confidentiality of data collected by the Bureau of the Census.

(a) The Bureau of the Census is required by law to keep certain records confidential. Protection against unauthorized disclosures is provided by title 13, U.S.C.

§ 60.7 Requests for records.

(a) The procedures of this section are applicable only to those records not customarily available to the public as part of the regular informational activities of the Bureau or which are not available in the Census reference facility described in § 60.5. The procedures and fees generally do not apply to applications for personal census information. Applications for personal census information should be directed to the Bureau's Personal Census Service Branch at Walnut and Pine Streets, Pittsburg, Kansas 66762.

(b) A person who wishes to inspect records described in § 60.7(a) shall make a request in writing, with the envelope and letter clearly marked "Freedom of Information Desk" or "Freedom of Information Request" or the equivalent, to distinguish it from other mail to the Department. Each such request, so marked, shall be addressed to Associate Director for Administration, Bureau of the Census, Attention: Fredom of Information Desk, Washington, D.C. 20233.

(c) A request which is not addressed as described in § 60.7(b) and which is not routed through the Department's Central Facility, will not be deemed to have been "received" for purposes of the time period for a request for records set forth in 5 U.S.C. 552(a)(6), until the earlier of the time that (1) forwarding of the request to the responsible unit has been effected, or (2) such forwarding would have been effected with the exercise of due diligence by Bureau personnel. In each instance when a request is forwarded, the Bureau of the Census shall notify the requester that his request was improperly addressed and of the date the request was received by Census.

(d) A request for records shall sufficiently identify the records requested to enable Census personnel familiar with the subject matter to locate them with a reasonable amount of effort. The requester shall, to the extent possible, furnish specific descriptive information regarding dates and places the records were made, the file descriptions, subject matter, persons involved, and other pertinent details that will help identify the records. If the request relates to a matter in pending litigation, the court, location and case shall be identified. When more than one record is requested, the request shall clearly describe each specific record, and the specific information requested which is contained in a record, so that its availability may be separately determined. Employees at the Census reference facility described in § 60.5 will assist the public to a reasonable extent in framing a request.

§ 60.8 Initial determinations of availability of records.

(a) Whenever the Bureau of the Census receives a request for records it shall promptly log the receipt of the request, and within 10 days of its receipt (excepting Saturdays, Sundays and legal public holidays) shall initially determine:

(1) Whether the request is for records under the Act, is for materials available otherwise than under the Act, or is for information not contained in existing records, and, therefore, not under the Act. The requester shall be promptly notified in writing how the request is being handled when it does not come within the Act.

(2) Whether the records requested are reasonably described and can be located on the basis of the information supplied by the requester. If any of the records requested cannot be identified and located from the information furnished, the Bureau shall promptly so inform the requester in writing, specifying what additional identification is needed to assist the Bureau in locating the record, and offering to assist the requester to reformulate its request.

(3) Whether the records no longer exist or are not in the Bureau's possession. The Bureau shall, if it knows which unit of the Department or other agency may have the records, forward the request to it. In each instance, the Bureau shall promptly notify the requester in writing.

(4) Whether the requested records are the exclusive or primary concern of another executive agency. If so, the Bureau shall promptly refer the request to that other agency for further action under its rules, and promptly notify the requester in writing of this referral.

(5) Whether the request is a categorical one. A categorical request, i.e., one for all records falling within a reasonably specific but broad category, shall be regarded as conforming to the statutory requirement that records be reasonably described, if the particular records can be identified, searched for, collected and produced without unduly burdening or disrupting the Bureau's operations. If the categorical request does not reasonably describe the records requested, the Bureau shall promptly notify the requester in writing specifying what additional identification is needed, and extend to the requester an opportunity to confer with Bureau personnel to attempt to reformlate the request so as reasonably to describe the records.

(6) In each of the situations set forth in paragraphs (a) and (b) of this section, the procedures relating to fees described in § 60.10 shall also be applied and coordinated as appropriate.

(b) An official having custody of the records requested in the Bureau of the Census shall review the request to determine the availability of the records requested.

(1) The determination shall be made within 10 days (excepting Saturdays, Sundays and legal public holidays) of the receipt of the request (as defined in § 60.7(c), unless the time is extended as provided in paragraph (b)(2) of this section.

(2) In unusual circumstances, the Associate Director for Administration may extend the time for initial determination for up to 10 days (excluding Saturdays, Sundays and legal public holidays) by written notice to the requester setting forth the reasons for the extension and

the date on which a determination is expected to be dispatched. Extensions of time for the initial determination and extensions of time on appeal may not exceed a total of 10 days, and time taken for the former counts against available appeal extension time. "Unusual circumstances" means, but only to the extent reasonably necessary to the processing of a particular request:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practical speed, with another agency or unit having a substantial interest in the determination of the request, or among two or more components of the Bureau having substantial subject-matter interest therein.

(3) If no determination has been sent to the requester at the end of the initial 10-day period, or the last extension thereof, the requester may deem his request to be initially denied, and exercise a right of appeal therefrom. When no determination can be made within the applicable time period, the Bureau shall nevertheless exercise due diligence in continuing to process the request. It shall, on expiration of the applicable time period, inform the requester of the reason for the delay, of the date a determination is expected to be sent, and of the requester's right to treat the delay as a denial and to appeal therefrom. It may ask the requester to forego an appeal until a determination is made.

(4) If it is determined that the records requested are to be made available, and there are no further fees to be paid, the responsible official shall promptly notify the requester as to where and when the requested records or copies may be obtained or otherwise provide them as agreed. If there are fees still to be paid by the requester, he shall be notified that upon payment the records will immediately be made available.

(5) Only the Associate Director for Administration has been authorized to make initial denials of requests for records. A reply initially denying, in whole or in part, a request for records shall be in writing, signed by the Associate Director for Administration and it shall include:

(i) A reference to the specific exemption or exemptions of the Act authorizing the withholding of the records, stating briefly why the exemption applies and, where relevant, why a discretionary release is not appropriate.

(ii) The name and title or position of each official responsible for the denial.

(iii) A statement of the manner in which any reasonably segregable portion of a record shall be provided to the requester after deletion of the portions which are determined to be exempt.

(iv) A brief statement of the right of the requester to appeal the determination, and the address to which the appeal should be sent, in accord with § 60.9 (a) and (b).

(6) The Office of the General Counsel of the Department shall be consulted before any initial denial of a request for records is issued and a copy of each initial denial shall be provided to the Assistant General Counsel for General Legal Services of the Department of Commerce.

§ 60.9 Appeals from initial denials or untimely delays.

(a) When a request for records has been initially denied in whole or in part, or has not been timely determined, the requester may submit a written appeal within 30-calendar days after the date of the written denial or, if there has been no determination, on the last day of the applicable time limit. The appeal shall include a copy of the original request, the initial denial, if any, and a statement of the reasons why the records requested should be made available and why the initial denial, if any, was in error. No personal appearance, oral argument or hearing on appeal is provided.

(b) An appeal shall be addressed to the Director, Bureau of the Census, Washington, D.C. 20233. Both the appeal envelope and the letter shall be clearly marked "Freedom of Information Appeal" or "Appeal for Records" or the equivalent. An appeal not addressed and marked as provided herein will be so marked by the Bureau personnel when it is so identified, and will be forward immediately to the proper addressee. An appeal incorrectly addressed will not be deemed to have been "received" for purposes of the time period for appeal set forth in 5 U.S.C. 552(a)(6), until the earlier of the time that (1) forwarding to the Director has been effected, or (2) such forwarding would have been effected with the exercise of due diligence by Bureau personnel. In each instance when an appeal is so forwarded, the Director shall notify the requester that the appeal was improperly addressed and of the date the appeal was received by that official.

(c) The Director, Bureau of the Census, shall act upon an appeal within 20 days (excluding Saturdays, Sundays and legal public holidays) of its receipt, unless an extension of time is made in unusual circumstances, when the time for action may be extended up to 10 days (excluding Saturdays, Sundays and legal public holidays) minus any days of extension granted at the initial request level. A notice of such extension shall be sent to the requester, setting forth the reasons and the date on which a determination of the appeal is expected to be sent. As used in this paragraph, "unusual circumstances" are defined in § 60.8(b)(2).

(d) If a decision on appeal is to make the records available to the requester in part or in whole, such records shall be promptly made available for inspection and copying as provided in § 60.5.

(e) If no determination of an appeal has been sent to the requester within the 20-day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies with respect to such request, giving rise to a right of judicial review as specified in 5 U.S.C. 552(e)(4). When no determination can be sent to the requester within the applicable time limit, the Director shall nonetheless exercise due diligence in continuing to process the appeal. When the time limit expires, the requester shall be informed of the reason for the delay, of the date when a determination may be expected to be made, and his right to seek judicial review. The requester may be asked to forego judicial review until the appeal is determined.

(f) A determination on appeal shall be in writing and, when it denies records in whole or in part, the notice to the requester shall include: (1) Notation of the specific exemption or exemptions of the Act authorizing the withholding, a brief explanation of how the exemption applies, and, when relevant, a statement as to why a discretionary release is not appropriate; (2) a statement that the decision is final for the Bureau and for the Department of Commerce; (3) advice that judicial review of the denial is available in the district in which the requester resides or has his principal place of business, the district in which the agency records are situated, or the District of Columbia, and (4) the names and titles or positions of each official responsible for the denial of the request.

(g) No final denial may be issued without (1) consulting with the Office of the Special Assistant to the Secretary for Public Affairs, and (2) concurrence of the Office of the General Counsel of the Department.

(h) Final appeal decisions shall be indexed and kept available for public inspection and copying. Copies shall be sent to the Department's Assistant Secretary for Administration and Assistant General Counsel for General Legal Services.

§ 60.10 Fees.

A uniform schedule of fees and procedures for collecting fees for the U.S. Department of Commerce has been promulgated and is published in 15 CFR 4.9, and applies to all requests for Bureau of the Census records made under the Freedom of Information Act.

§ 60.11 Arrangements for public inspection and copying of available records.

(a) Upon receipt of the records search fee, and any fees for additional services requested by the applicant, the requested record which has been determined to be available shall, unless the applicant has otherwise indicated, be transferred to the Census reference facility, where it will be held for inspection by the applicant for a reasonable time. The address, and hours of operation, of this facility are stated in § 60.5(d). A reasonable time shall generally be considered to be not less than one week or more than three weeks. In the event the requester does not review the records within this time,

they shall be refiled and paragraph (e) of this section will apply.

(b) In the event that disclosable records are required for the conduct of the daily business of the Bureau during the time when they would otherwise be available in the facility, the requester shall be so notified at the time it is determined that the records are to be made available and a specific appointment time for inspection obtained from the requester. At such time the records wil be made available in the Census facility for inspection. If the requester does not appear at the appointed time, the records shall be refiled and paragraph (e) of this section will apply.

(c) During inspection of the record at the facility, the applicant may copy by hand any portion of the record, may request the facility to make a copy thereof, and may obtain certification of a machine-copied record in accordance with the fee structure in § 60.10.

(d) No changes or alterations of any type may be made to the record being inspected, nor may any matter be added to or subtracted therefrom. Papers bound or otherwise assembled in a record file may not be dissembled during inspection. Staff of the facility shall provide assistance if dissembly of a record is necessary for copying purposes, and are authorized to supervise public inspection as necessary to protect the records of the Bureau. The public is reminded of title 18, United States Code, section 2701 (a), which makes it a crime to conceal, remove, mutilate, obliterate, or destroy any record filed in any public office, or to attempt to do any of the foregoing.

(e) If the records are not reviewed as outlined in paragraph (a) or (b) of this section they will not be made available again for inspection until the following requirements are met: (1) All monies due on the first request have been remitted; (2) any estimated fee for a second search is paid; (3) the requester initiates and confirms a specific appointment time.

(f) If an applicant does not want to inspect a record by personal visit, he may request that a copy thereof be mailed to him, upon payment of the copying and postage fees set forth in § 60.10. Original copies of records shall not be sent to any location other than the reference facility for public inspection pursuant to 5 U.S.C. 552(a)(3).

[FR Doc.75-29945 Filed 11-6-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 133]

LIBRARY RESEARCH AND DEMONSTRATION

Proposed Amended Criteria

Pursuant to the authority contained in Part B of Title II of the Higher Education Act of 1965, as amended (20 U.S.C. 1034), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend criteria for Library Research and Demonstration Projects as set forth below. The purpose of this change is to add point scores for each criterion to insure fair and uniform application of the criteria. This change will affect Appendix A and will not otherwise affect the criteria except for a few nonsubstantive changes of an editorial nature.

Interested persons are invited to submit written comments, suggestions, or objections regarding the amendments to the Division of Library Programs, U.S. Office of Education, 7th and D Streets, SW., Room 5901, ROB No. 3, Washington, D.C. 20202. Comments received in response to this notice will be available for public inspection at the above office on Mondays through Fridays between 8:30 a.m. and 4:30 p.m.

All comments, suggestions, or objections to be considered must be received not later December 8, 1975, unless such 30th day is a Saturday, Sunday, or Federal holiday, in which case such material must be received by the next following business day.

(Catalog of Federal Domestic Assistance Program No. 13.475, Research and Development—Library and Demonstration)

Dated: September 17, 1975.

DUANE J. MATTHEIS,
Acting U.S. Commissioner of Education.

Approved: October 30, 1975.

DAVID MATHEWS,
Secretary of Health, Education, and Welfare.

APPENDIX A—CRITERIA FOR APPROVING APPLICATIONS

(a) *Initial applications.* In approving applications for new projects, the Commissioner will use the following criteria and maximum weights in connection with the special consideration described in § 133.7. These criteria are consistent with and take the place of the criteria specified in 45 CFR 100a.26.

(1) *Significance, impact and relevance.* The proposed project promises to contribute to the solution of an important library problem, the improvement of operations or services in a significant number of libraries, or the fulfillment of unmet informational, cultural or educational needs; the relevance of the project to special consideration as reflected in the program regulations; and the reasonableness with regard to cost in relation to anticipated results. (20 points)

(2) *Problem and needs assessment.* The proposal identifies and demonstrates by objective evidence the nature and magnitude of the needs to be addressed by the proposed program, the degree of the applicant's demonstrated knowledge of previous successes and failures with the same or similar programs, and the ability to accommodate them. (5 points)

(3) *Statement of objectives.* Objectives of the proposed project are sharply defined, clearly stated, capable of being attained by the proposed procedures and are capable of being measured. Kinds and nature of output products to meet these objectives are clearly specified and have high potential effectiveness in meeting the objectives. (10 points)

(4) *Activities and scheduling.* Activities included in the proposed program promise of themselves to result in the attainment of the applicant's stated objectives and are so scheduled as to result in that attainment in an efficient manner. (10 points)

(5) *Resources and resource management.* The application indicates that the project will be operated with adequate resources and effective management. Consideration will be given to the following factors:

(i) Key personnel with adequate qualifications and experience—(20 of 35 points);

(ii) Coordination with and maximum utilization of existing library resources—(3 of 35 points);

(iii) Appropriate utilization of specialists, consultants, community advisory boards, project advisory boards, and paraprofessionals where necessary—(3 of 35 points);

(iv) A realistic and sufficient budget that corresponds to the statement of work or activities to be performed—(3 of 35 points);

(v) A budget that minimizes or excludes purchase of books, equipment, and printing and in general does not provide for operational money except as necessary to support the proposed project—(4 of 35 points);

(vi) Existing facilities that are adequate for the project—(2 of 35 points).

(6) *Evaluation.* Applicant provides for objective quantifiable measurement of the success of proposed program in attaining the stated objectives. Consideration will be given to the following factors:

(i) A statement of criteria by which attainment of objectives is to be measured;

(ii) Description of the instruments to be used to collect data or method of selecting existing instruments;

(iii) An assessment of the validity of such instruments;

(iv) Schedule for collection of data and description of method to be used to review the program; and

(v) Provision for comparison of evaluation results, norms, control group or performance results of other programs or other external standards. (5 points)

(7) *Dissemination.* The proposal contains provisions which promise to result in adequate dissemination of the results of the proposed program and will make outputs available through commercial publications, published articles, conference papers, audiovisual presentations or in other ways as appropriate. (5 points)

(8) *Continuity and replication of project.* The proposed program is designed in a manner to insure the continuity of the project or parts of it at the site selected or its replication at other sites as well as strength of of commitment to continuity and where appropriate replication at other sites in supporting letters and documents. (10 points)

(20 U.S.C. 1031, 1034)

(b) *Continuation of assistance.* In approving applications for assistance to continue programs already funded under this part during the fiscal year for which assistance is sought, the Commissioner will apply (in addition to the criteria set forth in 45 CFR 100a.26(b)) the following criteria:

(1) *Program results.* The extent to which:

(i) The applicant demonstrates, by technical and evaluation reports, products, and other objective evidence, that the program proposed to be continued has been successful in meeting stated objectives and identified needs; and

(ii) Such program has been modified as may be required so as to increase the likelihood of success in meeting such needs.

(2) *Adoption by others.* The extent to which services, techniques, and new knowledge resulting from activities assisted under this part in prior fiscal years have been adopted by others.

(3) *Other educational criteria.* The extent to which the proposed activities satisfy the criteria set forth in paragraph (a) "initial applications."

(c) *Priority.* In approving applications for assistance under this part, the Commissioner will give priority to the applications described in paragraph (b) of this section. "Continuation of assistance", for continuation of projects within their previously established project periods.

(20 U.S.C. 1031–1034)

[FR Doc.75–29937 Filed 11–6–75;8:45 am]

Food and Drug Administration

[21 CFR Part 310]

[Docket No. 75N–0151]

METHADONE

Proposal To Amend Procedures for Denying or Revoking Approval of Applications To Receive Shipments

The Commissioner of Food and Drugs is proposing to amend the hearing procedures in the methadone regulations to provide for a separation of functions between the Bureau of Drugs and the Office of the Commissioner concerning denial or revocation of approval of an application to receive shipments of methadone, and to describe the requirements of a notice of opportunity for hearing and the procedures governing a request for hearing. Interested persons have until January 6, 1976 to submit comments.

The Commissioner, by an order published in the FEDERAL REGISTER of March 13, 1974 (39 FR 9750), promulgated regulations revising, among other provisions, § 314.200 (21 CFR 314.200) concerning the requirements of a notice of opportunity for hearing, request for hearing, and grant or denial of hearing applicable to new drug applications. The primary purpose of that revision was to implement four 1973 Supreme Court decisions that interpreted the new drug provisions of the Federal, Food, Drug, and Cosmetic Act. The principal changes made were in the separation of functions between the Commissioner and the Director of the Bureau of Drugs concerning the notice of opportunity for hearing and the granting or denying of a request for hearing, and in the development of procedures for summary disposition of hearing requests by the Commissioner.

In the preamble to the order of March 13, 1974, the Commissioner recognized that, while the former procedures had been upheld in the courts, modification of the hearing procedures to separate sharply the functions of the Commissioner and the Director of the Bureau of Drugs was desirable to dispel any perception of prejudgment and unfairness that arises from having the same person who issues the notice of opportunity for hearing rule on whether a hearing is justified. Therefore, the Director of the Bureau of Drugs, by an order published in the same issue of the FEDERAL REGISTER (39 FR 9657), was delegated the authority to issue a notice of opportunity for hearing (21 CFR 2.121(1). If a request for hearing is made, the Commissioner then reviews, without Bureau of Drugs participation, both the request for hearing and a proposed order ruling on the matter, drafted by the Bureau of Drugs. After his review, the Commissioner issues a FEDERAL REGISTER notice granting or denying the hearing.

The Commissioner concludes that the hearing procedures in § 310.505(h) of the methadone regulation should be amended to conform to the hearing procedures applicable to new drug applications in § 314.200. This revision will effectuate the policy of the Commissioner to separate the functions of the Director of the Bureau of Drugs and the Commissioner in issuing a notice of opportunity for a hearing and in granting or denying a request for a hearing. However, the Commissioner believes that the informal conference currently provided in the methadone regulations (21 CFR 310.505(h)(2)) is advantageous and should be retained. This conference will now be conducted by the Director of the Division of Methadone Monitoring who will make a recommendation to the Director of the Bureau of Drugs concerning the application. If the latter finds that the applicant has failed to submit adequate assurance justifying approval of the application, he shall issue a notice of opportunity for hearing.

Currently, § 310.505(h) provides that when it is found that an applicant fails to submit adequate assurance justifying approval of his application to receive shipments of methadone (hereinafter referred to as methadone application), a notice of opportunity for hearing should be published and all matters thereafter be handled in accordance with the procedures and requirements containd in § 314.200. However, since § 314.200 contains certain provisions that are not applicable to methadone applications, the Commissioner concludes that this reference may lead to uncertainty with regard to the type of notice required for a notice of opportunity for hearing on a methadone application, as well as the requirements for a request for hearing. He, therefore, has amended the methadone regulations by excerpting from § 314.200 the hearing procedures and those requirements relevant to a request for hearing on a methadone application, and has incorporated them into a new paragraph specifically applicable to methadone applications. Thus, the procedures set forth in § 314.200 remain essentially unchanged.

The Commissioner advises, however, that the 60-day time period provided for by § 314.200 to file records and information to justify a hearing is not appropriate for this regulation. While a 60-day period is proper when broad scientific issues of drug safety or effectiveness are involved, it is neither necessary nor appropriate to the limited factual issues involving the conditions for use of methadone by individual treatment programs. Therefore, the Commissioner proposes to require that both the request for a hearing and all filings in support thereof be submitted within 30 days, with a hearing, when justified, to be held no more than an additional 90 days after the expiration of the initial 30-day time period provided.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701 (a), 52 Stat. 1052–1053, as amended, 1055 (21 U.S.C. 355, 371(a))); the Public Health Service Act as amended (sec. 303 (a), 70 Stat. 929, as amended (42 U.S.C. 242a(a))); the Comprehensive Drug Abuse Prevention and Control Act of 1970 (sec. 4, 84 Stat. 1241 (42 U.S.C. 257a)), and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend § 310.505 by revising paragraph (h), and by adding a new paragraph (l) to read as follows:

§ 310.505 Conditions for use of methadone.

* * * * *

(h) *Denial or revocation of approval.* (1) Complete or partial denial or revocation of approval of an application to receive shipments of methadone (Forms FD–2632 "Application for Approval of Use of Methadone in a Treatment Program" and FD–2636 "Hospital Request for Methadone for Analgesia in Severe Pain and for Detoxification and Maintenance Treatment") may be proposed to the Director of the Bureau of Drugs, Food and Drug Administration, by the Director of the Division of Methadone Monitoring, Bureau of Drugs, on his own initiative or at the request of representatives of the Drug Enforcement Administration, Department of Justice, National Institute on Drug Abuse, the State authority, or any other interested person.

(2) Before presenting such a proposal to the Director of the Bureau of Drugs, the Director of the Division of Methadone Monitoring will notify the applicant in writing of the proposed action and the reasons therefor and will offer him an opportunity to explain the matters in question in an informal conference and/or in writing within 10 days after receipt of such notification. The applicant shall have the right to hear and to question the information on which the proposal to deny or revoke approval is based, and may present any oral or written information and views.

(3) If the explanation offered by the applicant is not accepted by the Bureau of Drugs as sufficient to justify approval of the application, and denial or revocation of approval is therefofe proposed, the Director of the Bureau of Drugs will evaluate information obtained in the informal hearing before the Director of the Division of Methadone Monitoring. If the Director of the Bureau of Drugs finds that the applicant has failed to submit adequate assurance justifying approval of the application, he shall issue a notice of opportunity for hearing with respect to the matter pursuant to paragraph (l) of this section, and the matter shall thereafter be handled in accordance with the procedures therein.

(4) If the Secretary determines that there is an imminent hazard to health, revocation of approval will become effective immediately and any administrative procedures will be expedited.

(5) A treatment program or medication unit or any part thereof, including any facility or any individual, may appeal to the Food and Drug Administration a complete or partial denial or revocation of approval by the State authority unless the denial or revocation is based upon a State law or regulation. The appeal shall first be made to the Director of the Division of Methadone Monitoring who shall hold an informal conference on the matter in accordance with paragraph (h)(2) of this section. The State authority may participate in the conference. The appellant or the State authority may appeal the decision of the Director, Division of Methadone Monitoring, to the Director of the Bureau of Drugs. If the Director of the Bureau of Drugs proposes to deny or revoke approval, such action shall be handled in accordance with paragraph (h)(3) of this section. The Director of the Bureau of Drugs may not grant or retain Food and Drug Administration approval if he finds that the appellant is not in compliance with all applicable State laws and regulations and with this section.

(6) Upon revocation of approval of an application, the Director of the Bureau of Drugs will notify the applicant, the State authority, the Drug Enforcement Administration, Department of Justice, and all other appropriate persons that the applicant may no longer receive shipments of methadone, and will require the recall of all methadone from the applicant. Revocation of approval may also result in criminal prosecution.

* * * * *

(l) *Notice of opportunity for hearing; notice of appearance and request for hearing; grant or denial of hearing.* (1) The notice to the applicant of an opportunity for a hearing on a proposal by the Director of the Bureau of Drugs to deny or revoke approval of an application to receive shipments of methadone (Forms FD-2632 "Application for Approval of Use of Methadone in a Treatment Program" and FD-2636 "Hospital Request for Methadone for Analgesia in Severe Pain and for Detoxification and Maintenance Treatment") will state the reasons for the Director's action and the grounds upon which he proposes to issue his order.

(i) Such notice shall be specific, i.e., either referring to specific requirements in the statute and regulations with which there is a lack of compliance, or providing a detailed description and analysis of the specific facts resulting in the notice.

(ii) The notice will be published in the FEDERAL REGISTER and will state that the applicant has 30 days after the date of publication of the notice within which he is required to file a written notice of appearance and request for hearing if he elects to avail himself of the opportunity for a hearing. The failure to file such a written noice of appearance and request for hearing within that 30 days constitutes an election by the applicant not to avail himself of the opportunity for a hearing.

(2) The notice of opportunity for hearing shall be provided to an applicant by delivering the notice in person or by sending it by registered or certified mail to the last address shown in the application to receive shipments of methadone.

(3)(i) If the applicant elects to avail himself of the opportunity for hearing, he shall file with the Hearing Clerk within 30 days after the date of the publication of the notice of opportunity for hearing (*a*) a written notice of appearance and request for hearing, and (*b*) unless a different period of time is specified in the notice of opportunity for hearing, the records, data, and information on which he relies to justify a hearing with respect to his application to receive shipments of methadone.

(ii) No records, data, or information submitted after such 30 days will be considered in determining whether a hearing is warranted. Exceptions may be made on the basis of a showing of inadvertent omission and hardship.

(iii) Any other interested person who is not subject to the notice of opportunity for hearing may also submit comments on the proposal to deny or revoke approval of the application to receive methadone shipments. Such comments shall be submitted within the time, and pursuant to the requirements, specified in this section.

(4) The failure of any person subject to a notice of opportunity for hearing to submit a notice of appearance and request for hearing or to raise all contentions on which he relies shall constitute a waiver of any such contentions not so raised.

(5) Upon receipt of any request for hearing, the Director of the Bureau of Drugs shall prepare an analysis of the request and a proposed order ruling upon the matter. The analysis and proposed order, the request for hearing, and any proposed order denying a hearing and response pursuant to paragraph (l)(6)(ii) of this section, shall be submitted to the office of the Commissioner for independent review and decision. No representative of the Bureau of Drugs shall participate or advise in the review and decision by the Commissioner. The office of the General Counsel shall observe the same separation of functions.

(6) A request for hearing may not rest upon mere allegations or denials but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing with respect to the particular application specified in the request for hearing.

(i) A specific notice of opportunity for hearing (as defined in paragraph (l)(1)(i) of this section) shall state that, if it conclusively appears from the face of the records, data, and information in the request for hearing that there is no genuine and substantial issue of fact which precludes the denial of approval of the application or the revocation of approval of the application, the Commissioner will enter summary judgment against the person(s) who requests a hearing, making findings and conclusions and denying a hearing. Any such order entering summary judgment shall set forth in detail the findings and conclusions of the Commissioner and shall specify why the applicant fails to meet the requirements of the statute and regulations or why the request for hearing does not raise a genuine and substantial issue of fact.

(ii) Where the person(s) requesting a hearing submits records, data, or information of a type required by the statute and regulations, and the Director of the Bureau of Drugs concludes that summary judgment against such person(s) should be considered, he shall serve upon such person(s) by registered mail a proposed order denying a hearing. Such person(s) shall have 30 days after receipt of such proposed order to respond with sufficient records, data, and information to demonstrate that there is a genuine and substantial issue of fact which justifies a hearing.

(iii) If review of the records, data, and information submitted warrants the conclusion that the ground(s) cited in the notice are not valid, the Commissioner shall deny the hearing, enter summary judgment for the person(s) requesting the hearing, and rescind the notice of opportunity for hearing.

(iv) In the case of denial or revocation of approval, if a hearing is requested and justified, it shall commence no more than 90 days after the expiration of such 30 days (the period within which the request for a hearing and all filings must be made pursuant to paragraph (l)(1)(ii) of this section).

(v) A hearing shall be granted if there exists a genuine and substantial issue of fact or if the Commissioner concludes, in his discretion, that a hearing would otherwise be in the public interest.

(vi) a request for hearing, and any subsequent grant or denial of a hearing, shall be applicable only to the particular methadone program named in such documents.

(7) Any application to receive methadone shipments subject to a notice of opportunity for hearing, for which an opportunity for a hearing is waived or for which a hearing is denied, shall promptly be the subject of a notice published in the FEDERAL REGISTER denying or revoking approval of the application. The Commissioner may, in his discretion, defer or stay such action pending a ruling on any related request for a hearing or pending any related hearing or other administrative or judicial proceeding.

Interested persons may, on or before January 6, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 31, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-29929 Filed 11-6-75;8:45 am]

[21 CFR Parts 950, 951, 952]

[Docket No. 75N-0075]

NATIONAL SHELLFISH SAFETY PROGRAM

Extension of Time for Comments on Proposed Rulemaking

The Commissioner of Food and Drugs issued, in the FEDERAL REGISTER of June 19, 1975 (40 FR 25916), proposed rules to ensure the safety and wholesomeness of fresh and frozen molluscan shellfish (oysters, clams, and mussels) sold in intertate commerce. Comments on the proposed rules were due by October 17, 1975. The Commissioner is extending the time for comment to November 13, 1975.

The Commissioner has received a request, dated October 14, 1975, from the Department of Economic and Community Development of the State of Maryland for an extension of the comment period because a comprehensive economic impact statement could not be completed in the original time provided for comments. The request did not specify the period for which the extension was requested. However, subsequent telephone conversations resulted in the request of 30 additional days from the date of the written request. The written request is on file with the Hearing Clerk, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852.

Good reason therefore appearing, the Commissioner hereby extends the period for filing comments on this proposal to November 13, 1975.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 402, 403, 701(a), 52 Stat. 1046-1048, 1055, as amended (21 U.S.C. 342, 343, 371(a))) and the Public Health Service Act (secs. 301, 308, 311, 361, 58 Stat. 691, 703, as amended (42 U.S.C. 241, 242f, 243, 264)) and under authority delegated to the Commissioner (21 CFR 2.120).

Dated: November 3, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-29930 Filed 11-6-75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 71]

[Airspace Docket No. 75-CE-14]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Washington, Iowa.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before December 8, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public-use instrument approach procedure is being established for the Washington, Iowa, Airport, utilizing the non-directional beacon to be located on the airport as a navigational aid. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach by designating a 700-foot transition area at Washington, Iowa.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (40 FR 441), the following transition area is added:

WASHINGTON, IOWA

That airspace extending upward from 700' above the surface within a 5-mile radius of the Washington Airport (latitude 41°16'00" N., longitude 91°41'00" W.); and that airspace 3 miles each side of the 141° bearing from Washington NDB (latitude 41°16'13" N., longitude 91°41'04" W.); extending from the 5-mile radius to a point 8.5 miles southeast of the NDB.

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

Issued in Kansas City, Missouri, on October 17, 1975.

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

[FR Doc.75-30037 Filed 11-6-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-CE-12]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Meade, Kansas.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before December 8, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public-use instrument approach procedure has been established for the Meade, Kansas, Municipal Airport, utilizing a non-directional beacon located on the airport. Consequently, it is necessary to provide controlled airspace protections for aircraft executing this new approach procedure by designating a 700-foot transition area at Meade, Kansas.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

§ 71.181 (40 FR 441), the following transition area is added:

MEADE, KANSAS

The airspace extending upward from 700 feet above the surface within a 5.5 mile radius of the Meade, Kansas Municipal Airport (latitude 37°16'45" N., longitude 100°-21'15" W.); within 3 miles each side of the Meade NDB (latitude 37°16'49" N., longitude 100°21'31" W.); 008° bearing, extending from the 5.5-mile radius to 8.5 miles north of the NDB.

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

Issued in Kansas City, Missouri, on October 16, 1975.

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

[FR Doc.75-30038 Filed 11-6-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SW-71]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transiion area at Paducah, Tex.

Interested persons may submit such written data, views or arguments as they

may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before December 8, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

PADUCAH, TEX.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Paducah, Tex., Dan E. Richards Airport (latitude 34°01'30" N., longitude 100° 17'00" W.).

The proposed transition area will provide controlled airspace for aircraft executing the proposed VOR/DME RWY 35 (Original) instrument approach procedure.

This will also serve to inform interested airspace users of the change of airport category from VFR to IFR.

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

Issued in Fort Worth, TX., on October 30, 1975.

HENRY N. STEWART,
Acting Director,
Southwest Region.

[FR Doc.75-30039 Filed 11-6-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SW-74]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transition area at Canadian, Tex.

Interested persons may submit such written data, views or arguments as they my desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before December 8, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

CANADIAN, TEX.

That airspace extending upward from 700 feet above the surface within a 5.5-statute-mile radius of Hemphill County Airport, Canadian, Tex. (latitude 35°53'45" N., longitude 100°24'06" W.), including an extension from the 5.5-statute-mile-radius area to 8.5 statute miles southwest of the NDB and 3 statute miles either side of the 054° T (044° M) bearing to the NDB.

The transition area will provide controlled airspace for aircraft executing the NDB instrument approach procedure proposed for the Hemphill County Airport.

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

Issued in Forth Worth, TX., on October 30, 1975.

HENRY N. STEWART,
Acting Director,
Southwest Region.

[FR Doc.75-30040 Filed 11-6-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SW-73]

TRANSITION AREA

Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the La Pryor, Tex. (La Paloma Ranch Airport), transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before December 8, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (40 FR 6202), the La Pryor, Tex. (La Paloma Ranch Airport, transition area is amended to read:

LA PRYOR, TEX. (LA PALOMA RANCH AIRPORT)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of La Paloma Ranch Airport (latitude 28°53'30" N., longitude 99°51'09" W.) and within 3.5 miles each side of the 002° T (353° M) bearing from the La Pryor, Tex., NDB (latitude 28°55'47" N., longitude 99°51'16" W.) extending from the 5-mile-radius area to 11.5 miles northwest of the La Pryor, Tex., NDB.

This proposed amendment changes the extension to the 5-mile transition area from 353° to 002° T to more correctly align the transition extension area with the NDB RWY 17 instrument approach procedure.

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

Issued in Fort Worth, TX., on October 30, 1975.

HENRY N. STEWART,
Director,
Southwest Region.

[FR Doc.75-30041 Filed 11-6-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SW-75]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a transition area at Gruver, Tex.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace

and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before December 8, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (40 FR 441), the following transition area is added:

GRUVER, TEX.

That airspace extending upward from 700 feet above the surface within a 6-statute-mile radius of the Cluck Ranch Airport (latitude 36°10'45" N., longitude 101°41'40" W.).

The transition area will provide controlled airspace for aircraft executing the Borger, Tex., VOR/DME instrument approach procedure proposed for the Cluck Ranch Airport, Gruver, Tex.

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

Issued in Fort Worth, TX., on October 30, 1975.

HENRY N. STEWART,
Director,
Southwest Region.

[FR Doc.75-30042 Filed 11-6-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-SW-72]

TRANSITION AREA

Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Sonora, Tex.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before December 8, 1975, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (40 F.R. 441), the following transition area is added:

SONORA, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Sonora Municipal Airport (latitude 30°35'00" N., longitude 100°39'00" W.) and within 3 miles each side of the 358° bearing from the Sonora, Tex., NDB (latiture 30°34'54" N., longitude 100°38'48" W.) extending 8.5 miles northwest of the Sonora, Tex., NDB.

The proposed transition area will provide controlled airspace for aircraft executing the NDB-A (Original) standard instrument approach procedure.

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

Issued in Fort Worth, TX., on October 30, 1975.

HENRY N. STEWART,
Acting Director,
Southwest Region.

[FR Doc.75-30043 Filed 11-6-75;8:45 am]

[14 CFR Part 71]

[Airspace Docket No. 75-WE-8]

AIRWAY FLOOR

Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would lower the airway floor of V-244 between Mono Lake, Calif., and Coaldale, Nev.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif., 90009. All communications received on or before December 8, 1975, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would change the airway floor from "Stockton 246° radials; 76 miles, 51 miles 145 MSL, Coaldale, Nev.;" to read "Stockton 246° T (229° M) radials, 76 miles 12 AGL, 27 miles 145 MSL, 59 miles 12 AGL, Coaldale, Nev.;". This change will establish an airway floor of 1200 feet AGL beginning just west of the redesignated Nichols intersection and will support a lower minimum enroute altitude east of the intersection. Nichols intersection is being redesignated as a result of airspace Docket No. 75-WE-7 effective December 4, 1975, that extended airway V-230 from Friant, Calif., to Bishop, Calif.

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

Issued in Washington, D.C., on October 31, 1975.

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

[FR Doc.75-30044 Filed 11-6-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 20438; RM-2401]

FM BROADCAST STATIONS

Table of Assignments; Snowmass Village, Colo.

In the matter of amendment of § 73.202 (b), FM Broadcast Stations. (Snowmass Village, Colo.), Docket No. 20438, RM-2401.

Report and order.—(Proceeding terminated).

1. The Commission has under consideration its notice of proposed rulemaking, adopted April 15, 1975, 40 FR 18464, inviting comments on a proposal to assign Channel 269A to Snowmass Village, Colorado.

The notice was issued by the Commission in response to a "Petition for Rule Making," filed on behalf of Robert Schuster, Walter Birk, and Frank Woods, d/b/a Rainbow Associates ("Rainbow"), which requsted the assignment described above. In response to the filing of the petition, Recreation Broadcasting of Aspen, Inc. ("Recreation")

filed an "Opposition to Petition for Rule Making" in which it asserted that the Aspen/Snowmass Village area was already adequately served and could not financially support another aural facility. Further, Recreation questioned whether Snowmass Village, Rainbow's proposed location, constitutes a "community" as that term is used in the Commission's rules and regulations. In response to our Notice, only Recreation, an opponent of the assignment proposal, filed comments.

3. Rainbow's failure to file comments in response to our Notice or a reply to Recreation's opposition obviates the necessity of considering substantive issues raised by Recreation its pleadings. To effectuate the efficient use of the available radio spectrum, the Commission requires parties seeking channel assignments to express a continuing interest in the assignment so that channels which are assigned will not lie fallow and unused. In accordance with that policy, paragraph two of the Appendix to the Notice clearly indicated that the proponent of the petition was expected to file comments restating a present intention to apply for the channel if it was assigned, and, if authorized, to build a station. Moreover, the petitioner was informed in the Notice that it would be expected to answer questions raised in the initial response and that failure to file comments in response to the Notice might lead to denial of the request. Rainbow's reaction to all of this was an unexplained silence, leaving us with no alternative but to deny the petition for failure to exhibit the requisite showing of continuing interest in the channel assignment proposal.

4. In large part, we are denying Rainbow's petition on procedural grounds; however, it may also be denied in our estimation, because of its failure to establish that the requested proposal would benefit the public interest.

5. *Accordingly, it is ordered*, That the "Petition for Rule Making," submitted on behalf of Robert Schuster, Walter Birk, and Frank Woods, d/b/a Rainbow Associates, is denied.

6. Authority for the action taken herein is found in sections 4(i), 5(d)(1), 303(g), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules and regulations.

7. *It is further ordered*, That this proceeding is terminated.

Adopted: October 30, 1975.

Released: November 3, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.75-30026 Filed 11-6-75;8:45 am]

[47 CFR Part 76]

[Docket No. 20508]

CABLE TELEVISION CHANNEL CAPACITY AND ACCESS CHANNEL

Proposed Requirements; Order Extending Time for Comments

In the matter of amendment of Part 76 of the Commission's rules and regulations concerning the cable television channel capacity and access channel requirements of § 76.251, Docket No. 20508.

1. Citizens Communications Center has requested a change in the reply dates in Docket 20508[1] from November 6, 1975, to November 14, 1975. In support of this request, Citizens Communications Center cites several other matters demanding its counsel's immediate attention.

2. In view of the limited delay requested, the complexity of the issues presented in this docket and the Commission's desire to obtain the views of all interested parties, we believe that a grant of Citizens Communications Center's request would be in the public interest.

Accordingly, it is ordered, That the date for filing replies in Docket 20508 is extended to November 14, 1975.

This action is taken by the Chief, Cable Television Bureau pursuant to the authority delegated by § 0.288 of the Commission's rules.

Adopted and released: November 3, 1975.

FEDERAL COMMUNICATIONS COMMISSION
[SEAL] DAVID D. KINLEY,
Chief, Cable Television Bureau.

[FR Doc.75-30027 Filed 11-6-75;8:45 am]

PRIVACY PROTECTION STUDY COMMISSION

[1 CFR Part 431]

FREEDOM OF INFORMATION ACT

Proposed Regulations

The following proposed regulations, drafted in accordance with Section 552(a)(1)(A & C) of the Freedom of Information Act, are hereby offered for public comment. Interested parties have until December 4, 1975, to submit comments, which should be addressed to the Executive Director, Privacy Protection Study Commission, 2120 L Street, Suite 424, Washington, D.C. 20506.

Signed the 4th day of November 1975.

CAROL W. PARSONS,
Executive Director.

[1] See issue of Thursday, August 14, 1975, page 34155.

PART 431—FREEDOM OF INFORMATION ACT

Sec.

431.1 Scope.
431.2 Purpose.
431.3 Application.
431.4 Definitions.
431.5 Availability of records.
431.6 Exemptions.
431.7 Categories of records exempt from disclosure under 5 U.S.C. 552.
431.8 Submission of requests for described records.
431.9 Denial of request.
431.10 Appeal.
431.11 Judicial relief available to the public.
431.12 Extension of time limits.
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431.14 Service of process.
431.15 Fee schedule.
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431.17 Prepayment of fees over $25.
431.18 Exemptions from fee.
431.19 Annual report.

§ 431.1 Scope.

These regulations set forth policies and procedures concerning the disclosure and availability to the public of records and information held by the Privacy Protection Study Commission with respect to: (a) Agency organization, functions, decisionmaking channels, and rules and regulations of general applicability, (b) Agency final opinions and orders, including policy statements and staff manuals, (c) Operational and other appropriate agency records, and (d) Agency proceedings. The part also covers exemptions from disclosure of such materials, procedures for guidance of the public in obtaining information and inspecting records, service or subpoena or other legal demand with respect to records.

§ 431.2 Purpose.

The purpose of these regulations is to prescribe procedures under which the public may obtain information and inspect records of the Privacy Protection Study Commission under the Freedom of Information Act.

§ 431.3 Application.

These procedures apply to all records and informational materials generated, developed, or held by the Privacy Protection Study Commission which come within the purview of 5 U.S.C. 552, as amended.

§ 431.4 Definitions.

For purposes of these procedures, the following terms have the meanings ascribed to them in this section.

(a) Records. The term "records" means all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics made or received by the Privacy

Protection Study Commission in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Privacy Protection Study Commission or because of the informational value of data contained therein. The term does not include:

(1) Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents; or

(2) Objects or articles, such as structures, furniture, paintings, sculpture, models, vehicles, or equipment.

(b) Availability. The term "availability" signifies the right of the public to obtain information, purchase materials, and inspect and copy records and other pertinent information.

(c) Reasonably described. The term "reasonably described," when applied to a requested record, means identifying it to the extent that it will permit the location of the particular document with a reasonable effort.

(d) Requester. The term "requester" means any party who submits a written request for records pursuant to this part.

(e) Agency. The term "agency," as defined in section 552(e) of title 5, United States Code, includes any executive department, military department, Government corporation, Government-controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

§ 431.5 Availability of records.

Privacy Protection Study Commission records are available, to the greatest extent possible, in keeping with the spirit and intent of the Freedom of Information Act and will be furnished promptly to any member of the public upon request addressed to the office designated in the relevant subsequent section at such fees as are specified in the relevant subsequent section. The person making the request need not have a particular interest in the subject matter, nor must he provide justification for the request. The requirement of 5 U.S.C. 552 that records be available to the public refers only to records in being at the time the request for them is made.

§ 431.6 Exemptions.

The exemptions enumerated in 5 U.S.C. 552(b), under which the provisions for availability of records and informational materials will not apply, are general in nature. The Privacy Protection Study Commission will decide each case on its merits. Except when a record is classified or when disclosure would violate any other Federal statute, the authority to withhold a record from disclosure will not be invoked unless there is a compelling reason to do so. In the absence of such compelling reason, records and other information will be disclosed although otherwise subject to exemption.

§ 431.7 Categories of records exempt from disclosure under 5 U.S.C. 552.

5 U.S.C. 552(b) provides that the requirements of the statute do not apply to matters that are:

(a) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are, in fact, properly classified pursuant to such Executive Order.

(b) Related solely to the internal personnel rules and practices of an agency.

(c) Specifically exempted from disclosure by statute.

(d) Trade secrets and commercial or financial information obtained from a person and privileged or confidential.

(e) Inter-agency or intra-agency memoranda or letter which would not be available by law to a party other than an agency in litigation with the agency.

(f) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(g) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would:

(1) Interfere with enforcement proceedings;

(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy;

(4) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source.

(5) Disclose investigative techniques and procedures; or

(6) Endanger the life or physical safety of law enforcement personnel.

(h) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

(i) Geological and geophysical information and data, including maps.

Any reasonably segregable portion of a record shall be provided to any person requesting the record after deletion of the portions which are exempt under this section.

§ 431.8 Submission of requests for described records.

For Privacy Protection Study Commission records, requests shall be submitted in writing to the Public Affairs Officer, Privacy Protection Study Commission, 2120 L Street, Suite 424, Washington, D.C. 20506. Requests should bear the legend, FREEDOM OF INFORMATION REQUEST, prominently marked on both the face of the request letter and the envelope. Requests shall be answered within 10 working days of the receipt of the request. When a request is approved, records will be made available promptly in accordance with the terms of the request. Copies may be furnished or the records may be inspected at the office of the Privacy Protection Study Commission. Upon receipt of a request which does not reasonably describe the records requested, the Privacy Protection Study Commission shall contact the requester to seek a more specific description. The 10 working day time limit established for the answering of requests shall be tolled while the Privacy Protection Study Commission expeditiously seeks from the requester a more specific description of the records requested to assist the Commission in establishing the existence or nonexistence of the records.

§ 431.9 Denial of request.

If a request is denied, the requester shall be advised within ten working days of the receipt of the request and furnished written reasons for the denial. The denial will (a) describe briefly the records or records requested, (b) state the legal basis for nondisclosure, (c) state the name and titles or positions of the official responsible for the denial of such requests, and (d) state the requester's appeal rights.

§ 431.10 Appeal.

A requester denied access, in whole or in part, to the Privacy Protection Study Commission records may appeal that decision with the Privacy Protection Study Commission. All appeals should be addressed to the Executive Director, Privacy Protection Study Commission, 2120 L Street, Suite 424, Washington, D.C. 20506. An appeal must be received in the Privacy Protection Study Commission office no later than thirty calendar days after receipt by the requester of the initial denial of access in the case of a total denial, or thirty calendar days after receipt by the requester of records made available in the case of a partial denial. An appeal must be in writing and may contain a brief statement of the reasons why the records should be released, and enclose copies of the initial request and denial. The appeal letter should bear the legend, FREEDOM OF INFORMATION APPEAL, conspicuously marked on both the face of the appeal letter and on the envelope. The Privacy Protection Study Commission has twenty working days after the receipt of an appeal to make a determination with respect to such appeal. Upon receipt of an appeal, the Executive Director will consult with the General Counsel and the official who made the initial denial. If the Executive Director determines that the appeal should be granted, he shall so notify the requester and make the records available to him. If the Executive Director decides that the appeal should be denied the requester shall be no notified that this is the final administrative deter-

mination. The Executive Director, shall, however, following such determination, inform the Commission as a whole of each final denial at its next scheduled meeting and the Commission shall retain the authority to order documents released, notwithstanding the decision of the Executive Director. The notification letter shall contain: (1) A brief description of the record or records requested; (2) a statement of the legal basis for nondisclosure; (3) a statement of the name and title or position of the official or officials responsible for the denial of the initial request and the denial of the appeal; and (4) a statement of the requester's rights of judicial review.

§ 431.11 Judicial relief available to the public.

(a) Upon denial of a requester's appeal by the Executive Director, the requester may file a complaint in a district court of the United States in the district in which the complainant resides, or has his principal place of business, or in the District of Columbia, pursuant to 5 U.S.C. 552(a)(4)(B).

(b) The Executive Director of the Privacy Protection Study Commission will be the named defendant in any action filed.

§ 431.12 Extension of time limits.

In unusual circumstances as specified in this section, the time limits prescribed in these procedures may be extended by the Executive Director upon the request of the Public Affairs Officer. The Privacy Protection Study Commission will provide written notice to the requester setting forth the reasons for such extension and the date on which a determination is expected. Such notice will specify no date that would result in an extension of more than ten work days. In unusual circumstances, the Executive Director may authorize more than one extension, divided between the initial request stage and the appeal stage, but in no event will the combined periods of extension exceed ten working days. As used in this subsection, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request:

(a) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(b) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request.

§ 431.13 Exhaustion of administrative remedies.

Any person making a request to the Privacy Protection Study Commission for records shall be deemed to have exhausted his administrative remedies with respect to the request if the agency fails to comply within the applicable time limit provisions set forth in these procedures.

§ 431.14 Service of process.

A subpoena duces tecum or other legal demand for the production of records held by the Privacy Protection Study Commission should be addressed to the Executive Director, Privacy Protection Study Commission, 2120 L Street, Suite 424, Washington, D.C. 20506. When such a subpoena or demand is served on any person other than the Executive Director, he shall decline respectively to produce such records on the ground that he is without authority to accept such subpoena or demand.

§ 431.15 Fee schedule.

In computing applicable fees, the Privacy Protection Study Commission will consider only the following costs in providing the requested records.

(a) Reproduction fees. (1) The fee for reproducing copies of the Privacy Protection Study Commission records (by routine electrostatic copying) up to and including material 8½ x 14 inches shall be $0.10 per page. (2) The fee for reproducing copies of the Privacy Protection Study Commission records over 8½ x 14 inches or whose physical characteristics do not permit reproduction by routine electrostatic copying shall be the direct cost of reproducing the records through Government or commercial sources.

(b) Search fees. (1) The standard search fee shall be $4 per hour or fraction thereof beyond the initial half hour used to locate the requested records. (2) When professional staff must be used to search for the requested records because clerical staff would be unable to locate them, the search fee shall be $8 per hour or fraction thereof beyond the initial half hour used to locate the requested records. (3) When the search includes nonpersonnel expenditures to locate and extract requested records, such as computer time or transportation expenses, the applicable fee shall be the direct cost to the Privacy Protection Study Commission.

§ 431.16 Form of payment.

Payment shall be by check or money order payable to the Privacy Protection Study Commission and shall be addressed to the Public Affairs Officer.

§ 431.17 Prepayment of fees over $25.

(a) When the Public Affairs Officer determines that the anticipated total fee (search and reproduction) is likely to exceed $25, he shall notify the requester that he must repay the anticipated fee prior to the Privacy Protection Study Commission making the records available. The Privacy Protection Study Commission will remit the excess paid by the requester or bill the requester for an additional amount according to variations between the final fee charged and the amount prepaid.

§ 431.18 Exemptions from fee.

When the Public Affairs Officer determines that at least one of the following conditions exists, he shall waive the fee requirement and provide one copy of the Commission records without charge to the requester.

(a) When the incremental cost of collecting the fee would be an unduly large part of or an amount greater than the fee;

(b) When the reproduction is for a foreign, State, or local government of international agency and furnishing it without charge is an appropriate courtesy;

(c) When it is determined that it would be in the public interest or primarily benefiting the general public to waive the fee.

§ 431.19 Annual Report.

On or before March 1 of each calendar year, the Privacy Protection Study Commission shall submit to the Speaker of the House of Representatives and President of the Senate, for referral to the appropriate committees of the Congress, a report on the Privacy Protection Study Commission's implementation of 5 U.S.C. 552 which covers the preceding calendar year.

[FR Doc.75-30046 Filed 11-6-75;8:45 am]

[1 CFR Part 430]

PRIVACY ACT OF 1974

Proposed Regulations for Implementation

The following proposed regulations, drafted in accordance with section 552(f) of the Privacy Act of 1974, are hereby offered for public comment. Interested parties have until December 4, 1975, to submit comments, which should be addressed to the Executive Director, Privacy Protection Study Commission, 2120 L Street, Suite 424, Washington, D.C. 20506.

Signed the 4th day of November 1975.

CAROLE W. PARSONS,
Executive Director.

PART 430—PRIVACY ACT OF 1974

Sec.

430.1 Purpose and scope.
430.2 Definitions.
430.3 Disclosure of records.
430.4 Accounting of disclosures.
430.5 Procedures for requests to gain access to individual records.
430.6 Requests for correction or amendment of record.
430.7 Appeal of refusal to correct or amend an individual's record.
430.8 Judicial review.
430.9 Fee schedule.

§ 430.1 Purpose and scope.

The purpose of these regulations are to:

(a) Establish procedures by which an individual can ascertain if the Privacy Protection Study Commission (hereafter referred to as the Commission) maintains a system of records in which there is a record pertaining to the individual.

(b) Establish procedures by which an individual may gain access to a record or information maintained on that individual and have such record or informa-

tion disclosed for the purpose of review, copying, correction and/or amendment.

§ 430.2 Definitions.

(a) For the purpose of these regulations:

(1) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(2) the term "maintain" includes maintain, collect, use, or disseminate;

(3) the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(4) the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(5) the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by Section 8 of Title 13; and

(6) the term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

§ 430.3 Disclosure of records.

No official or employee of the Commission shall disclose any record contained in a system of records to any person or to another agency without the express written consent of the subject individual unless the disclosure is:

(a) To officers or employees who have a need for the information in the official performance of their duties;

(b) Pursuant to the provisions of the Freedom of Information Act;

(c) For a routine use as published in the annual notice in the FEDERAL REGISTER;

(d) To the Bureau of the Census for uses pursuant to Title 13, United States Code;

(e) To a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record. The record shall be transferred in a form that is not individually identifiable. The written statement should include at a minimum:

(1) A statement of the purpose for requesting the records; and

(2) Certification that the records will be used only for statistical purposes.

These written statements should be maintained by the Commission. In addition to deleting personal identifying information from records released for statistical purposes, the system manager shall ensure that the identity of the individual cannot reasonably be deduced by combining various statistical records.

(f) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government;

(g) To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality or his designated representative has made a written request to the Commission specifying the particular portion desired and the law enforcement activity for which the record is sought;

(h) To a person showing compelling circumstances affecting the health and safety of an individual, not necessarily the individual to whom the record pertains (Upon such disclosure, a notification must be sent to the last known address of the subject individual.);

(i) To either House of Congress or to a subcommittee or committee (joint or of either House, to the extent that the subject matter falls within their jurisdiction);

(j) To the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office; or

(k) Pursuant to the order of a court of competent jurisdiction. Except for paragraphs (a), (b) and (c) of this section on the disclosure of records, such disclosure will be made only if:

(1) The request is made in writing to the Executive Director of the Commission describing what records are being requested to be disclosed and explaining the basis of the request including the anticipated uses of the information.

§ 430.4 Accounting of disclosures.

(a) An accurate accounting of each disclosure except those for intra-agency use and those under the Freedom of Information Act shall be made and retained for 5 years after the disclosure or for the life of the record, whichever is longer. The accounting shall include the date, nature, and purpose of each disclosure, and the name and address of the person or agency to whom the disclosure is made.

(b) The System manager also shall maintain in conjunction with the accounting of disclosures:

(1) A full statement of the justification for the disclosure;

(2) All documentation surrounding disclosure of a record for statistical or law enforcement purposes; and

(3) Evidence of written consent to a disclosure given by the subject individual.

(c) Except for the accounting of disclosures made to agencies or instrumentalities in law enforcement activities or of disclosures made from exempt systems, the accounting of disclosures shall be made available to the individual upon request. Procedures for requesting access to the accounting are the same as access to individual records.

§ 430.5 Procedures for requests to gain access to individual records.

An individual seeking to ascertain the existence of a record in any system of records of the Commission or to gain access to such record should either: (a) Submit a request in writing to the Commission; or (b) present himself in person to the Commission offices. If the request is made in writing, it should be addressed to the Public Affairs Officer, Privacy Protection Study Commission, 2120 L Street, Suite 424, Washington, D.C. 20506. The envelope carrying the request, as well as the request letter itself, should bear the legend, "Privacy Act Request." For purposes of identifying the individual in the system of records, the request letter should contain the name and address of the subject individual, the identity of the system to be searched, and a brief description of the nature of the contact with the Commission so that proper identification of the individual can be made. Under no circumstances will the requester need to justify his request. To assure that the subject individual is the person making the request when seeking access to personnel records, the letter must be notarized. If the nature of the record contained in a system of records is such that its disclosure is required under the Freedom of Information Act, the identifying procedures will not be applied. If the request is made in person at the Commission offices, the requesting individual should present himself to the Public Affairs Officer or his designated staff on any working day between the hours of 9 a.m. and 5 p.m. The individual may be asked to fill out a form identifying the system to be searched and a brief description of the nature of the contact with the Commission so that proper identification of the individual in the system can be made. If a requested record exists in the system of records maintained by the Commission, the subject individual will be notified within 10 working days of the receipt of the request. If the individual had requested a copy of the record, a copy would accompany the notification. Copying of material on the request of the individual will be subject to a fee as stated in a subsequent relevant section. If the individual does not request a copy of the record at the time of making the original request for access, either in writing or in person, the individual may either (1) request in writing a copy of the record upon notification of its existence or (2) present himself in person at the Commission offices for personal inspection of the record upon notification of its existence. If the individual requests to inspect the record in person, he may be required to identify himself by a standard method, *e.g.*, driver's license. He may also be accompanied by a person of his

choice to inspect the records. If accompanied, the requester may be required to sign a written statement granting the other person access. If the requested record does not exist in the system of records maintained by the Commission, the subject individual will be so notified within 10 working days of the receipt of the request.

§ 430.6 Requests for correction or amendment of record.

Upon disclosure of information to the individual about whom the record had been maintained by the Commission, if the subject individual desires to correct or amend the record, the subject individual shall make a separate written request to the Public Affairs Officer of the Commission explaining why the individual believes a portion(s) of the record to be either inaccurate, irrelevant, untimely or incomplete. Upon the receipt of a request to correct or amend information maintained on the subject individual, the Public Affairs Officer shall submit it to the Executive Director who shall respond to the requester within 10 working days of the receipt of the request indicating either:

(a) The requested correction or amendment is being made to that portion(s) of the record the subject individual believed to be inaccurate, irrelevant, untimely or incomplete; or

(b) The requested correction or amendment to the individual's record is being refused, the reason for the refusal and the procedures established by the Commission for the individual to appeal that decision.

If the nature of the request or the system of records precludes completing the review within 10 working days, the required acknowledgement must be provided within 10 working days and the review should be completed as soon as reasonably possible, normally within 30 working days of the receipt of the request unless unusual circumstances preclude completing action within that time.

§ 430.7 Appeal of refusal to correct or amend an individual's record.

An individual has 30 calendar days from the receipt of the Executive Director's decision in which to appeal that decision or refusal to make the requested correction or amendment to the subject individual's record. The individual should submit a written appeal addressed to the Secretary of the Commission, Privacy Protection Study Commission, 2120 L Street, Suite 424, Washington, D.C. 20506. The Secretary of the Commission shall transmit the appeal to the full Commission for the final administrative determination. The individual shall be advised of the final administrative determination by the Chairman of the Commission within 30 working days of the receipt of the appeal, unless the Commission has shown good cause for extending the response time for another 30 working days. If after review by the full Commission the final administrative determination is a continued refusal to correct or amend the individual's record as requested by the subject individual, the individual shall be so notified by letter from the Chairman of the Commission and advised of his rights to judicial review of the Commission's administrative action.

§ 430.8 Judicial review.

Within 2 years of the receipt of a final adverse administrative determination an individual may seek judicial review of that adverse determination as provided in 5 U.S.C. § 552a(g)(1)(A).

§ 430.9 Fee schedule.

If a request for information is answered by the return of copies of an individual's record upon the individual's request to the requesting individual, he will be charged $0.10 per page, excluding the cost of any search for and review of the material.

[FR Doc.75-30045 Filed 11-6-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1003, 1100]

[Ex Parte No. 55 (Sub-No. 14)]

REVISION OF APPLICATION FORMS FOR OPERATING AUTHORITY AND AMENDMENTS TO GENERAL RULES OF PRACTICE

Notice of Proposed Rulemaking

● **Purpose: On July 7, 1975, the Interstate Commerce Commission announced the results of an unprecedented internal staff study of the Agency's operations. Among the recommendations of the "Blue Ribbon Staff Panel" was that the Commission take immediate and forceful steps to improve its case processing. To that end, the purposes of the rulemaking proceeding instituted herein are (1) to explore the feasibility and desirability of requiring applicants for operating authority to submit, at the time the application is filed, verified statements containing all the evidence upon which they intend to rely, (2) to consider the requirement of a standardized format for verified statements submitted by all parties in proceedings involving applications for operating authority, and (3) to effect necessary changes in existing pertinent application forms as a result of amendments to the General Rules of Practice.** ●

I. The number of applications filed for authority to conduct operations in interstate or foreign commerce as common and contract carriers of property and passengers by motor vehicle, as brokers, as water carriers, and as freight forwarders continues to increase annually. Motor carrier applications alone (excluding gateway elimination proceedings but including case reopenings), which comprise 78.2 percent of the Commission's formal case docket, increased from 6,197 new filings in 1973 to 6,667 new filings in 1974, to 7,155 receipts in Fiscal Year 1975. As of June 30, 1975, the pending docket of this category of cases was 6,466.

In May 1966, when this Commission first established in Rule 247 (49 CFR 1100.247) of the general rules of practice more comprehensive requirements for the filing of applications seeking operating authority, it was determined that, "the mechanics of regulation must be such that administrative decisions are not only fair and impartial, but are rendered with reasonable dispatch and efficiency." With the continuing increase in this Commission's docket, efficient regulation becomes even more necessary and desirable. The proposed amendment of Rule 247, as set forth below, would require applicants to submit at the time of filing of the application, and thus to prepare prior to filing, their verified statements containing all the evidence upon which they intend to rely. This provision is designed to decrease "regulatory lag" and thereby permit this Commission to consider more applications in less time. The proposed format for verified statements submitted by all parties in application proceedings will clarify the evidentiary presentations, aiding the Commission in its disposition of cases and further contributing to an overall decrease in the amount of time during which a case is pending before the Agency. It is believed that none of the proposals herein will substantially increase the burden or impose any unreasonable or unjustified restrictions on any party appearing before this Commission. Moreover, whenever the functioning of this Agency is improved, the public interest is served.

II. The essence of the recommendations herein is embodied in the proposed amendments to Special Rule 247, which governs applications for operating authority pursuant to Sections 206 (except section 206(a)(6)), 209, 211, 302(e), 303, 309, and 410 of the Interstate Commerce Act. Under the proposal, all such applications shall be accompanied by not only the "certifications of support" now required, but also by an original and one copy of verified statements containing all the evidence and facts upon which the applicant relies. Failure to file such statements may result in summary dismissal of the application for want of prosecution. This requirement will encourage more diligence in the preparation of applications, which are not overly broad and frivolous, by compelling the carrier to scrutinize more closely its own capabilities, as well as the actual needs of the shipper or shippers supporting it for authority, *before* it initiates any action on this Commission's docket. Fewer amendments to the application will be necessary; amendments which *broaden* the scope of the proposed operations are proscribed, inasmuch as additional evidence to support a broadened application is likewise prohibited under the considered proposal. Because applicant will already have the verified supporting statement of shippers in the record from the time the application is filed, the pressure which is frequently exerted by protesting carriers on shippers to withdraw their support should be greatly mitigated, and attempts to do so will be frustrated. Moreover, this requirement

will enable carriers' representatives to assess the merits of their clients' cases more accurately and permit them to advise against seeking additional authority where the likelihood of success is doubtful because of obviously meager evidence of need. So-called "me-too" applications, designed to test the market but which lack adequate support, needlessly add to our already large caseload and will be discouraged under the proposed regulation, or will be summarily dismissed where a prima facie case is clearly not established. Furthermore, potential protesting carriers can better evaluate an applicant's presentation and frivolous protests be avoided.

This proposal represents a tightening and extension of existing Special Rule 247(b)(3), which requires an applicant who requests handling of its case under the modified procedure to submit its evidence in written form at the time the application is filed. Although the rule as proposed would require the preparation and submission of statements by *all* applicants, the filing thereof will be without prejudice against subsequent designation for oral hearing, where this Commission believes such hearing is appropriate and necessary. Applicant may specifically request oral hearing, but must adequately explain why its evidence is more amenable to oral presentation. Because applicant's evidence will already be before this commission when the designation for handling under either modified procedure or oral hearing is made, such designation will necessarily be more realistic.

The proposed amendments to Special Rule 247 are designed to retain the present framework for oral hearing and should not result in a disadvantage for any party to the proceeding. Nor are they intended to shift the burden of proof from applicant. Verified statements are often submitted and included in the record by testifying witnesses. Where oral hearing is directed applicant will be afforded the alternative of relying solely on these previously filed statements or of presenting the same or additional evidence in testimonial form. Under the proposal herein, applicant may continue to submit additional certifications of support once the proceeding is designated, or reassigned for oral hearing. It is thus not precluded from necessary and often unavoidable expansion of its case during the generally longer waiting period before the hearing commences. The presentation of protestant's case at oral hearing, of course, will not be altered in any respect by the proposed changes.

Applications will be published in the FEDERAL REGISTER, along with a list of those parties supporting the authority sought, under the proposed regulations. This listing will afford potential protestants a better opportunity than now exists to evaluate and to express their respective interests in the proceedings. Protests will still be required to be filed within 30 days of publication of the notice. Within 15 days of the expiration of this 30-day period, applicant, pursuant to proposed Special Rule 247(f)(3), shall serve copies of its verified statements originally filed with the Commission on all parties of record from whom it has received protests, and shall so certify to the Commission. At the end of this 15-day period, the Commission will designate the application for handling under either modified procedure or oral hearing. If the former is ordered, protestants shall serve copies of their verified statements on all parties of record within a designated 30-day period, and rebuttal statements by applicants would be due 20 days hence. The proposed rules make it clear that, in order for this streamlined procedure to be effective, no extensions of time for these filings will be granted, except "in the most extraordinary circumstances." While such circumstances cannot be precisely defined, they do *not* include scheduling problems, vacations, or other occurrences which generally happen in the course of any business.

Another major change in existing procedures effected by the proposed amendment of Special Rule 247 is the requirement that verified statements submitted by any party to the proceeding be prepared in accordance with a format specifically described in the rules. The proposal requires each element of information to be clearly identified, titled, and placed in a separately numbered paragraph. Evidence which is lengthy and susceptible to being listed or similarly compiled may be presented in the form of an appendix to the verified statement, so long as that appendix is clearly identified within the statement format. Other information, which a party considers essential to proving its case but which does not fall within a category specified in the rules, as well as legal argument, may appear as final portions of the statements. Proposed Special Rule 247(b)(1) sets forth the required format for statements submitted by applicant, including statements of support, and subsection (f)(3) details the requirements for statements submitted by protestants.

It is anticipated that adoption of such standardized formats will greatly aid the Commission in its disposition of application proceedings. For example, where serious deficiencies in an applicant's prima facie case are readily apparent, it will result in an early dismissal. This regulation will likewise compel closer scrutiny by all the involved parties of their own evidence. In light of the Agency's expanding caseload and the other demands made on its administrative expertise, it should not be incumbent on this Commission to "ferret out" the really essential facts, which prove or disprove a particular party's case, from prolix, generalized, and often incomprehensible statements filed by the parties. By the same token, the standardized format should aid all parties in presenting their cases. By following the format provided, a carrier should be less likely to omit pertinent information crucial to its particular position. Although the format set forth in the rules imposes mandatory requirements on the parties to an application proceeding, it will not be printed as a "fill-in-the-blank" type form. It is intended to serve as a guideline, and is not intended to restrict what facts or argument are to be presented by the parties. Rather, it is a vehicle for the presentation thereof and is not designed to encompass all possible evidentiary presentations.

In addition to the changes in Special Rule 247 discussed above, minor rephrasing and some renumbering of subsections within that rule have been proposed. Certain modifications of General Rules 22, 49, 51, 57, and 74 (49 CFR 1100.22, 49, 51, 57, and 74) are also necessary so as to preclude interpretive problems. As is presently the case, the General Rules of Practice, including those rules which relate specifically to the modified procedure, are applicable to application proceedings unless Special Rule 247 provides otherwise. Because the use of discovery procedures in licensing cases has been found for the most part to either delay the handling of the matter or to result in a "fishing expedition", it is being proposed that application proceedings which are the subject of Rule 247 (49 CFR 1100.247) be excluded from the scope of the new discovery rules (49 CFR 1100.57–67) and that in any instance in which a party desires to avail itself of appropriate discovery procedures in such proceedings, it shall file a petition requesting such relief.

III. The proposed amendments to the rules discussed in this Notice, in turn, necessitate some revision of pertinent applications forms. Part IV of forms OP-OR-9, OP-OR-11, OP-WC-20, and OP-FF-10, and Part V of form OP-WC-10 will be amended so as to indicate that applicant, under the proposed amendment of Special Rule 247, must present its case in chief at the time it files its application. In addition, the existing instructions on form OP-OR-9 will be revised, and the instructions on the other forms noted above will be elaborated upon, as set forth in Appendix B hereto.

IV. Because this Commission desires to serve the public interest in the most efficient manner possible, while preserving Constitutional safeguards of due process, we deem it essential to institute this rulemaking proceeding for the purpose of amending the General Rules of Practice and revising certain application forms in order to facilitate the processing of applications for operating authority and to decrease regulatory lag. Any forms adopted in this proceeding will be submitted to the General Accounting Office for clearance.

V. Oral hearings do not appear necessary at this time and are not contemplated. This Commission, however, would appreciate the written views, comments, suggestions, and pertinent evidence of any interested parties relating to the action proposed in this notice. An original (and 15 copies whenever possible) of such views, comments, suggestions, and evidence shall be filed with this Commission on or before December 22, 1975.

All written submission will be available for public inspection during regular business hours at the offices of the Interstate Commerce Commission, 12th and

Constitution Avenue, Washington, D.C.

This notice of proposed rulemaking is issued under the authority of sections 552, 553, and 559 of the Administrative Procedure Act (5 U.S.C. 552, 553, and 559).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

Accordingly, it is proposed to modify 49 CFR 1003.1, 1003.2, and 1003.3, and 49 CFR 1100.22, 1100.49, 1100.51, 1100.57, 1100.74, and 1100.247, as follows.

PART 1003—LIST OF FORMS

§§ 1003.1–1003.3 [Amended]

1. Part IV in forms OP–OR–9 and OP–OR–11 of § 1003.1, OP–WC–20 of § 1003.2, and OP–FF–10 of § 1003.3 is revised to read as follows:

IV. (a) If applicant, in prosecuting this application, intends to rely on evidence of witnesses who will testify in support thereof, as to their need for the service proposed, applicant (1) *shall* attach to this application certifications of support prepared in the form prescribed in the appendix to the instructions accompanying this application form and (2) *shall* file concurrently therewith appropriately verified statements of all the evidence upon which it relies, which statements *shall* be prepared in accordance with the form prescribed in Special Rule 247 of the Commission's General Rules of Practice. The certification must be signed by the individual, or by an authorized representative of the corporation, association, or partnership, upon whose support applicant intends to rely.

No application depending upon the supporting evidence of public witnesses will be accepted for filing unless it is accompanied by the certifications of support of such witness. Failure to file the verified statements described in (2) above will result in summary dismissal of the application for want of prosecution. No additional certifications of support or verified statements will be accepted *unless and until* the proceeding is designated or reassigned for oral hearing. The total number of witnesses whose testimony is offered in support of an application designated for oral hearing may not exceed twice the number for whom certificates were originally filed with the application.

(b) If applicant does not intend to rely on the evidence described in (a) above, explain why and describe briefly the type of evidence which will be relied upon by applicant to support its burden of proof: _____

_____

_____

2. Part V in form OP–WC–10 of § 1003.2 is revised to read as follows:

V. (a) If applicant, in prosecuting this application, intends to rely on evidence of witnesses who will testify in support thereof, as to their need for the service proposed, applicant *shall* file concurrently with this application appropriately verified statements of all the evidence upon which it relies, which statements *shall* be prepared in accordance with the form prescribed in Special Rule 247 of the Commission General Rules of Practice. Failure to file such statements may result in summary dismissal of the application for want of prosecution. No additional verified statements will be accepted *unless and until* the proceeding is designated or reassigned for oral hearing.

(b) If applicant does not intend to rely on the evidence described in (a) above, described briefly the type of evidence which will be relied upon by applicant to support its burden of proof: _____

_____

_____

(Applicants for exemption under 302(e) should furnish a true copy of the charter, lease, or other agreement under which it proposes to operate).

3. The following language is to be added to each respective form. Page 5 of forms OP–OR–11 and OP–FF–10 is renumbered page 6, respectively, and the following language is inserted and numbered page 5 in each form. The following langauge is added to page 5 of form OP–WC–20 and as page 6 of form OP–WC–10. Page 7 of form OP–OR–9 is deleted, and the following language is inserted and numbered page 7.

Special Rule 247(b)(1) of the Commission's General Rules of Practice has been amended to provide for the mandatory filing with the application of the certifications of support *and* verified statements of all the evidence upon which applicant relies. Such statements shall be prepared so as to present the evidence in the format described in Special Rule 247. Failure to file properly verified statements may result in summary dismissal of the application for want of prosecution. The filing of these statements by applicant will be without prejudice against subsequent designation for oral hearing of the proceeding. No additional certifications of support or verified statements will be accepted *unless and until* the proceeding is designated or reassigned for oral hearing. If, subsequent to such designation, additional witnesses become known to the applicant, applicant shall file a certification for each such witness with the Commission and shall concurrently serve copies thereof upon all parties of record. The total number of witnesses whose testimony is offered in support of an application designated for oral hearing may not exceed twice the number for whom certifications were originally filed with the application. Certifications of additional witnesses as provided above must be filed and served not later than 30 days prior to the date assigned for commencement of the hearing: *Provided*, That, the presiding officer may authorize additional certifications for witnesses to be presented at a continued hearing to be filed and served not later than 30 days prior to the date of the continued hearing. No testimony will be received from witnesses for whom such certifications have not been timely received. An applicant who believes its application is susceptible of handling without oral hearing may request such handling when the application is filed. Any request for an oral hearing shall be supported by a specific explanation as to why the evidence would be more amenable to presentation at oral hearing. Amendments to applications which broaden the scope of the proposed operations will not be allowed. Restrictive amendments acceptable to the Commission may be submitted at any time: *Provided*, That, except as hereinafter provided, in cases assigned for oral hearing amendments must be received by the Commission not later than (1) 30 days after the service date of a notice that the case has been assigned for oral hearing, or (2) the date of prehearing conference assigned to consider such amendments. Restrictive amendments submitted after such date may be considered by the Commission or presiding officer only if exceptional reason is shown why the amendment could not have been timely filed. Prehearing conferences assigned for the consideration of amendments shall be subject to the provisions of subparagraph (e)(6) of this rule respecting appearance at hearings.

NOTE.—Certifications of support are not applicable to the preparation of form OP–WC–10.

PART 1100—GENERAL RULES OF PRACTICE

4. Sections 1100.22, 1100.49, 1100.51, 1100.57, 1100.74, and 1100.247 are revised to read as follows.

NOTE: Brackets indicate matter which has been added to existing rules or reworded.

§ 1100.22 Service; pleadings and papers to show. (Rule 22)

(a) *Generally.* Except as otherwise provided in paragraph (b) of this section, or as otherwise provided respecting applications (Rule 38(b) and [Special Rule 247]), formal complaints (Rule 34), and informal complaints (Rule 24 (b)), every pleading, document, or paper must, when filed, or tendered to the Commission for filing, include a certificate showing simultaneous service thereof upon all parties to the proceeding. Such service shall be made by delivery in person, or by first-class or air mail, or by express, properly addressed with charges prepaid, one copy to each party. Service shall be effected upon the parties to the proceeding by the same means of communication and class of service that is employed in making delivery to the Commission: *Provided, however*, That when delivery is made to the Commission in person, and it is not feasible to serve the other parties in person, service shall be made upon parties 1000 or more miles distant from the party effecting service by air mail and upon parties less than 1000 miles distant by first-class or air mail. When any party is represented by a practitioner, service upon such practitioner will be deemed service upon the party.

(b) *Exceptions as to letter.* Copies of letters to the Commission relating to oral argument (Rule 98) and subpenas (Rule 56(a)) need not be served upon other parties to the proceeding.

§ 1100.49 Modified procedure; content of pleadings. (Rule 49)

(a) *Generally.* [Except as otherwise provided in Special Rule 247], a statement filed under the modified procedure after that procedure has been directed shall state separately the facts and arguments and include the exhibits upon which the party relies. If no answer has been filed pursuant to the waiver provision of Rule 46, defendant's statement must admit or deny specifically and in detail each material allegation of the complaint. In addition defendant's statement and complainant's statement in reply shall specify those statements of fact and arguments of the opposite party to which exception is taken, and include a statement of the facts and arguments in support of such excepiton. Complainant's statement of reply shall be confined to rebuttal of the defendant's statement.

(b) *Exhibit identification.* In addition to being in compliance with Rule 8(a) and (b), an exhibit which is part of any pleading filed under modified procedure shall serially be numbered and bear the notation, properly filled out, in the upper right-hand corner: "Complainant (Defendant) _____, Exhibit No. _____, Witness _____."

(c) Damages. If an award of damages is sought the paid freight bills or properly certified copies thereof should accompany the original of complainant's statement when there are not more than 10 shipments, but otherwise the documents should be retained.

§ 1100.51 Modified procedure; when pleadings filed and served. (Rule 51)

[Except as otherwise provided in Special Rule 247], within 20 days from the date of an order requiring modified procedure, complainant shall serve upon the other parties a statement of all the evidence upon which it relies. Within 30 days thereafter defendant shall serve its statement. Within 20 days thereafter complainant shall serve its statement in reply. No further reply may be made by any party except by permission of the Commission.

§ 1100.57 Discovery. (Rule 57)

(a) *In general.* Unless otherwise ordered in accordance with these rules, or as required by the Interstate Commerce Act or other applicable statutes, parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending proceeding (other than those informal proceedings specified in rules 200 and 225), including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. It is not ground for objection that the information sought will be inadmissible as evidence if the information sought appears reasonably calculated to lead to the discovery of admissible evidence: [*Provided,* That, Rules 57–67, inclusive, shall not apply to proceedings subject to the provisions of Rule 247, except that in such proceedings a petition seeking appropriate procedures may be filed].

§ 1100.74 Witness examination; order of procedure. (Rule 74)

[Except as otherwise provided in Special Rule 247], witnesses will be orally examined under oath before the officer unless their testimony is taken by deposition or the facts are presented to the Commission in the manner provided under modified or shortened procedure. In formal-complaint, application, and investigation proceedings complainant, applicant, and respondent, respectively, shall open and close at the hearing, except at further hearings granted on petition the petitioner requesting further hearing shall open and close, and except, further, that parties other than the respondent shall open and close in investigations in which the burden of proof is not upon the respondent. Interveners shall follow the party in whose behalf the intervention is made. The foregoing order of presentation may be varied by the officer, who also shall designate the order of presentation in any other type of proceeding, of any party to any proceeding, or of parties to several proceedings being heard upon a consolidated record.

§ 1100.247 Special rules governing notice of filing of applications by motor carriers of property or passengers and brokers under sections 206 (except section 206(a)(6) relating to Certificates of Registration), 209 and 211, by water carriers under sections 302(e), 303, and 309, and by freight forwarders under section 410 of the Interstate Commerce Act, and certain other procedural matters with respect thereto. (Rule 247)

(a) *Scope and applicability of special rules*—(1) *Scope.* These special rules govern the filing and handling pursuant to the provisions of the Interstate Commerce Act of (i) applications for certificates, permits, and licenses respecting the transportation of property or passengers under sections 206 (except section 206 (a)(6) relating to Certificates of Registration), 209, and 211, (ii) applications for certificates, permits, and exemptions respecting the water transportation of property or passengers under sections 302(e), 303, and 309, and (iii) applications for permits to operate as freight forwarders and for certificates of abandonment under section 410. Except as otherwise herein provided, the general rules of practice shall apply.

(2) *Applicability.* Except as otherwise provided herein these special rules shall apply to all applications enumerated in paragraph (a)(1) of this section and filed with the Commission on and after _____ and to such of those applications filed prior to that time as the Commission may designate by appropriate publication in the FEDERAL REGISTER.

(b) *Applications.*—(1) *Form and content.* An application filed with the Commission under these special rules shall be prepared in accord with and contain the information called for in the form of application prescribed by the Commission or in instructions which are issued by the Commission with respect to the filing of such an application. An application for a certificate, permit, or license as defined in paragraph (a)(1) of this section [shall be accompanied by (i) certifications of support on the prescribed form for each individual, corporation, or partnership known to the applicant upon whose support applicant intends to rely, and (ii) an original and one copy of verified statements of all the evidence upon which applicant relies and of the facts to which its witnesses would testify at an oral hearing if one were held, which statements shall be prepared so as to present the evidence in accordance with the format described immediately below].

[VERIFIED STATEMENT OF APPLICANT]

I. Legal name and domicile of carrier.
II. Identity and qualifications of testifying witness.
III. Authority sought.
IV. General scope of presently authorized common and contract carrier operations. Attach as an identified appendix copies of any pertinent operating rights and note:
A. any duplicating authority, and
B. dual operations, which would result from a grant of this application.
V. Affiliations with other carriers and persons affiliated with carriers, etc. (Indicate pertinent MC numbers and docket numbers of finance proceedings; identify common and contract carriers as such.)
VI. Terminal facilities and communications network. (may be listed or described in an identified appendix).
VII. Equipment (may be summarized or listed in an identified appendix).
VIII. Safety program.
IX. Financial data (Attach, appropriate current balance sheet and income statement in an identified appendix).
X. Type of service offered (e.g., LTL, multiple delivery, regular-route, bulk, interline, door-to-door, etc.).
XI. Extent of service now provided to the party or parties supporting the application (pertinent traffic studies may be attached in an identified appendix).
XII. Feasibility of proposed operation and impact on the environment.
XIII. Argument and additional comments relevent to the proceeding.
XIV. Verification.

[VERIFIED STATEMENT IN SUPPORT OF THE APPLICATION]

I. Legal name and domicile and supporting person.
II. Identity and qualifications of testifying witness.
III. General description of the party's operations, if applicant is property carrier.
IV. Specific commodities to be transported under the authority applied for herein, if applicant is property carrier. (Representative list of commodities may be attached as an identified appendix).
V. Origin of traffic (specific points or representative listing thereof).
VI. Volume and frequency of traffic and the specific (or representative) points to which it moves.
VII. Type of service required (e.g., special equipment or loading facilities, bulk, LTL, multiple delivery, charter operations, etc.).
VIII. Amount of traffic to be tendered to applicant.
IX. How the involved traffic now moves.
X. Deficiencies in existing service (documentation thereof may be submitted as an identified appendix).
XI. Other similar or identical applications supported by this party (provide pertinent docket numbers).
XII. Argument (why applicant's service is needed.
XIII. Verification.

[Failure to file such statements may result in summary dismissal of the application for want of prosecution. The filing of these statements by applicant will be without prejudice against subsequent designation for oral hearing of the proceeding. No additional certifications of support or verified statements will be accepted unless and until the proceeding is designated or reassigned for oral hearing. If such designation has been made, and additional witnesses have

become known to the applicant, applicant shall file a certification for each such witness with the Commission and shall concurrently serve copies thereof upon all parties of record. The total number of witnesses whose testimony is offered in support of an application designated for oral hearing may not exceed twice the number for whom certifications were originally filed with the application]. Certifications of additional witnesses as provided above must be filed and served not later than 30 days prior to the date assigned for commencement of the hearing: *Provided*, That, the presiding officer may authorize additional certifications for witnesses to be presented at a continued hearing to be filed and served not later than 30 days prior to the date of the continued hearing. No testimony will be received from witneses for whom such certifications have not been timely received.[1]

(2) *Copies and service.* Copies of an application filed under these special rules shall be furnished in such number and shall be filed and served in the manner and upon the persons specified in the form or instructions.

(3) [Requests for handling applications under either oral hearing or modified procedure. An applicant who believes its application is susceptible of handling without oral hearing may request such handling when the application is filed. Any requests for an oral hearing shall be supported by a specific explanation as to why the evidence would be more amenable to presentation at oral hearing].

(c) *Notice to interested persons.*[1] Notice of the filing of applications to competitors and other interested persons will be given by the publication [in the FEDERAL REGISTER of a summary of the authority sought and a list of those persons supporting the application.] Such summaries will be prepared by the Commission, and it shall be the responsibility of applicant promptly to advise the Commission if the summary does not properly describe the authority sought. No other notice by applicants to interested persons is required, except that applicants are not relieved from the obligation to file copies of applications with Governors, State Boards, and Regional Directors of the Commission's Bureau of Operations as may be required by the prescribed form of the application.

[(d)] *Amendments.* [Amendments to applications which broaden the scope of the proposed operations will not be allowed]. Restrictive amendments acceptable to the Commission may be submitted at any time: *Provided*, That, except as hereinafter provided, in cases assigned for oral hearing amendments must be received by the Commission not later than (1) 30 days after the service date of a notice that the case has been assigned for oral hearing, or (2) the date of prehearing conference assigned to consider such amendments. Restrictive amendments submitted after such date may be considered by the Commission or presiding officer only if exceptional reason is shown why the amendment could not have been timely filed. Prehearing conferences assigned for the consideration of amendments shall be subject to the provisions of paragraph [(e)(6)] of this rule respecting appearance at hearings.

[(e)] *Protests and request for hearing.* (1) Protests to the granting of an application shall be filed with the Commission within 30 days after the date notice of the filing of the application is published in the FEDERAL REGISTER. A protest filed under these rules shall certify that it has been served upon applicant's representative (or applicant, if no practitioner representing him is named in the notice of filing published in the FEDERAL REGISTER.) Unless otherwise specified in the published notice, the original and one copy of the protest shall be filed with the Commission. Protests not in reasonable compliance with the requirements of these rules may be rejected in the discretion of the Commission.

(2) Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding.

(3) A protest against any application shall set forth specifically the grounds upon which it is made and contain a detailed statement of the protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method (whether by joinder, interline, or other means) by which protestant would use such authority to provide all or part of the service proposed), shall request an oral hearing if one is desired, and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests phrased in general terms and not complying with these specifications may be rejected.

(4) [A protest embracing a] request for an oral hearing shall be supported by a specific explanation as to why the evidence to be presented cannot reasonably be submitted in the form of affidavits, shall set forth the number of witnesses which would be presented by the protestant and an estimate of the hearing time required for such presentation,[1] and shall contain the following certification without further qualification:

> The undersigned hereby certifies that, if an oral hearing is held, protestant(s) will appear and present evidence of protestant(s) own operations and particular interest(s) in the outcome of this application unless this application amended so as to eliminate the interest(s) of protestant(s) as set forth in this protest.

(5) Where a person has a limited interest in an application, which possibly could be eliminated by a restrictive amendment to the application, which amendment must be acceptable to the Commission, it may also include in a protest filed in conformity with this paragraph an offer to withdraw the protest in the event of acceptance by applicant and the Commission of such amendment.

(6) Except where a restrictive amendment has been made as provided in paragraph (e)(5) of this section, or for good cause shown, the failure of any person filing a protest to an application to appear at a hearing scheduled thereon shall be construed as a waiver of its right to participate further in the proceeding; such person shall no longer be considered as a party to the proceeding, and it and any representative responsible for its participation in the proceeding may be subject to censure for failure to appear. In addition, the mere appearance of protestant without the presentation of evidence of protestant's own operations and particular interest in the application may, in the absence of good cause shown, subject protestant and its representative to similar censure.

(7) An interested person, not a protestant, desiring to receive notice of the time and place of any hearing, conference, or other proceedings shall notify the Commission by telegram or letter (original and one copy) within 30 days from the date of the publication of the notice of the filing of the application in the FEDERAL REGISTER.

(8) A person (carrier) who does not file a protest as required by the regulations in this part, or who otherwise fails to remain a proper party to an application proceeding filed under the regulations in this part (by withdrawal of a previously filed protest, by failure to file verified statements in opposition as required by an appropriate order, by failure as required by an appropriate order, by failure to appear at a scheduled oral hearing, or by other means), and who is not granted leave to intervene pursuant to the provisions of paragraph [(f)] of this section, except for good cause shown, may not personally, or through a representative, appear as a witness for a party protestant, except as provided hereafter. This provision shall not preclude the filing of a proper joint protest on behalf of several opposing carriers, or the presentation of evidence of service by bona fide connecting carriers through a duly qualified protestant, as to the nature and extent of their joint services, or other probative evidence, provided the party protestant's original protest contains a clear statement that its opposition is based, in part at least, upon a transportation service performed by it jointly with connecting carriers.

[(f)] *Hearing or other procedures to be followed*—(1) *Determination.* The Commission will determine whether an assignment for oral hearing should be made, after notice to interested persons of the filing of the application has been published in the FEDERAL REGISTER and the period for filing protests has expired. At or prior to such time, any applicant who does not intend to prosecute its application should promptly request dismissal thereof.

(2) *Uncontested proceedings.* Proceedings in which no protests are filed within

[1] Indicates material deleted.

[1] Indicates material deleted.

30 days after publication of notice in the FEDERAL REGISTER, and which are not assigned for oral hearing, will be determined on the basis of [the] verified statements [already] submitted by applicant, [in accordance with the provisions of Special Rule 247(b)(1)].[1]

(3) *Contested proceedings.* In those contested proceedings in which the Commission determines that assignment of an application for oral hearing is unnecessary, thereafter the procedure shall be in accordance with Rules 45(b), 46(b), and 47–54, inclusive, of the general rules of practice, [unless this Special Rule specifically provides otherwise. In all proceedings, within 15 days of the expiration of the 30-day period in which protests are to be filed, applicant shall serve copies of the verified statements which it initially filed with the Commission on all parties of record, and it shall concurrently certify to the Commission that such service has been made. If the proceeding is designated for handling under modified procedure, within 30 days of such designation protestants shall serve their verified statements on the Commission (an original and one copy) and on all parties of record, which statements shall be prepared so as to present the evidence in accordance with the format described immediately below].

VERIFIED STATEMENT OF PROTESTANT

I. Legal name and domicile.

II. Identity and qualifications fo testifying witness.

III. General scope of authorized operations.

IV. Extent of protest (specifically identify pertinent conflicting authority and attach as an appendix copies thereof).

V. Terminal facilities and communications network (may be listed or described in an identified appendix).

VI. Equipment (may be summarized or listed in an identified appendix).

VII. Type of service offered (e.g., LTL, multiple delivery, regular-route, bulk, interline, door-to-door, etc.).

VIII. Traffic subject to diversion if this application is granted. Appropriate traffic studies may be attached as an identified appendix, showing: A. extent of service now provided to the party or parties supporting the application, and B. service provided to other parties within the scope of the application.

IX. Argument (why additional service is not needed, refutation of alleged service deficiencies, etc.).

X. Verification and certificate of service.

[Within 20 days thereafter, applicant shall serve its statement in reply. Requests for extension or modification of the time limits described above will be granted only in the most extraordinary circumstances]. All other contested proceedings which are subject to these rules will be assigned for oral hearing, unless other procedures are ordered.

[(g)] *Failure to prosecute applications.* An applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof. Failure to prosecute an application under procedures ordered by the Commission will result in dismissal thereof. Submission of a request for dismissal of an application later than 15 calendar days after the service date of a notice setting it for oral hearing, or failure by applicant to appear and prosecute the application at such hearing will result in dismissal thereof and will bar the filing of any application for the same or any part of the same authority by the same applicant for a period of 1 year after the date of the dismissal order except upon a petition showing good cause why this rule should be waived. Such petition shall be served upon all protestants to the prior application.

[h] *Notice of hearing, conference or other proceedings*—(1) *Initial assignment.* Notice of the time and place of any hearing, conference, or other proceedings will be given to applicant's representative, applicant, protestants, and other interested parties by mailing to them the order or notice assigning the application for hearing, conference, or other procedure, [and by publishing said notice or order in the FEDERAL REGISTER].

(2) *Assignment of an application for hearing concurrently with notice of its filing.* For the convenience of the Commission in handling applications related to one or more applications which already have been noticed in the FEDERAL REGISTER when, in the Commission's discretion, the public interest would be served, an application may be concurrently noticed and assigned for hearing provided appropriate publication in the FEDERAL REGISTER can be made at least 1 week prior to the assigned date of hearing. Where such action is taken, and regardless of any prior publication of the application, any interested person may, without filing a protest prior to the assigned hearing, appear at the hearing in opposition to the application so assigned and become a party and be entitled to participate in that proceeding.

(3) *Requests for change.* A request by any party for a change in the time or place of an assigned hearing must set forth good and sufficient cause for the action requested, must be in writing and filed with the Commission not less than 10 days before the assigned hearing date, except in emergency circumstances, and must be served on all known parties of record at the same time and by the same method of communication as service is made on the Commission. Where such requests are filed less than 10 days before the date of hearing, the petitioning party shall state the reasons for his failure to make such request within the prescribed 10 days.

(4) *Notice of changes.* The applicant's representative (or applicant if it has no representative), protestants, and those who request notice of changes in time or place of hearing, conference, or other proceeding will be informed of such changes if notice is given by mail. If telegraphic notice becomes necessary, notice of such changes will be given by telegram only to those who request telegraphic notice at their expense.

[(i)] *Intervention.* Rule 73 relating to participation without intervention is inapplicable to applications subject to this section, except with respect to those persons seeking to intervene in support. No person who fails to file a protest as provided in these rules will be permitted to intervene in opposition in a proceeding except upon a showing of substantial reasons in a petition submitted in accordance with Rule 72.

[(j)] *Drafting of initial decision by prevailing party.* Applications in which oral hearings are held and in which the hearing officer can announce his decision, either (1) on the record after the close of the taking of testimony or (2) by appropriate notification to the parties after the filing of briefs, may be made the subject of a report and recommended order, prepared by the party or parties in whose favor the hearing officer decides, within a period specified by the hearing officer. The hearing office will make such changes as he considers appropriate in the draft prepared for him.

[FR Doc.75-29909 Filed 11-6-75;8:45 am]

[1] Indicates material deleted.

[49 CFR Part 1063]

[Ex Parte No. MC-95]

PRACTICES OF MOTOR COMMON CARRIERS OF PASSENGERS (ADEQUACY OF SERVICE, EQUIPMENT, AND FACILITIES)

Filing Dates

● **Purpose: The purpose of this document is to establish filing dates for written comments.** ●

By order dated June 23, 1975, the Intertsate Commerce Commission adopted a notice of proposed rulemaking instituting the above-entitled proceeding. The notice indicated that oral hearings were expected to be scheduled and requested interested persons to inform the Commission of their intention to participate.

A careful review of the issues involved and the persons wishing to participate in this proceeding have led to a determination that the most efficient manner of handling this proceeding is by requiring the submission of written comments, views, or arguments. This does not preclude oral hearing at a later date when the broad issues present in this case have been narrowed. No purpose would be served by expending the time and money necessary for a number of oral hearings when many of the issues can be resolved or simplified through the receipt of written statements. Furthermore, many of the persons who expressed an interest in participating in this proceeding live at diverse locations and many are elderly or handicapped, and we believe it would facilitate their participation to utilize the written statements procedure.

Any interested person wishing to submit a written statement of views, comments, or arguments regarding the proposed rules shall file an original and 15 copies (whenever possible) of such representations with the Secretary, Interstate Commerce Commission, Washington, D.C., 20423, on or before January 6, 1976;

and replies thereto may be filed on or before February 20, 1976.

All written submissions will be available for public inspection during regular business hours at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, Washington, D.C.

This notice of proposed rulemaking is issued under the authority of Part II of the Interstate Commerce Act (49 U.S.C. 301 et seq.), including more specifically sections 203(a)(1), 204(a)(6), 208(a), 216, 217, 219, 220, and 222, and pursuant to 5 U.S.C. 552, 553, and 559 (the Administrative Procedure Act).

Issued in Washington, D.C., October 28, 1975.

ROBERT L. OSWALD,
Secretary.

[Ex Parte No. MC-95]

PRACTICES OF MOTOR COMMON CARRIERS OF PASSENGERS (ADEQUACY OF SERVICE, EQUIPMENT, AND FACILITIES

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 28th day of October, 1975.

It appearing, that by order of June 23, 1975, the Interstate Commerce Commission entered a notice of proposed rulemaking and order in the above-entitled proceeding, in which it was indicated that evidence would be received at oral hearings to be scheduled as a need therefore appeared;

It further appearing, that upon further consideration it is believed that more meaningful and responsive comments can be obtained by first receiving written statements from interested parties and scheduling hearings at a later date, if necessary, on issues not resolved by the written comments; that the issues involved herein are broad and cover virtually the entire scope of services offered by motor common carriers of passengers operating over regular-routes or conducting special operations; that because broad issues are involved equally wide ranging comments can be expected; that, in order to ascertain fully those proposals which are in controversy, written statements can best serve this purpose; that, further, it is believed that certain of the proposals may emerge as either unopposed or unnecessary and, therefore, can be finally resolved without the expenditures of time and money incumbent in oral hearings;

It further appearing, that those parties which have indicated their intent to participate in this proceeding are domiciled at widely dispersed locations; that further many are elderly or physically handicapped and to require them to travel to a hearing would either inflict an unnecessary hardship upon them, or would preclude their participation in this proceeding; that it is the Commission's desire to obtain comments from all interested parties in the most economical method possible; and that, therefore, the initial use of written comments will present a more convenient and acceptable forum for those parties desiring to comment on the proposed regulations;

And good cause appearing therefore:

It is ordered, That any interested person wishing to submit a written statement of views, comments, or arguments regarding the proposed rules shall file an original and 15 copies (whenever possible) of such representations with the Secretary, Interstate Commerce Commission, Washington, D.C., 20423, on or before January 6, 1976; and that replies thereto may be filed on or before February 20, 1976.

It is further ordered, That written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, D.C., during regular business hours.

And it is further ordered, That a copy of this order be posted in the Office of the Secretary, Interstate Commerce Commission, for public inspection and that a copy of the attached notice be delivered to the Director, Division of the Federal Register for publication in the FEDERAL REGISTER as notice for all interested persons.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-30081 Filed 11-6-75;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF STATE

[Public Notice CM-C5/3]

FINE ARTS COMMITTEE

Cancellation of Meeting

The Fine Arts Committee meeting which was rescheduled for Monday, November 17, 1975 and published in the FEDERAL REGISTER on October 14, 1975 (40 FR 48145) has been cancelled due to the Secretary of State's change in schedule. He will be in Europe with the President for the Economic Summit Conference.

The Fine Arts Committee meeting will be rescheduled for January 1976. The exact date will be announced in advance of the meeting.

Dated: October 30, 1975.

CLEMENT E. CONGER,
Chairman,
Fine Arts Committee.

[FR Doc.75-29908 Filed 11-6-75;8:45 am]

Agency for International Development

HOUSING GUARANTY PROGRAM FOR NICARAGUA

Information for Investors

The Agency for International Development ("A.I.D.") has advised Banco de la Vivienda de Nicaragua (the "Borrower") that A.I.D. is prepared to guaranty repayment of principal and interest on a loan in an amount not to exceed $10 million by an eligible U.S. Investor to the Borrower.

A.I.D.'s guaranty will be subject to execution of an agreement between Borrower and an eligible U.S. investor acceptable to A.I.D. for the loan and subject to the satisfaction of certain further terms and conditions by the Borrower. The guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority, contained in section 222 of the Foreign Assistance Act of 1961, as amended (the Act). Proceeds of the loan will be used to finance housing projects in Nicaragua.

Eligible investors interested in extending a guaranteed loan to the Borrower should communicate promptly with

Duncan H. Cameron, Esquire, Cameron, Hornbostel & Adelman, 1707 H Street NW., Washington, D.C. 20006, Telephone: 202-965-4690.

Investors eligible to receive a guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic corporations, partnerships, or associations substantially beneficially 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.

To be eligible for a guaranty, the loan must be repayable in full no later than the twenty-eighth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate to be established by A.I.D.

Information as to 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 300E, SA-2, Washington, D.C. 20523.

This information is not an offer by A.I.D. or by the Borrower. The Borrower and not A.I.D. will select a lender and negotiate the terms of the proposed loan.

Dated: October 30, 1975.

PETER M. KIMM,
Director of Housing, Agency for International Development.

[FR Doc. 75-29944 Filed 11-6-75; 8:45 am]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

REGIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES FOR THE SIXTH NATIONAL BANK REGION

Meeting

A meeting of the Advisory Committee on Banking Policies and Practices for the Sixth National Bank Region will be held November 21, 1975 at Amelia Island Plantation, Amelia Island, Florida, beginning at 9 a.m. and lasting until 12 p.m. The meeting will be open to the public. There will be no closed sessions. Interested members of the public will be admitted on a first come basis.

Persons or groups planning to make statements over five minutes in length must submit three copies to the Regional Administrator of National Banks, 1510 First National Bank Tower, Two Peachtree Street, Atlanta, Georgia 30303 prior to November 18, 1975.

Dated: November 4, 1975.

JAMES E. SMITH,
Comptroller of the Currency.

[FR Doc.75-30064 Filed 11-6-75;8:45 am]

Customs Service

[T.D. 75-282]

EXCESS COST OF PRECLEARANCE OPERATIONS

Reimbursable Services

NOVEMBER 1, 1975.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning November 23, 1975.

Installation:	*Biweekly excess cost*
Montreal, Canada	$8,785
Toronto, Canada	15,674
Kindley Field, Bermuda	2,698
Nassau, Bahama Islands	12,741
Vancouver, Canada	4,102
Winnipeg, Canada	1,695

JOHN A. HURLEY,
Assistant Commissioner of Customs (Administration).

[FR Doc.75-29952 Filed 11-6-75;8:45 am]

Internal Revenue Service

COMMISSIONER'S ADVISORY GROUP

Open Meeting

Notice is hereby given that pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, a meeting of the Commissioner's Advisory Group will be held on December 4 and 5, 1975, in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224. The meeting will begin at 10 a.m. on December 4 and 9 a.m. on December 5. The agenda will include various topics concerning the procedures and operations of the Internal Revenue Service.

The meeting will be open to the public. It is to be held in a room accommodating 50 people. In addition to discussion of agenda topics by Committee members, there will be time for statements by non-members. Persons wishing to make oral statements should so advise the Executive Secretary prior to the meeting to aid in scheduling the time available. Any interested person may file a written statement for consideration by the Committee by sending it to the Executive Secretary, Room 3011, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.75-30061 Filed 11-6-75;8:45 am]

[Order No. 153]

REGIONAL COMMISSIONER, SOUTHWEST REGION

Delegation of Authority

Nationwide authority to make determinations on certain oil related issues.

Pursuant to authority vested in the Commissioner of Internal Revenue by IRC 7802, 26 CFR 1.482 and Treasury

Department Order No. 150-37, the nationwide authority to determine

A. Intercompany and intracompany transfer prices of foreign-produced crude oil and products refined therefrom, and

B. The acceptance of the average freight rate assessment (A.F.R.A.) as an intercompany charge for shipping of foreign-produced crude oil and products

is hereby delegated to the Regional Commissioner, Southwest Region.

This delegation does not extend to cases pending before the United States Tax Court, nor those within the jurisdiction of the Department of Justice.

This authority may not be redelegated.

Issued: October 30, 1975.

Effective: November 24, 1975.

DONALD C. ALEXANDER,
Commissioner.

[FR Doc.75-30060 Filed 11-6-75;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Navy

NAVY RESALE SYSTEM ADVISORY COMMITTEE

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given of a closed meeting of the Navy Resale System Advisory Committee on November 24, 1975, at the New York Athletic Club, 180 Central Park South, New York City, New York. The meeting will commence at 9 a.m. and is scheduled to terminate at 12 noon. The agenda consists of matters relating solely to the internal policies and practices of the Navy Department insofar as they pertain to Navy resale affairs, including a review of operations, financial controls, personnel policies, facilities, and various aspects of system administration, and will involve discussion of trade secrets and privileged or confidential commercial or financial information. The Secretary of the Navy for that reason has determined in writing that this meeting will be closed to the public because it will be concerned with matters listed in section 552(b)(2) and (4) of title 5, *United States Code.*

Dated: November 3, 1975.

LARRY G. PARKS,
Captain, JAGC, U.S. Navy Assistant Judge Advocate General (Civil Law).

[FR Doc.75-29918 Filed 11-6-75;8:45 am]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON "ELECTRONIC TEST EQUIPMENT"

Advisory Committee Meeting

Pursuant to the provisions of Pub. L. 92-463, notice is hereby given that the Defense Science Board Task Force on "Electronic Test Equipment" will meet in open session on December 2 and 3, 1975 in Room 9W67, National Center Building No. 1, 2511 Jefferson Davis Highway, Arlington, Virginia.

The sessions will commence at 9 a.m. each day.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long-range guidance in these areas to the Department of Defense.

The primary responsibility of the Task Force is to examine the greater use of the Department of Defense of privately-developed, commercially-available, off-the-shelf electronic test equipment, including modifications thereof, with the goal of achieving economy and reliability benefits for the several Armed Services and to recommend policies and procedures which will maximize these benefits.

This will be the ninth meeting of the Task Force. The planned agenda will cover three general areas:

1. Procurement.
2. Logistics.
3. Applications, Requirements and Equipment.

The detailed discussions and investigations into these general areas will be conducted by working groups made up of designated Task Force members or their designated representatives and selected Task Force observers. Each working group will formulate proposals related to its general area of responsibility corresponding to one of the three specified above. The working group proposals as approved by the Task Force will form the basis for the ultimate Task Force recommendations.

Persons wishing to attend are advised that a reasonable quantity of seating for observers will be available on a first-come, first-seated basis. No specific arrangements or notification of desire to attend is necessary.

The Executive Secretary for the Task Force is Mr. Rudolph J. Sgro, OASD (I&L) WS, Room 2A318, Pentagon, Washington, D.C. 20301.

MAURICE W. ROCHE,
Director, Correspondence and Directives OASD (Comptroller).

NOVEMBER 3, 1975.

[FR Doc.75-29923 Filed 11-6-75;8:45 am]

DEPARTMENT OF JUSTICE

Antitrust Division

UNITED STATES V. FOSTER BAM, CITIES SERVICE COMPANY, AND AMERICAN NATURAL GAS COMPANY

Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)-(h), that a proposed consent judgment and a competitive impact statement have been filed with the United States District Court for the District of Connecticut, New Haven, Connecticut. Civil Action No. N75-261, the *United States of America* v. *Foster Bam, Cities Service Company* and *American Natural Gas Company*. The complaint, filed concurrently with the proposed judgment and CIS, charges all three defendants with violating Section 8 of the Clayton Act, since defendant Foster Bam has been simultaneously a director of Cities Service and American Natural Gas and since both corporate defendants are competitors within the meaning of Section 8. The complaint states that Cities Service and American Natural Gas have bid against each other on at least twenty occasions in attempts to acquire interests in oil and gas producing properties leased by the Federal Government.

The proposed judgment prohibits defendant Foster Bam from serving as a director of both corporate defendants at the same time and further prohibits Cities Service and American Natural Gas from permitting any person to serve as a director on their Boards or on the Board of any of their subsidiaries engaged in commerce in oil and gas—defined as the production and sale of crude petroleum and natural gas or in efforts to acquire interests in oil and gas producing properties—while such person is serving on the Board of any other corporation engaged in the same line of commerce.

Public comments are invited on or before January 9, 1976. Such comments and responses thereto will be published in the FEDERAL REGISTER and filed with the Court. Comments should be directed to Joseph J. Saunders, Chief, Public Counsel and Legislative Section, Antitrust Division, Department of Justice, Washington, D.C., 20530.

Dated: November 4, 1975.

THOMAS E. KAUPER,
Assistant Attorney General, Antitrust Division.

UNITED STATES DISTRICT COURT, DISTRICT OF CONNECTICUT

[Civil Action No. N75-261]

United States of America, plaintiffs, v. Foster Bam; Cities Service Company; and American Natural Gas Company, defendants. Filed: October 31, 1975.

STIPULATION

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A final judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any 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, 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 defendants 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 the plaintiff and defendants in this and any other proceeding.

For the plaintiff: Thomas E. Kauper, Assistant Attorney General; Baddia J. Rashid, Charles F. B. McAleer, Joseph J. Saunders, Jill Nickerson, and Stephen H. Lachter, attorneys, Department of Justice.

For the defendants: Cleary, Gottlieb, Steen & Hamilton, James W. Lamberton, attorney, Cities Service Company; Sidley & Austin, Richard J. Flynn, attorney for American Natural Gas Company; and Cummings & Lockwood, Harold B. Finn III, attorney for Foster Bam.

UNITED STATES DISTRICT COURT, DISTRICT OF CONNECTICUT

[Civil Action No. N75-261]

United States of America, plaintiff, v. Foster Bam; Cities Service Company; and American Natural Gas Company, defendants. Filed: October 31, 1975.

FINAL JUDGMENT

Plaintiff United States of America, having filed its complaint herein on Oct. 31, 1975, and defendants having appeared by their attorneys, and plaintiff and the defendants, 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 admission by any party with respect to any issue of fact or law herein;

Now, Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby, Ordered, Adjudged, and Decreed:

I. This Court has jurisdiction over the subject matter and the parties consenting hereto. The complaint states a claim upon which relief may be granted under Section 8 of the Act of Congress of October 15, 1914 (15 U.S.C. § 19), as amended, commonly known as the Clayton Act.

II. As used in this Final Judgment:

(A) "Corporate defendant" means Cities Service Company or American Natural Gas Company;

(B) "Commerce in oil and gas" means the production and sale of crude petroleum and natural gas in interstate commerce or the acquisition of or effort to acquire interests in oil or gas producing properties.

(C) "Subsidiary" means any corporation more than fifty percent of whose stock entitled to vote for directors is, directly or indirectly, owned or controlled by a corporate defendant.

III. The provisions of this Final Judgment shall apply to the corporate defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns and 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) Defendant, Foster Bam, is enjoined and restrained from serving as a director of American Natural Gas Company or any subsidiary thereof, while serving as a director of Cities Service Company or any of its subsidiaries.

(B) Each corporate defendant is enjoined and restrained from permitting any person to serve as a director on its board, or the board of any subsidiary of said corporate defendant which is engaged in commerce in oil and gas, while such person is serving on the board of directors of the other corporate defendant, or on the board of any subsidiary of said other corporate defendant which is engaged in commerce in oil and gas.

(C) Each corporate defendant is enjoined and restrained from permitting any person to serve as a director on its board, or the board of any subsidiary of said corporate defendant which is engaged in commerce in oil and gas, while such person is serving on the board of directors of any other corporation (other than a subsidiary of the corporate defendant) which is itself or has any subsidiary that is engaged in commerce in oil and gas where such other corporation by virtue of its business and location of operation is, or has been, a competitor of said corporate defendant or subsidiary thereof, so that the elimination of competition by agreement between said corporate defendant or a subsidiary thereof and such other corporation or its subsidiary would constitute a violation of any of the provisions of any of the antitrust laws. Nothing in this Final Judgment shall preclude a person serving as a director of a corporate defendant, or as a director of a subsidiary thereof, from also serving as a director of another corporation, engaged in commerce in oil and gas, in which said corporate defendant or a subsidiary thereof has an ownership interest, where such other corporation has been formed as a joint venture for the purpose of providing a supply of natural or synthetic gas for its owners or as a means of transporting natural or synthetic gas from the place of production to the facilities of its owners.

V. Within sixty (60) days of entry of this Final Judgment, each corporate defendant shall file with this Court and serve upon plaintiff an affidavit as to the fact and manner of its compliance with Section IV of this Final Judgment.

VI. (A) For a period of ten years from the date of entry of this Final Judgment, each corporate defendant shall take affirmative steps to comply with this Final Judgment, and shall, on the anniversary date of this Final Judgment, file with the Court and serve upon plaintiff, an affidavit as to the fact and manner of its compliance with Section IV of this Final Judgment. Such statement shall describe, in reasonable detail, all steps taken to discharge its obligations under said Section IV. Upon election to its board of directors, each corporate defendant shall give the new director a copy of this Final Judgment.

(B) Compliance with this Final Judgment may be accomplished by a corporate defendant by (1) requiring that each of its directors within sixty (60) days from the date of entry of this Final Judgment, and not less than annually thereafter, furnish it with a written statement of the name, business or businesses, and location of operations of each other corporation of which said director is also a director; (2) requiring a written statement in the form described in (1) above from each person being considered for election as a director who has not served as a director during the preceding year; and (3) refusing to permit by all lawful means any person to serve as a director when a reasonably diligent investigation of information publicly available reveals that the election or continued service of said person as a director of the corporate defendant, or any subsidiary thereof, would violate Section IV of this Final Judgment.

VII. (A) For the purpose of determining or securing compliance with this Final Judgment and for no other purpose each corporate defendant shall permit, subject to any legally recognized privilege, duly authorized representatives of the Department of Justice, on written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to such defendant's principal office: (1) Access during the regular office hours of such defendant, to inspect and copy any and all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession, custody or control of such defendant which relate to any matters contained in this Final Judgment; and (2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers or employees of such defendant, who may have counsel present, regarding such matters.

(B) Upon written request of the Attorney General or the Assistant Attorney General in charge of the Antitrust Division, such defendant shall submit such reports in writing, with respect to the matters contained in this Final Judgment, as may from time to time be requested.

(C) No information obtained by the means provided in this Section 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 plaintiff except in the course of legal proceedings to which the United States is a party for the purpose of securing compliance with this Final Judgment or as otherwise required by law.

VIII. 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 directives as may be necessary or appropriate for the construction or modification of any of the provisions thereof, for the enforcement of compliance therewith, and for the punishment of violations thereof. This Final Judgment shall be in full force and effect for a period of twenty (20) years from the date of entry of this Final Judgment and thereafter shall have no further force or effect.

IX. Entry of this Final Judgment is in the public interest.

(United States District Judge)

Dated:

UNITED STATES DISTRICT COURT, DISTRICT OF CONNECTICUT

[Civil Action No. N75-261]

United States of America, plaintiff, v. Foster Bam; Cities Service Company; and American Natural Gas Company, defendants. Filed: October 31, 1975.

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16 (b)-(h), the United States of America hereby files this Competitive Impact Statement relating to the proposed Consent Judgment submitted for entry in this civil antitrust proceeding.

I. *Nature and Purpose of the Proceeding.* The complaint in this proceeding, which alleges that the defendants violated Section 8 of the Clayton Act, was filed on Oct. 31, 1975. The proposed Consent Judgment was filed concurrently, having been negotiated prior to the filing of the complaint.

Section 8 of the Clayton Act prohibits an individual from serving on the Boards of Directors of competing corporations. The complaint alleges that defendant Foster Bam served simultaneously as a director of defendants Cities Service and American Natural Gas, who are and have been competitors. The complaint also alleges that the corporate defendants violated the same section by permitting Foster Bam to be elected and to serve as a director of both corporations simultaneously.

Section 8 of the Clayton Act is prophylactic in nature. As such, no overt anticompetitive actions must be shown and none were alleged in the complaint. The purpose of this action is to eliminate the potential for anticompetitive activity that could result from a dual directorate—that is the prospect that a director could utilize his position in two

competing corporations to eliminate competition between them in violation of the antitrust laws.

II. *Practice Giving Rise to the Alleged Violation.* The specific practice involved in this action against the defendants is, of course, the fact that defendant Foster Bam has been, at the same time, a director of both defendant corporations. The defendant Foster Bam has, since 1973, been a director of Cities Service. In addition, since 1960, he has been a director of American Natural Gas. This fact alone is sufficient to establish a violation of Section 8 of the Clayton Act as long as the statutory criteria are met by the corporations involved. Section 8 requires that one of the corporations must have capital, surplus, and undivided profits aggregating more than $1 million and must be engaged in commerce. In addition, both corporations must be competitors by virtue of their business and location of operation, so that elimination of competition by agreement between them would constitute a violation of the antitrust laws.

Both Cities Service and American Natural Gas have assets exceeding $1 million and both are engaged in commerce. Cities Service and American Natural Gas have actively engaged in efforts to acquire interests in oil and gas producing properties leased by the Federal Government in accordance with the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343). Since June 19, 1973, Cities Service and American Natural Gas—through American Natural Gas Production Company—have bid against each other in at least twenty instances to obtain from the Federal Government interests in identical potential oil and gas producing properties.

III. *Proposed Consent Judgment.* The proposed Consent Judgment (Section IV(A)) enjoins defendant Foster Bam, for a period of twenty years from date of entry of the Consent Judgment, from serving as a director of one of the corporate defendants or any of its subsidiaries while serving as a director of the other corporate defendant or any of its subsidiaries.

The Consent Judgment prohibits each corporate defendant (Cities Service and American Natural Gas) for a similar twenty year period from permitting any person to serve as a director on its Board of Directors or the Board of any subsidiary engaged in commerce in oil and gas while such person is serving as a director of the other corporate defendant or any other corporation, which is engaged in commerce in oil and gas and which competes with the corporate defendant (Section IV (B) and (C)). Commerce in oil and gas is defined in the Consent Judgment (Section II(B)) as the production and sale of crude petroleum and natural gas in interstate commerce or the acquisition of or effort to acquire interests in oil or gas producing properties.

Finally, the Consent Judgment requires each corporate defendant to take affirmative steps to comply with the Consent Judgment. Section V requires each corporate defendant to file an affidavit with the Court and the United States as to the fact and manner of compliance within sixty days of entry of the Consent Judgment. Moreover, Section VI requires that, for a ten-year period, each corporate defendant take affirmative steps to comply with the terms of the Consent Judgment and file affidavits annually to that effect.

IV. *Anticipated Effects on Competition.* The evidence in this case did not encompass known restraints of trade but did encompass the probability that such restraints might result from the interlocking directorate involved. Thus, the impact on competition of the Consent Judgment cannot be measured in terms of specific effects which might release identifiable competitive forces. The sole anticipated effect upon competition is the removal of the danger that anticompetitive effects will result from the interlocking directorate.

V. *Remedies Available to Potential Private Plaintiffs.* This Consent Judgment may not be used in private litigation as *prima facie* evidence that the antitrust laws have been violated, pursuant to Section 5(a) of the Clayton Act (15 U.S.C. 16(a)). However, anyone damaged by the alleged violation retains the right to sue for money damages and all other legal and equitable remedies, just as if the proposed Consent Judgment had not been entered.

VI. *Procedures Available for Modification of Consent Judgment.* This proposed Consent Judgment is subject to a stipulation between the parties that the United States may withdraw its consent to the Consent Judgment at any time within 60 days or until the court finds that entry of the Consent Judgment is in the public interest. Any persons so desiring may submit written comments relating to the Proposed Judgment for consideration by plaintiff Joseph J. Saunders, Chief, Public Counsel and Legislative Section, Antitrust Division, Department of Justice, Washington, D.C. 20530. Such comments, together with responses thereto, will be filed with the Court and published in the FEDERAL REGISTER.

VII. *Description and Evaluation of Alternatives to this Proposed Consent Judgment.* The United States considered one alternative to the proposed Consent Judgment. That alternative would have enjoined the defendant corporations from having a director sit on the Board of Directors of any corporation engaged in a broader line of commerce, designed to include the production, refining, wholesale or retail marketing and distribution of petroleum, petroleum products, and gas. In addition, the provisions of that proposed judgment were permanent. Finally, that judgment ordered defendant Foster Bam to withdraw from participation in the direction, control, or conduct of the business of the coporate defendant from which he resigns.

The government believes that the narrower definition contained in the proposed consent judgment prohibits those interlocks where there would be any adverse competitive effect. It further believes that the broader definition of commerce might have inhibited interlocks between corporations which in fact might not be competitors within the meaning of Section 8 of the Clayton Act.

The defendants proposed that the decree be limited to five years. The government determined that, given the nature of the violation alleged, a twenty-year period would be sufficient time to assure the defendant's future compliance and would not be unreasonably oppressive.

Finally, upon notification of the government's intention to sue, defendant Foster Bam resigned from the Board of Directors of American Natural Gas.

Therefore, this decree includes all the relief the government would have sought had it proceeded to trial.

There are no materials or documents, which the government considered determinative in formulating this proposed Consent Judgment. Therefore, none is being filed along with this Competitive Impact Statement.

Respectively submitted, Joseph J. Saunders and Stephen H. Lachter, attorneys, Department of Justice.

[FR Doc.75-29895 Filed 11-6-75;8:45 am]

Federal Bureau of Investigation

NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD

Meeting

The National Crime Information Center (NCIC) Advisory Policy Board (Board) will meet December 10 and 11, 1975, at the Netherland Hilton Hotel, Cincinnati, Ohio. The meeting will begin at 9 a.m. and conclude at 5 p.m. each day.

The purpose of this meeting will be to discuss the impact of the Department of Justice Regulations on Criminal Justice Information Systems; to discuss matters relating to the new Missing Person File; and to discuss other subjects presented to the Board.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the Board members must file written statements or questions at least twenty-four hours prior to the inception of each meeting. These statements or questions shall be delivered to the person of the Designated Federal Employee or the Assistant Director, Computer Systems Division of the FBI.

The NCIC Advisory Policy Board is constituted according to Pub. L. 92–463 and its membership is composed of criminal justice representatives from throughout the United States.

Further information may be obtained from Mr. Frank B. Buell, Chief, NCIC Section, Computer Systems Division, FBI Headquarters, Washington, D.C. 20535, at telephone number 202/324–2606.

Minutes of the meeting will be available upon request from the above-designated FBI official.

CLARENCE M. KELLEY,
Director.

[FR Doc.75-29920 Filed 11-6-75;8:45 am]

NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD'S SECURITY AND CONFIDENTIALITY (S&C) COMMITTEE

Meeting

The National Crime Information Center (NCIC) Advisory Policy Board's Security and Confidentiality (S&C) Committee will meet December 8, 1975, at the Netherland Hilton Hotel, Cincinnati, Ohio. The meeting will begin at 9 a.m. and conclude at 5 p.m.

The purpose of the S&C meeting will be to review the proposed changes in the Department of Justice Regulations on Criminal Justice Information Systems and report to the NCIC Advisory Policy Board; to consider proposed amendments to the National Crime Information Center Computerized Criminal History Program Background, Concept and Policy as approved by NCIC Advisory Policy Board; and to discuss other questions relating to security and privacy matters that may be presented to this Committee.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the Committee members must file written statements or questions at least twenty-four hours prior to the inception of each meeting. These statements or questions shall be delivered to the person of the Designated Federal Employee or the Assistant Director, Computer Systems Division of the FBI.

The NCIC Advisory Policy Board's Security and Confidentiality (S&C) Committee is constituted according to Pub. L. 92-463 and its membership is composed of criminal justice representatives from throughout the United States.

Further information may be obtained from Mr. Frank B. Buell, Chief, NCIC Section, Computer Systems Division, FBI Headquarters, Washington, D.C. 20535, at telephone number 202/324-2606.

Minutes of the meeting will be available upon request from the above-designated FBI official.

CLARENCE M. KELLEY,
Director.

[FR Doc.75-29921 Filed 11-6-75;8:45 a.m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

BAKERSFIELD DISTRICT MULTIPLE USE ADVISORY BOARD

Meeting

Notice is hereby given that the Bakersfield, California Multiple Use Advisory Board will hold its first meeting December 11, and 12, 1975, at the Holiday Inn, 300 West Palmdale, Palmdale, California.

The agenda of the meeting will include organizing the board, consideration of operating procedures, formation of committees and orientation.

On December 12, 1975, the board will meet in joint session with the Riverside, California, District Multiple Use Advisory Board for a briefing on the California Desert Plan and the El Paso-Red Mountain Planning Units.

The meeting will be open to the public. Time will be available for a limited number of brief statements by members of the public. Those wishing to make oral statements should notify the District Manager, Bakersfield District, 800 Truxtun Avenue, Room 311, Bakersfield, CA 93301, Office hours: 7:30 a.m. to 4 p.m., prior to the meeting. Any interested person may file a written statement with the board for its consideration. Written statements may be submitted at the meeting or mailed to the Bakersfield District Manager at the above address.

Further information regarding this meeting may be obtained from Paul W. Savercool, Public Affairs Officer, Bureau of Land Management, Bakersfield District Office, at (805) 861-4191. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Bakersfield District Office, Bureau of Land Management.

LOUIS A. BOLL,
District Manager.

[FR Doc.75-29942 Filed 11-6-75;8:45 am]

CHIEF, BRANCH OF LANDS AND MINERALS OPERATIONS, ET AL., DIVISION OF TECHNICAL SERVICES, ALASKA STATE OFFICE

Redelegation of Authority

1. Pursuant to the authority contained in Part I, Section 1.1(a) of Bureau Order No. 701 of July 23, 1964, as amended, I hereby redelegate authority to take action as listed below:

a. Chief, Branch of Lands and Minerals Operations, in the Division of Technical Services, authority to take action on the matters listed in Part II-A.

b. Chief, Selections and Leasable Minerals Section, in the Branch of Lands and Minerals Operations, Division of Technical Services, authority to take action on the following matters listed in Part II:

Sections:
2.2(b)
2.2(c)
2.2(d)
2.3(a)
2.3(c)
2.5(b)
2.5(c)
2.6 All
2.9 All

c. Chief, Lands and Locatable Minerals Section, in the Branch of Lands and Minerals Operations, Division of Technical Services, authority to take action on the following matters listed in Part II:

Sections:
2.2(b)
2.2(c)
2.2(d)
2.3(a)
2.3(c)
2.5(b)
2.5(c)
2.6 All
2.9 All

d. Chief, Technical Information Section, in the Branch of Lands and Minerals Operations, Division of Technical Services, authority to take action on the following matters listed in Part II:

Sections:
2.2(c)
2.4(a)(4)
2.9(e)

The authority in section 2.9(e) is limited to the receiving of final proof testimony and administering oaths pertaining to Alaska homesteads.

2. The Chiefs, Division of Technical Services, and Branch of Lands and Minerals Operations, may, in their discretion, personally exercise any authority hereby delegated.

3. The Chief, Branch of Lands and Minerals Operations, may, by written order, designate any qualified employee of the Branch to perform the functions of his position in his absence. Such order will be approved by the Chief, Division of Technical Services. Each employee who serves in such capacity shall prepare a memorandum showing the date and hour of the commencement and termination of each period of service in that capacity.

4. The Chiefs, Selections and Leasable Minerals Section, Lands and Locatable Minerals Section, and Technical Information Section, may, by written order, designate any qualified employee of the Section to perform the functions of their position in their absence. Such order will be approved by the Chief, Branch of Lands and Minerals Operations. Such employee who serves in such capacity shall prepare a memorandum showing the date and hour of the commencement and termination of each period of service in that capacity.

5. *Effective date.* This redelegation will become effective on November 7, 1975.

6. The following previously published redelegations of authority are hereby canceled:

a. Approved November 3, 1970 (35 F.R. 17274).

b. Approved February 18, 1971 (36 F.R. 3434).

c. Approved August 27, 1971 (36 F.R. 17878).

CURTIS V. MCVEE,
State Director.

Approved: October 31, 1975.

GEORGE L. TURCOTT,
Associate Director.

[FR Doc.75-29943 Filed 11-6-75;8:45 am]

FAIRBANKS DISTRICT MULTIPLE USE ADVISORY BOARD

Notice of Meeting

Notice is hereby given that the Fairbanks District Multiple Use Advisory Board of the Bureau of Land Management will hold a business meeting in the Adult Career Development Center at the intersection of University Avenue and Geist Road, Room 130, November 24 and 25, 1975. Hours for the meeting will be 1 p.m. to 5 p.m. on November 24 and 8 a.m. to noon and 1 p.m. to 5 p.m. on November 25.

The board is authorized by the Federal Advisory Committee Act (Pub. L. 92-463), 43 CFR Part 1784, and the Acting Secretary of the Interior's determination of November 18, 1974.

The meeting will be devoted to the discussion of the newly approved advisory board charter, the election of officers and the discussion of current district programs. Discussion and recommendations will be sought on the following topics:

1. Reindeer Grazing.
2. Forest Fire Management.
3. Alaska Native Claims Settlement Act.
4. Minerals Management.

A meeting summary and question/answer period will terminate the meeting on November 25.

CURTIS V. MCVEE,
State Director, Alaska.

[FR Doc.75-29307 Filed 11-6-75;8:45 am]

[Serial No. I-9903]

IDAHO

Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 75-25900 appearing at page 44590 in the issue of Monday, September

29, 1975, in the second line of the legal description of lands involved on page 44591, the comma between NE¼ and SW¼ should be deleted and the text run in.

[Oil and Gas Lease Sale #35]

OUTER CONTINENTAL SHELF OFF SOUTHERN CALIFORNIA

Amendment of Sale Notice

1. The FEDERAL REGISTER publication of November 6, 1975 contained a notice of an Outer Continental Shelf oil and gas lease sale for lands offshore Southern California pursuant to 43 U.S.C. 1331–1343 and the regulations issued thereunder (43 CFR Part 3300).

2. The notice required that bids for tracts 35–254, 35–261, and 35–262 must be on a cash bonus bid basis with a fixed royalty of 33⅓ percent.

3. The notice is hereby amended to state that leases issued as a result of the lease sale for the above numbered three tracts will contain the following stipulation:

All reservoirs underlying this lease which extend into one or more other leases, as indicated by drilling and other information, shall be operated and produced only under a unit agreement including the other lease(s) and approved by the Oil and Gas Supervisor. Such a unit agreement shall provide for the fair and equitable allocation of production and costs. The Oil and Gas Supervisor shall prescribe the method of allocating production and costs in the event operators are unable to agree on such a method.

4. The notice is also hereby amended to state that all other leases issued as a result of the lease sale will contain the following stipulation:

All reservoirs underlying this lease which extend into a lease covering tracts 35–254, 35–261, or 35–262 as indicated by drilling and other information, shall be operated and produced only under a unit agreement covering the lease for tracts 35–254, 35–261, or 35–262 and approved by the Oil and Gas Supervisor. Such a unit agreement shall provide for a fair and equitable allocation of production and costs. The Oil and Gas Supervisor shall prescribe the method of allocating production and costs in the event operators are unable to agree on such a method.

CURT BERKLUND,
Director,
Bureau of Land Management.

Approved: November 5, 1975.

ROYSTON C. HUGHES,
Assistant Secretary
of the Interior.

[FR Doc.75-30222 Filed 11-6-75;9:07 am]

National Park Service

BLUE RIDGE PARKWAY, VIRGINIA

Proposed Museum Access Road; Negative Declaration

After making an environmental review of the proposal of the Science Museum of Virginia to construct and maintain a 20 feet wide, 1,300 feet long access road to connect the Blue Ridge Parkway's Mill Mountain Spur Road with the future site of the state natural history museum and parking area on state property within the city limits of Roanoke, Virginia, the National Park Service has decided not to prepare an environmental impact statement.

An environmental assessment and review are on file and available for inspection at the Southeast Regional Office of the National Park Service, 1895 Phoenix Boulevard, Atlanta, Georgia 30337, or the Office of the Superintendent, Blue Ridge Parkway, P.O. Box 7606, Asheville, North Carolina 28807, upon request.

The assessment considers the nature of the resource, available alternatives, their impacts, mitigating measures, adverse effects and additional considerations providing a basis for the conclusion that the project is not a major Federal action having a significant effect on the human environment, and that an environmental impact statement is not required.

The National Park Service intends to issue a special use permit for the project 30 days after the date of this notice.

Dated: October 7, 1975.

ROBERT STANTON,
Acting Regional Director,
Southeast Region.

[FR Doc.75-29948 Filed 11-6-75;8:45 am]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

CHILD CARE FOOD PROGRAM

National Average Payments and Commodity Provisions

Notice is hereby given that, for meals served to children in child-care institutions participating in the year-round operations of the Special Food Service Program for Children (7 CFR Part 225; hereafter called the Child Care Food Program), national average factors for payments to State agencies, established under the National School Lunch Act and the Child Nutrition Act of 1966 amendments of 1975 (Pub. L. 94–105, effective October 7, 1975), became effective as of October 7, 1975. In addition, foods available under Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) or purchased under Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), or Section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–1) will be made available to participating institutions in accordance with the institutions' ability to utilize the food.

The national average factors for payment by the Food and Nutrition Service to State agencies for meals served are as follows:

(a) 12.25 cents for all lunches and suppers, 9.75 cents for all breakfasts, and 5 cents for all snacks served to children.

(b) An additional 44.50 cents for lunches and suppers, 18.25 cents for breakfasts, and 10 cents for snacks served to children from families whose incomes meet the family size-income standards established by the State for reduced-price school meals.

(c) An additional 54.50 cents for all lunches and suppers, 24.25 cents for breakfasts, and 15 cents for snacks served to children from families whose incomes meet the family size-income standards established by the State for free school meals.

Under the statutory amendments, these national average payment rates are to be adjusted semi-annually to the nearest one-fourth cent to reflect the changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. The initial such adjustment will become effective January 1, 1976.

State agencies, or FNSROs where applicable, should begin immediately to collect from participating institutions informtion on the total number of children to be served meals in the following three need categories:

(1) Number of children from families meeting the State's family size-income standards for free school meals.

(2) Number of children from families meeting the State's family size-income standards for reduced-price school meals.

(3) Number of children from families with income exceeding the State's family size-income standards for reduced-price school meals.

Participating institutions must submit the required information to the State agency, or FNSRO where applicable, in order to qualify for rates under this notice. In obtaining the required information, institutions may use current information on file on individual children or may use a simple affidavit to obtain the information from parents.

Reimbursement payment rates by meal type (breakfast, lunch, snack, supper) for individual participating child care institutions shall be determined by the State agency, or by the FNSRO where that Office administers the Program Payments, however, shall not exceed the cost of the food service, nor be dependent upon the collection of monies from participating children. It will, therefore, be necessary for State agencies or FNSRO to notify service institutions that all costs (food, labor, administrative, other) in regard to the food service must be fully documented in order to support the levels of reimbursement established by the State agency or FNSRO.

In regard to commodities, the amount donated to each State for each fiscal year for use in the Child Care Food Program shall be, at a minimum, the amount obtained by multiplying the number of lunches and suppers served in participating institutions during that fiscal year by the rate for commodities or cash-in-lieu thereof established for that fiscal year in accordance with the provisions of Section 6(e) of the National School Lunch Act. State educational agencies may apply for cash-in-lieu of commodities in such amounts as may be provided in appropriations acts, and

should notify the Department of their intentions in this regard within 60 days of the date of this Notice.

RICHARD L. FELTNER,
Assistant Secretary.

Dated: *November 3, 1975.*

[FR Doc.75-29890 Filed 11-6-75;8:45 am]

Forest Service

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Meeting

The Deschutes National Forest Advisory Committee will meet in the Forest Supervisor's Conference Room at 8 p.m., December 4, 1975 to review the inventory of Deschutes National Forest Resources, as the inventory has been prepared for all four planning units.

Suggestions as to use, display, and analysis of data will be sought from the Committee.

The meeting will be open to the public.

Dated: October 31, 1975.

WILLIAM D. SHENK,
Acting Forest Supervisor.

[FR Doc.75-29940 Filed 11-6-75;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

ADVISORY COMMITTEE ON EAST-WEST TRADE

Open Meeting

A meeting of the Advisory Committee on East-West Trade will be held at 9 a.m., Wednesday, December 10, 1975, in Room 4830, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Committee was established to advice the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to facilitate and coordinate the expansion of two-way trade with countries having centrally-planned economies so as to enhance the balance of trade and payments situation.

Agenda items are as follows:

1. Review of miscellaneous items outstanding from previous meetings.
2. Review of a Bureau-sponsored three-country Technical Sales Seminar.
3. Report on a Bureau staff trip to the People's Republic of China.
4. Commentary and Discussion on the pros and cons of officially supported export credits by a Congressional staff member.
5. Review of items submitted by the public.
6. Review of items submitted by Committee members.

The meeting will be open to public observation and, within the limits of time available, a period will be set aside for oral comments or questions by the public which do not exceed five minutes each.

More extensive questions or comments should be submitted in writing before November 28, 1975. Other public statements may be submitted at any time before or after the meeting.

Approximately 20 seats will be available to the public (including 5 seats reserved for media representatives) on a first-come first-served basis.

Copies of minutes will be available on request 30 days after the meeting.

Persons who wish to attend the meeting should contact Robert Frothingham, III, Liaison Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Domestic and International Business Administration, Washington, D.C. 20230, telephone 202/967-4728.

Dated: October 31, 1975.

ARTHUR T. DOWNEY,
Deputy Assistant Secretary for East-West Trade.

[FR Doc.75-29924 Filed 11-6-75;8:45 am]

Domestic and International Business Administration

ARMY INST. OF DENTAL RESEARCH

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 (40 FR 12253 et seq, 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00009-35-46040. Applicant: U.S. Army Institute of Dental Research, Walter Reed Army Medical Center, Washington, D.C. 20012. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronic Instruments, The Netherlands. Intended use of article: The article is intended to be used for research projects on ceramic bone substitutes, implant materials, sealant attachment to dental surfaces, and endodontic sealing techniques. The materials to be investigated will include hard and soft tissue as well as synthetic oral surgical implant substances. Research goals with this material are to demonstrate acceptance of these materials by oral soft tissue and bone.

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 is equipped with a eucentric side entry goniometer stage and a high resolution scanning attachment that provides images in the secondary and transmitted electron modes. The most closely comparable domestic instrument is the Model EMU-4C electron microscope supplied by the Adam David Company. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 17, 1975 that the characteristics of the article described above are pertinent to the applicant's intended purposes. HEW further advised that domestic instruments do not provide an equivalent eucentric goniometer or scanning capability. We, therefore, find that the EMU-4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.75-29953 Filed 11-6-75;8:45 am]

UNIV. OF WASHINGTON

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 (40 FR 12253 et seq., 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76-00008-33-46040. Applicant: University of Washington, Seattle, Washington 98195. Article: Electron Microscope, Model JEM 100S with plate camera, semi-automatic photometer and plate numbering system, and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of biological materials from human and non-human origin, e.g., lung tissue, cervical tissue, tissue-culture cells, bacteria and viruses as well as non-biological materials, e.g., asbestos fibers and air pollution particulates. Research will be conducted to (1) characterize and quantify the growth and development of residual lung tissue in animals following pneumonectomy; (2) to expose pneumonectomized animals to single or multiple concentrations of common air pollutants and to determine if, and to what extent, growth of the residual lung is impaired by exposure to the gas and the factors responsible for this impairment. In addition, the article will be used to train graduate students (e.g., sanitation ahd industrial hygiene) in the theory and practice of light and electron microscopy for the evaluation of research material and material from the urban environment.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving power of 3 Angstroms (Å) point to point and is equipped with a eucentric side entry gonimeter stage equipped with ±60° tilt, quick change holder which has a guaranteed point to point resolution of 7 Å. The most closely comparable domestic instrument is the Model EMU-4C electron microscope supplied by the Adam David Company. We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated October 16, 1975, that the characteristics of the foreign article described above are pertinent to the applicant's research studies. HEW further advises that the EMU–4C does not have a scientifically equivalent goniometer stage nor resolution. We, therefore, find that the EMU–4C is not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.75-29955 Filed 11-6-75;8:45 am]

UNIV. OF WASHINGTON

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 (40 FR 12253 et seq., 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket number: 76–00006–33–46040. Applicant: University of Washington, RR 104 University RG–20, Seattle, Washington 98195. Article: AEI Corinth 500 Electron Microscope. Manufacturer: AEI Scientific Apparatus Inc., United Kingdom. Intended use of article: The article is intended to be used in the study of the effect of fatty acid absorption on Chylomicron formation, election microscopic studies of intestinal smooth muscle and myenteric nerve plexes of patients with a variety of gastrointestinal disorders and electron microscopic studies on human xanthomas and on the skin lesions of patients suspected of having the lymphomatous malignancy, mycosis fungoides.

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, was being manufactured in the United States at the time the foreign article was ordered (April 11, 1975). Reasons: The foreign article provides a viewing image which is open and available for measurement or tracing by direct methods. The most closely comparable domestic instrument available at the time the article was ordered was the Model EMU–4C electron microscope supplied by the Adam David Company. The Model EMU–4C does not provide a viewing image which is open and available for measurement or tracing by direct methods. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated October 16, 1975 that the capability to provide a viewing image which is open and available for measurement or tracing by direct methods is pertinent to the applicant's intended purposes. HEW also advised that domestic instruments do not provide the capability found pertinent.

We find, therefore, that the Model EMU–4C was not of equivalent scientific value to the foreign article for such purposes as this article is intended to be used at the time the article was ordered. 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 was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import Programs Division.

[FR Doc.75-29956 Filed 11-6-75;8:45 am]

UNIVERSITY OF WASHINGTON MEDICAL SCHOOL, ET AL.

Notice of Applications Duty-Free Entry of Scientific Articles: Correction

In the Notice of Applications for Duty-Free Entry of Scientific Articles appearing at page 50117 in the FEDERAL REGISTER of Tuesday, October 28, 1975 the following correction should be made:

Docket Number 75–00161–33–90000 should be corrected to read:

Docket Number: 76–00161–33–90000. Applicant: Providence Memorial Hospital, 2001 North Oregon Street, El Paso, Texas 79902. Article: EMI Scanner System with Magnetic Tape System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used as a scientific tool to localize and pinpoint brain tumors prior to radiation therapy. Various research projects will be undertaken involving differentiation and localization of brain tumors. Comparison of findings with the scanner in relation to arteriography, pneumoencephalography and isotopic brain scanning will be carried out. In addition, the article will be used to teach local physicians interested in neurology and neurosurgery as well as in conjunction with a nursing program. Application received by Commissioner of Customs: October 9, 1975.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.75-29958 Filed 11-6-75;8:45 am]

WESLEY MEDICAL CENTER

Notice of Consolidated Decision on Applications for Duty Free Entry of EMI Scanner Systems

The following is a consolidated decision on applications for duty-free entry of EMI Scanner Systems 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 (40 FR 12253 et seq, 15 CFR 701, 1975.) (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 76–00004–33–90000. Applicant: Wesley Medical Center, 550 North Hillside, Wichita, Kansas 67214. Article: EMI Scanner System with Magnetic Tape System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for research in brain tissue abnormalities either symptomatically or asymptomatically and for educational use in teaching radiology residents as well as entire house staff. The article will also be used in educating other students such as student nurses, students in x-ray technology and students in laboratory technology, etc. Application received by Commissioner of Customs: July 2, 1975. Advice submitted by the Department of Health, Education, and Welfare on: October 16, 1975. Article ordered: June 4, 1974.

Docket Number: 76–00005–33–90000. Applicant: University of Michigan, 1405 E. Ann Street, Ann Arbor, Michigan 48104. Article: EMI Scanner System with Magnetic Tape Storage System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used for studies of materials which include the clinical and patholigic manifestations of intracranial abnormalities, the results of their study by all methods and the evaluation of the im-

provement in detection of these abnormalities by newer methods, including the EMI Scanner. The article will also be used in educational programs to emphasize the normal anatomic relationships which the students are discovering in their dissection on cadavars in the course Gross Anatomy. In addition, the article will be used in the courses Neural and Behavioral Science and Neuroradiology. Application received by Commissioner of Customs: July 2, 1975. Advice submitted by the Department of Health, Education, and Welfare on: October 16, 1975. Article ordered: August 20, 1974.

Docket Number: 76-00007-33-90000. Applicant: Stormont-Vail Hospital, 1500 West 100th Street, Topeka, Kansas 66606. Article: EMI Scanner System with Magnetic Tape System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to investigate the amount of atrophic changes present and identifiable by means of computerized axial tomography of the brain. The objective of this research is to further the knowledge and increase the expectancy level of demonstrable lesions in the brain not available by any other means. The article will also be used for training students and staff in the proper utilization of the computerized axial tomograph machine itself. Application received by Commissioner of Customs: July 9, 1975. Advice submitted by the Department of Health, Education, and Welfare on: October 16, 1975. Article ordered: April 11, 1975.

Docket Number: 76-00010-33-90000. Applicant: Rogue Valley Memorial Hospital, 2825 Barnett Road, Medford, Oregon 97501. Article: EMI Scanner System with Diagnostic Display Console. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to provide noninvasive computerized tomograms of elderly patients to determine the incidence of low pressure hydrocephalus as a cause of premature senility. Medical radiologic technicians will also be trained in the use of the instrument. Application received by Commissioner of Customs: July 10, 1975. Advice submitted by the Department of Health, Education, and Welfare on: October 16, 1975. Article ordered: February 5, 1975.

Docket Number: 76-00014-33-90000. Applicant: St. Luke's Hospital of Kansas City, Wornall Road at 44th, Kansas City, Missouri 64111. Article: EMI Scanner System with Magnetic Tape Storage System and Diagnostic Display Console. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in a number of educational programs including the training of resident physicians in Radiology; the training of interns and residents in Medicine, Surgery and other related fields; and the training of Radiologic Technologists in Special Procedures. In addition, the article will be used in clinical evaluation and research including the correlation and evaluation of various diagnostic tests for abnormal brain conditions such as isotope studies, x-ray contrast studies, ultrasound and other modalities. Application received by Commissioner of Customs: July 10, 1975. Advice submitted by the Department of Health, Education, and Welfare on: October 17, 1975. Article ordered: March 31, 1975.

Docket Number: 76-00023-33-90000. Applicant: Saint Bernardine Hospital, 2101 North Waterman Avenue, San Bernardino, California 92404. Article: EMI-Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used in the hospital Radiology Department to study diseases of the central nervous system. A study will be undertaken of the comparative results of the scanner system and more dangerous techniques in hopes that patient care will be improved by diagnosing brain diseases earlier and with less discomfort. In addition, patients will have isotope brain scans and cerebral angiograms. Specifically, it is hoped that the scanner can identify and differentiate cerebral tumors, infarctions and abscesses as well as identify orbital diseases. The article will also be used in courses covering the indication, effectiveness and accuracy of the scanner system. Application received by Commissioner of Customs: July 10, 1975. Advice Submitted by the Department of Health, Education, and Welfare on: October 17, 1975. Article ordered: May 27, 1975.

Docket Number: 76-00024-33-90000. Applicant: Community Medical Center, 316 Colfax Ave., Scranton, Pa. 18510. Article: EMI Scanner System. Manufacturer: EMI Limited, United Kingdom. Intended use of article: The article is intended to be used to evaluate intracranial mass lesions, including neoplasms, vascular abnormalities and alterations in ventricular size thus determining the value of the article in comparison with other standard approaches. Clinical investigations will be performed on a wide number of lesions as well as a large number of patients in order to determine the validity of surgery without invasive diagnostic studies. The article will also be used for educational purposes by medical students in neurology and neurological surgery as well as residents in the neurological program. The article will also be used to expand the knowledge of medical students, general practice residents and x-ray technologists in the utilization of such equipment. Application received by Commissioner of Customs: July 10, 1975. Advice submitted by the Department of Health, Education, and Welfare on: October 17, 1975. Article ordered: March 17, 1975.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used, is being manufactured in the United States. Reasons: Each foreign article is a newly developed system which is designed to provide precise transverse axial X-ray tomography. The Department of Health, Education, and Welfare (HEW) advised in its respectively cited memoranda that the sensitivity and the noninvasive methodology of each article are pertinent to the purposes for which each foreign article is intended to be used. HEW also advised that it knows of no domestic instrument of equivalent scientific value to any of the articles to which the foregoing applications relate for such purposes as these articles are intended to be used which was being manufactured in the United States at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.75-29957 Filed 11-6-75;8:45 am]

WESLEYAN UNIVERSITY

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. Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (40 FR 12253 et seq. 15 CFR 701, 1975).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 75-00593-33-07500. Applicant: Wesleyan University, Hall Atwater & Shanklin Laboratories, Lawn Avenue, Middleton, Connecticut 06457. Article: Flow Microcalorimeter. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for research on the thermodynamics of binding of ligands to proteins and membranes, specifically the binding of substrate analogs and effectors to the enzyme aspartate transcarbamylase, and the binding of metal ions, lectins, prostaglandins, and extrinsic proteins to erythrocyte and platelet membranes.

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 (1) operation in the differ-

ential mode (2) a sensitivity of 0.1 microcalorie per second, and (3) a wide operating temperature range (0 to 50 degrees centigrade). The most closely comparable domestic instrument, the isothermal Tronac Model 1250 does not provide operation in differential mode, an equivalent temperature range, or have an equal sensitivity. The Department of Health, Education, and Welfare advises in its memorandum dated October 16, 1975 that the capabilities of the article described above are pertinent to the applicant's intended purposes. For these reasons, we find that the Model 1250 is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,
Special Import Programs Division.

[FR Doc.75-29954 Filed 11-6-75;8:45 am]

Maritime Administration

[Docket No. S-473]

AMERICAN PRESIDENT LINES, LTD.

Notice of Application

Notice is hereby given that American President Lines, Ltd., has filed an application under the Merchant Marine Act, 1936, as amended (the Act), for domestic rights and approvals which are to be related to the services to be covered by a proposed new two-year operating-differential subsidy contract for the period January 1, 1977, through December 31, 1978, pursuant to section 805(a) of the Act.

American President Lines Ltd. (APL) is not requesting any change in its authority pursuant to section 805(a) from the authority now existing under Operating-Differential Subsidy Agreement, Contract No. FMB-50 between APL and the United States. The existing authority is as follows:

Atlantic/Straits Service: written permission to permit vessels operating on the service to carry refrigerated cargoes only in the intercoastal service westbound, and to call at Los Angeles only for the purpose of loading cargoes to be carried in the intercoastal service eastland.

Any person, firm, or corporation having interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business on November 20, 1975 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Assistant Secretary for Maritime Affairs.

Date: November 4, 1975.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.75-30082 Filed 11-6-75;8:45 am]

CONNECTICUT BANK AND TRUST CO.

Notice of Approval of Applicant as Trustee

Notice is hereby given that The Connecticut Bank and Trust Company, with offices at One Constitution Plaza, Hartford, Connecticut, has been approved as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

EDWARD S. KAULSON,
Acting Director,
Office of Domestic Shipping.

[FR Doc.75-30063 Filed 11-6-75;8:45 am]

PRIVACY ACT

Adoption of Additional Systems of Records

On October 2, 1975, the Department of Commerce gave notice (40 FR 45634-45635) that it proposed to adopt a new, additional notice of systems of records and to adopt expanded "routine uses" of systems previously noticed and adopted. Interested persons were invited to submit written data, views or arguments on or before October 27, 1975.

No comments were received in response to that notice.

Inasmuch as the text of the proposed sytem of records and routine uses were contained in the unified text published in the FEDERAL REGISTER on October 2, 1975 (40 FR 45635-45674), explained at 40 FR 45624, the first column, and corrected in the FEDERAL REGISTER on November 3, 1975 (40 FR 51168 and 51174), there is no need to republish the full text at this juncture.

Therefore, the Department hereby adopts the new, additional notice of systems of records and the expanded "routine uses" of systems previously adopted.

Dated: November 3, 1975.

GUY W. CHAMBERLAIN, Jr.,
Acting Assistant Secretary,
for Administration.

[FR Doc.75-29915 Filed 11-6-75;8:45 am]

COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a meeting of the Computer Systems Technical Advisory Committee will be held on Tuesday, December 9, 1975 at 9:30 a.m. in Room 6802, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

The Committee meeting agenda has four parts:

GENERAL SESSION

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Report on the work programs of the Subcommittees.

EXECUTIVE SESSION

(4) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The public will be permitted to attend the General Session, at which a limited number of seats will be available to the public. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 16, 1974, pursuant to Section 10(d) of the Federal Advisory Committee Act that the matters

to be discussed in the Executive Session should be exempt from the provisions of the Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552(b)(1), i.e., it is specifically required by Executive Order 11652 that they be kept confidential in the interest of the national security. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriate security clearances.

Minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, Room 1620, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202/967-4196.

In accordance with paragraph (4) of the Order of the United States District Court for the District of Columbia in Aviation Consumer Action Project, et al., v. C. Langhorne Washburn, et al., September 10, 1974 as amended, September 23, 1974 (Civil Action No. 1838-73), the Complete Notice of Determination to close portions of the series of meetings of the Computer Systems Technical Advisory Committee and of any subcommittees thereof, was published in the Federal Register (40 FR 2243, appearing in the issue of January 10, 1975).

Dated: November 5, 1975.

RAUER H. MEYER,
Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.75-30196 Filed 11-6-75;8:45 am]

HARDWARE SUBCOMMITTEE OF THE COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

Meetings

Pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that a series of meetings of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee, covering the period December 1975 through March 1976, will be held on:

December 9, 1975, at 1:30 p.m., in Room 6802
January 14, 1976, at 9:30 a.m., in Room 5230
February 10, 1976, at 1:30 p.m., in Room 5230
March 9, 1976, at 9:30 a.m., in Room 5230

Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Hardware Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975, with the approval of the Director, Office of Export Administration, pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (CO COM) controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (a) maintenance of the processor performance tables and further investigation of total system performance; and (b) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The agenda for each of the meetings is:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of

(a) Hardware system performance;

(b) Peripheral equipment performance; and

(c) Array processor performance.

The meetings will be open to public observation, and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meetings.

Copies of the minutes of the meetings will be made available upon written request addressed to the Freedom of Information Officer, Room 3100, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Domestic and International Business Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone A/C 202/967-4196.

Dated: November 5, 1975.

LAWRENCE J. BRADY,
Acting Director, Office of Export Administration, Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.75-30197 Filed 11-6-75;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 75P-0277]

LABELING OF PRESCRIPTION DRUGS FOR PATIENTS

Availability of Petition To Require Written Warning Labels on Prescription Drugs

Notice is given that a petition was filed on March 31, 1975, under the Administrative Procedure Act (5 U.S.C. 553(e)), by the Center for Law and Social Policy on behalf of the Consumers Union of the United States, Inc.; Consumer Action for Improved Food and Drugs; National Organization for Women; Women's Equity Action League; and Women's Legal Defense Fund requesting the Food and Drug Administration to require written warning information on labels of certain classes of drugs. The Commissioner of Food and Drugs requests comments on this petition on or before February 5, 1976.

Unlike most other drug warnings, which are directed to physicians the written warnings requested by the petitioners would guide and benefit the patient and, therefore, would be on the container of a prescription drug when the prescription is dispensed to the patient.

Petitioners state that written warnings are needed because adequate warnings from practitioners are either not received or are misunderstood or forgotten. Petitioners also state that such a requirement can easily be accomplished without burdening manufacturers or pharmacists. In the case of drugs that the manufacturer delivers to the pharmacist in the same package that the patient receives, the manufacturer himself can affix the label. In those cases where the pharmacist prepares the individual container that goes to the patient, petitioners propose that the pharmacist affix the appropriate label that has been provided by the manufacturer. In addition to the use of the warning statements on labels, petitioners request that a separate supplementary sheet of detailed instructions and precautions directed to the patient, i.e., patient package inserts, be required to accompany all prescriptions dispensed with label warnings.

The petitioners do not request that all prescription drugs dispensed to the patient contain a complete description of all possible side effects, contraindications, and adverse reactions, but have limited their request to certain classes of drugs. The types of drugs covered in the petition include those that pose dangers to pregnant or breast-feeding women, drugs such as hypnotics and tranquilizers that are widely used and can pose serious dangers, and drugs such as amphetamines and chloramphenicol that have been overprescribed in the past and can have serious side effects.

The use of a patient package insert was first adopted by the Food and Drug Administration in 1970, and codified in § 310.501 (21 CFR 310.501) for use with oral contraceptives. Since that time, patient package inserts have been consid-

ered and are being adopted for other drugs and devices. Therefore, the concept of patient package inserts is not an entirely new one to the agency. The Food and Drug Administration has initiated a Patient Prescription Drug Labeling Project, which has been evaluating the usefulness of patient package inserts and how the necessary information can best be presented to the patient. Many comments have come to the attention of the Food and Drug Administration through unsolicited opinions, published literature, and regular meetings of the National Advisory Drug Committee.

In addition, several professional, trade, and consumer groups that are interested in, or would be affected by, a patient labeling program were invited to meet with representatives of the Food and Drug Administration to present their views concerning patient labeling. As a result of the response to the invitations, the Food and Drug Administration held individual meetings with the following organizations: National Association of Retail Druggists; American Academy of Family Physicians; American Society of Hospital Pharmacists; Pharmaceutical Manufacturers Association; American Pharmaceutical Association; National Association of Pharmaceutical Manufacturers; American Medical Association; National Association of Chain Drug Stores; and American Society of Clinical Pharmacology and Therapeutics, Committee on Drug Regulations. Another meeting was held with representatives of several consumer groups. The minutes of all of the meetings are on display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20852. The Food and Drug Administration is also sponsoring original research to gain first-hand experience in this field and is conducting a survey of users of oral contraceptives to determine their experience with patient package insert.

The Food and Drug Administration will use all this information to determine the future course of prescription drug labeling for patients. Until the complete patient drug labeling proposal is ready for public comment, a notice of proposed rule making on this topic will not be published in the FEDERAL REGISTER. The Commissioner concludes, however, that it would be helpful in formulating the policy on patient drug labeling to receive comments on those aspects of patient drug labeling contained in the petition as well as other aspects, particularly those derived from actual experience and studies. Therefore, the Food and Drug Administration solicits such comments from all individuals having an interest in this subject.

Responses will be especially valuable if they provide reference to past experience or literature in this field as well as comments directed toward, but not necessarily limited to, the following aspects of the Patient Prescription Drug Labeling Project:

1. *General opinions.* Whether for or against the program.

2. *Identifying the advantages of patient labeling.* Whether such information will lead, e.g., to better patient understanding and compliance with the therapeutic regimen, to avoidance of preventable adverse reactions and interactions, to better comprehension of chronic diseases, or to better informed consent in situations where patient participation in drug-taking decisions is considered beneficial.

3. *Identifying the disadvantages of patient labeling.* Whether such information will cause, e.g., patients to be afraid to take medications necessary for their health, patient confusion, or interference with the physician-patient relationship.

4. *Scope and detail of patient labeling.* Whether such information should be detailed or summarized, and whether it should be as complete as that provided to the physician or selective in scope. If the latter, what type of information should be included.

5. *Format and style of patient labeling.* Whether such information should be in the form of traditional package inserts or take another form of communication.

6. *Method of distribution of patient labeling.* Whether such information should come to the patient via the package, the physician, the pharmacist, another person, or a combination of approaches.

7. *Selection of drugs and priorities for patient labeling.* Whether all prescription drugs should be included, or only some. Which drugs or classes should have the highest priority, and which should have the lowest.

8. *Method of drafting patient information.* Whether such information should be drafted through open advisory committee hearings, by notice and comment rule making, or through another procedure, and whether patient labeling should be codified in the Code of Federal Regulations as is oral contraceptive patient labeling.

Copies of the petition and the minutes of the meetings held with professional, trade, and consumer groups are available on request from the Hearing Clerk, Food and Drug Administration.

Interested persons may, on or before February 5, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the petition. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 31, 1975.

SAM D. FINE,
Associate Commissioner for Compliance.

[FR Doc.75-29932 Filed 11-6-75;8:45 am]

[Docket No. 75F-0284]

REYNOLDS METALS CO.

Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3131) has been filed by Reynolds Metals Co., 6601 Broad St., Richmond, VA 23261, proposing that the food additive regulations be amended to provide for the safe use of components of a flexible, laminated pouch intended to contact food under retort conditions. The petitioner food contact surface is a polypropylene film which meets the requirements of § 121.2501 (21 CFR 121.2501), except that approval is sought for retort temperature use. The adhesive component of the system is a polyurethane adhesive manufactured from polyethylene phthalate polymers complying with § 121.2524 (21 CFR 121.2524), 4,4'-isopropylidene diphenol-epichlorohydrin resins and polyurethane resins produced by reacting toluene diisocyanate with trimethylolpropane or its chloroformate.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

Dated: October 31, 1975.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.75-29931 Filed 11-6-75;8:45 am]

National Institute of Education

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH

Meeting

Notice is hereby given that the next meeting of the National Council on Educational Research will be held on November 21, 1975, at the National Institute of Education, 1200 19th Street NW., Washington, D.C., in Room 823. The meeting will convene at 9:30 a.m. and adjourn at 3:30 p.m.

The National Council on Educational Research is established under section 405(b) of the General Education Provisions Act (20 U.S.C. 1221e(b)). Its statutory duties include:

(a) Establishing general policies for, and reviewing the conduct of the Institute;

(b) Advising the Assistant Secretary for Education and the Director of the Institute on development of programs to be carried out by the Institute; and

(c) Recommending to the Assistant Secretary and the Director ways to

strengthen educational research, to improve the collection and dissemination of research findings, and to insure the implementation of educational renewal and reform based upon the findings of educational research.

This meeting will be open to the public except for the closed session. The tentative agenda includes:

9:30.—Convene Open Session.
9:30–9:35.—Approval of Minutes of September 18 Meeting.
9:35–10:00.—Director's Report.
10:00–10:30.—Presentation by National Education Task Force de la Raza.
10:30–11:30.—NIE Staff Presentation on Education Research Issues.
11:30–12:00.—Brief Discussion of Dissemination Strategies.
12:00–1:00.—Luncheon.
1:00–2:00.—Review of Actions Following Council Resolutions; End Open Session.
2:00–3:30. — Closed Session (FY 1977 Budget).
3:30.—Adjourn.

Members of the public are invited to attend the open sessions. Written statements relevant to an agenda item (or to any other item considered of interest to the Institute) may be submitted at any time and should be sent to the Chairman and the Executive Secretary of the Council at the address shown below.

Requests to address the Council meeting should be submitted in writing to the Chairman and the Executive Secretary at least 5 days in advance of the meeting. The Chairman will determine whether a presentation should be scheduled.

In accordance with Council policy (NCER Resolution No. 013074–8) copies of Council resolutions and minutes of Council meetings can be obtained by contacting the Executive Secretary. Resolutions are available shortly after the particular meeting at which adopted. Because minutes require approval by the Council at a subsequent meeting, they are usually available approximately 4 to 6 weeks after the date of the meeting to which they refer.

In order to verify the tentative agenda, assure adequate seating arrangements, or to obtain summaries of this meeting and copies of any resolutions adopted by the Council at this meeting, interested persons are requested to contact Ms. Caroline Phillips, Executive Secretary, National Council on Educational Research, whose address and telephone number are listed below:

National Council on Educational Research, National Institute of Education, Washington, D.C. 20208, 202–254–7900.

Dated: November 5, 1975.

HAROLD L. HODGKINSON,
Director,
National Institute of Education.

[FR Doc.75–30131 Filed 11–6–75;8:45 am]

Office of Education

LIBRARY RESEARCH AND DEMONSTRATION PROGRAM

Closing Date for Receipt of Applications

Notice is hereby given that pursuant to the authority contained in sections 201, 221, and 223 of Title II, Part B of the Higher Education Act of 1965, as amended (20 U.S.C. 1021, 1031, and 1034), applications are being accepted from institutions of higher education and other public or private agencies, institutions, and organizations for research and demonstration projects relating to the improvement of libraries or the improvement of the training in librarianship. Processing of these applications will be subject to the availability of funds.

Applications must be received by the U.S. Office of Education, Application Control Center on or before January 9, 1976.

A. *Application sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, 400 Maryland Avenue, SW., Washington, D.C. 20202 Attention: 13.475. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 2, 1976 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail room in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* Information and application forms may be obtained from the Division of Library Programs, Bureau of School Systems, Office of Education, Room 5909, 7th and D Streets, SW., Washington, D.C. 20202 Attention: Library Research and Demonstration Program.

D. *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100a) and the funding criteria governing library research and demonstration published in this issue of the FEDERAL REGISTER.

Dated: September 25, 1975.

(Catalog of Federal Domestic Assistance Number 13.475, Library Research and Demonstration)

T. H. BELL,
U.S. Commissioner of Education.

[FR Doc.75–29938 Filed 11–6–75;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing Production and Mortgage Credit, Federal Housing Administration

[Docket No. N–75–449]

NATIONAL MOBILE HOME ADVISORY COUNCIL

Meeting

In accordance with section 605 of Title VI of the Housing and Community Development Act of 1974 (Pub. L. 93–383) and section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting of the National Mobile Home Advisory Council:

Name. National Mobile Home Advisory Council.

Place. Room 10233, Department of Housing and Urban Development 451 Seventh Street, SW., Washington, D.C. 20410.

Date. December 3, 1975.

Proposed subject matter. Proposed revisions to the Federal mobile home construction and safety standards, 24 CFR Part 280.

The meeting will begin at 9 a.m. It will consider proposed revisions to 24 CFR Part 280 in the order of the sections of that Part.

This meeting of the Advisory Council is open to the public.

Any member of the public may file a written statement with the Council before, during, or after the meeting. To the extent that time permits, the Chairman of the Council may allow public presentation of oral statements during the meeting.

All communications regarding this Advisory Council should be addressed to:

Robert G. Hoag, Committee Management Officer, Room 227, Arlington Towers, Department of Housing and Urban Development, Washington, D.C. 20410.

Issued in Washington, D.C., on November 4, 1975.

DAVID M. DEWILDE,
Deputy Assistant Secretary for Housing Production and Mortgage Credit.

[FR Doc.75–29950 Filed 11–6–75;8:45 am]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. 6337]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Intention To Make Findings; Guarantee of Certificates

Correction

In FR Doc. 75–29319 appearing at page 50557 in the issue of Thursday, October 30, 1975, the third line of the second paragraph should be changed to read "make findings not earlier than November 14,".

CIVIL AERONAUTICS BOARD

[Docket 20421, et al.]

OKLAHOMA-DENVER-SOUTHEAST POINTS INVESTIGATION

Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 10, 1975, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before Associate Chief Administrative Law Judge Ross I. Newmann.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before November 28, 1975, and the other parties on or before December 5, 1975. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., November 4, 1975.

[SEAL] ROBERT L. PARK,
Chief Administrative Judge.

[FR Doc.75-30049 Filed 11-6-75;8:45 am]

[Docket 28036]

SOUTH PACIFIC SERVICE CASE

Hearing

Notice is hereby given, pursuant to provisions of the Federal Aviation Act of 1958, as amended, that a public hearing will be held in the above-entitled proceeding on December 2, 1975, at 10 a.m. (local time) in Room 1003C, Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., November 4, 1975.

[SEAL] ALEXANDER N. ARGERAKIS,
Administrative Law Judge.

[FR Doc.75-30050 Filed 11-6-75;8:45 am]

[Order 75-11-8; Docket 26838]

WIEN AIR ALASKA, INC.

Priority Reserved Air Freight Rates Investigation; Order of Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 4th day of November 1975.

By tariff revisions[1] issued October 7 and marked to become effective November 6, 1975, Wien Air Alaska, Inc. (Wien) proposes that execption-rated commodities[2] in priority service be subject to the exception rating increased by the priority freight premium. Wien's present rule provides that all priority service shipments be subject to a 30 percent premium.

In support of its proposal, Wien contends that, as presently constructed, its priority freight provisions allow exception-rated commodities to be shipped more cheaply in priority service than in normal service, and that logic and consistency require that the Board permit Wien to adopt provisions currently in effect for other carriers, notably Western Air Lines, Inc. (Western).

The proposed provision comes within the scope of Docket 26838, the Priority Reserved Air Freight Rates Investigation (PRAFRI), and its lawfulness will be determined in that proceeding. The issue now before the Board is whether to suspend the proposal or to permit it to become effective pending investigation.

The carrier's proposal provides, in effect, that certain commodities pay a premium on top of a premium. As a result, priority service rates for most exception-rated commodities would be between 260 and 325 percent of the general commodity rates for standard service; for live animals, the rates would be 143 percent of the general commodity rates. But Wien has not attempted to justify such premiums for priority service by costs or other transportation criteria.

The Board has typically suspended proposals by carriers to impose a priority premium on top of the rates for exception-rated commodities. For example, by Orders 75-3-116 and 75-1-80, the Board suspended such a proposal by United Air Lines, Inc. (United), criticizing "the application of premium ratings on top of a priority rate which is at least 30 percent above the applicable general commodity rate." The Board also stated, "Thus, the rating for live animals would, in effect, be determined by applying the exception rating of 10 percent to the priority premium of 30 percent, arriving at a rate of almost 140 percent of the current general commodity rate. But, to a certain extent, the current exception ratings reflect the cost of a priority handling."

Although it is true that, as Wien asserts, Western has in effect the same provision as the current proposal, this is no basis for permitting Wien's proposal to become effective. Subsequent to the initial priority service filings of Western and Continental Air Lines, Inc., which were permitted to become effective but ordered investigated, all premiums on premium-rate priority service proposals have been suspended.

It should be noted that for United and American Airlines, Inc. priority rates for exception-rated commodities are their exception rates in standard service or the priority premiums, whichever are greater.[3]

In view of the foregoing and upon consideration of all other relevant factors, the Board finds that the proposal should be suspended.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered, That: 1. Pending hearing and decision by the Board, the provisions in Rule No. 71(c)(1)(b) insofar as such provisions are applicable for the carrier WC on 18th Revised Page 38-D of Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 169, are suspended and their use deferred to and including February 3, 1976, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension, except by order or special permission of the Board; and

2. Copies of this order shall be filed with the tariff and served upon Wien Air Alaska, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
Secretary.

[FR Doc.75-30051 Filed 11-6-75;8:45 am]

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[1] Revisions to Airline Tariff Publishing Company, Agent, Tariff C.A.B. No. 169.

[2] These include aircraft and parts, uncrated automobiles and boats, human remains, snow machines, etc. The rates for these commodities range between 200 and 250 percent of the general commodity rates, except for live animals, which are 110 percent of these rates.

[3] Where the exception rating in standard service is greater than the priority premium for these two carriers, 30 percent, the exception rating applies. Where exception rating is less than the priority premium, for example, 10 percent for live animals, the priority premium would be 30 percent of the general commodity rate. As a matter of fact, Delta Air Lines, Inc., Eastern Air Lines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., and Southern Airways, Inc. have the same priority premium above rates in standard service (22.6 or 30 percent) for exception-rated commodities as for other commodities.

CIVIL SERVICE COMMISSION

DEPARTMENT OF DEFENSE

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (East Asia and Pacific Affairs), OASD (International Security Affairs), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.75-29917 Filed 11-6-75;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1975

Additions to Procurement List

Notice of proposed additions to Procurement List 1975, November 12, 1974 (39 FR 39964) were published in the FEDERAL REGISTER on July 11, 1975 (40 FR 29332), September 8, 1975 (40 FR 41551), and September 12, 1975 (40 FR 42391).

Pursuant to the above notices the following commodities are added to the Procurement List:

CLASS 5510		*PRICE*
Stakes, Wood (SH) GSA Regions 1,2,3,5		
Location		
5510-00-171-7701	14" long	$2.72 BD of 50
5510-00-171-7700	16" long	2.82 BD of 50
5510-00-171-7734	18" long	3.12 BD of 50
Hub		
5510-00-171-7733	12" long	2.29 BD of 25
5510-00-171-7732	16" long	2.90 BD of 25
CLASS 6530		
Surgical Pack, Disposable Pre-Operative (IB) 6530-00-103-6659		21.81 PG of 48
CLASS 8470		
Suspension Assembly for Helmet Liner (Ground Troops') (IB) 8470-00-880-8814		1.11 EA

By the Committee.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.75-29951 Filed 11-6-75;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

List of Statements Received

Environmental impact statements received by the Council on Environmental Quality from October 27 through October 31, 1975. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements in forty-five (45) days from this FEDERAL REGISTER notice of availability. (December 22, 1975) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies will also be available at cost from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fowden G. Maxwell, Coordinator of Environmental, Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 359-A, Washington, D.C. 20250, (202) 447-3965.

SOIL CONSERVATION SERVICE

Draft

Carpinteria Valley Watershed, Santa Barbara County, Calif., October 28: The statement concerns a project for watershed protection and flood prevention in the Carpinteria Valley. Construction is already partially completed. The project includes a debris dam and about 10.3 miles of concrete lined channel to connect with existing Santa Monica Creek channel, and concrete channels on Franklin Creek. The construction will require the displacement of 9 families. (ELR Order No. 51576.)

Norwalk River Watershed, Fairfield County, Conn., October 28: The Norwalk River Watershed Project was designed for watershed protection, flood prevention and wetland wildlife habitat improvement. Four impoundment structures and a total of 2.1 miles of flood prevention channel work remained to be constructed. The structural measures will disturb or alter wildlife habitat in the area. The project will also require the displacement of 28 persons. (ELR Order No. 51579.)

Final

Emergency Watershed Protection Program, October 28: The statement refers to the Emergency Watershed Protection Program, authorized by Section 216 of the Flood Control Act of 1950. The program authorizes measures to be installed to safeguard lives and property from floods and the products of erosion whenever fire or other natural element or force causes a sudden impairment of a watershed. Frequently used emergency measures include: establishment of vegetative cover, gully control structures, streambank protection, debris and sediment removal, and emergency repair of existing dams, dikes, and other water control structures (47 pages). Comments made by: HUD, FPC, DOC, EPA, HEW, DOI, USDA, and State and local agencies. (ELR Order No. 51572.)

Rogue River Watershed, several counties in Mich., October 28: This project consists of a combination of land treatment, channel work and a pumping station to reduce the problems of flooding and poor drainage in the Rice Lake problem area and land treatment to improve management and erosion problems throughout Rogue River Watershed in west-central Michigan. The following adverse impacts will result: shift of 94 acres of cropland to grassland; sediment and erosion along 11.6 miles of channel work during construction and until stabilized; and temporary construction noise and disruption of wildlife habitat, and benthos community. Comments made by: USA, HEW, DOT, EPA, AHP, and State agencies. (ELR Order No. 51565.)

Mantachie, Bogue Fala, and Bogue Ecuba Watershed, Itawamba, Lee, and Monroe Counties, Miss., October 30: The statement concerns a project for watershed protection, flood prevention, and recreation for Mantachie, Bogue Fala, and Bogue Ecuba Creeks Watershed. The project will utilize conservation land treatment, 12 floodwater retarding structures, and two multiple purpose structures. Nine hundred eighty-three acres will be inundated and another 225 acres of wildlife habitat subject to seasonal flooding. Temporary construction disruption and lowered water quality will result. Comments made by: USA, HEW, DOI, DOT, EPA, and State agencies. (ELR Order No. 51588.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Development, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, (202) 693-6795.

Draft

Apalachicola, Chattahoochee and Flint Rivers, O & M, Alabama, Florida, and Georgia, October 30: Proposed is the continued operation and maintenance of the Apalachicola, Chattahochee and Flint Rivers for navigation, flood control, hydropower and recreation. Navigation features consist of channel construction the length of the authorized project. Dredging activities for commercial sand and gravel production are discussed as they relate to the purpose of maintaining the Federal project. Adverse effects include temporary increase in turbidity and suspended solids concentrations near the dredge and disposal areas, loss of wildlife habitation and blocking of upstream migration of fish. (ELR Order No. 51594.)

Clark Maritime Centre, Clark County, Ind., October 28: Proposed is the construction and operation of a public port on the Ohio River near Jeffersonville, Indiana, and an associated Industrial Park by the Indiana Port Commission. The port facilities will require about 200 acres of land and will be built on the flood plain of the Ohio River behind Sixmile Island along 3500 feet of riverbank between Ohio R. miles 597 and 598. The Industrial Park will extend approximately 3 miles NW from the port to SR 62. Adverse effects include the alteration of 1020 acres of primarily agricultural and wooded land, displacement of 16 families, and loss of wildlife habitat. (ELR Order No. 51568.)

Brazos River Basin Lakes, O&M. Several counties in Tex., October 28: This statement reviews the environmental impacts of the operations, maintenance and management programs at 5 completed and operating reservoir projects: Whitney Lake, Waco Lake, Proctor Lake, Stillhouse Hollow Dam and Lake, and Somerville Lake, all in the Brazos River Basin, Texas. These programs include flood control, water conservation, power generation, and management of lands and waters for various forms of recreation. Adverse effects of the programs include the killing of terrestrial wildlife by the impoundment of floodwater, the damaging of grasses and trees by prolonged storage of floodwater, and the placement of pressure on projects lands by heavy recreational use. (ELR Order No. 51575.)

Appalachian Power Co. Power Plant, New Haven, Mason County, W. Va., October 29: Proposed is the construction and operation of a 1,300,000 kV coal-fired power plant in New Haven, West Virginia. The plant will use cooling water from the Ohio River and will discharge station waste to the river. Adverse impacts of the project include the discharge of waste from ash disposal and station drains,

and passage of water through the station system, the use of chemical additives to water used in the station system, and the breakdown of the pollution control system. The project will also require the clearing of forest land and the relocation of Little Broad Run (Huntington District). (ELR Order No. 51584.)

Final

Mariner's Island Development, San Mateo County, Calif., October 31: The statement refers to the regulatory permit application of the Security Savings and Loan Association for the Mariner's Island Development Project. The plan includes the placing of approximately 1,380,000 cubic yards of imported fill on a 190 acre portion of a 207 acre site at Mariner's Island and construction of a 900,000 sq. ft. shopping center, office buildings, multi-family-dwellings, automotive sales center research and development center, and satelite commercial development. Adverse impacts include increase in localized noise and traffic and loss of 190 acres of wildlife habitat (San Francisco District). Comments made by: EPA, HEW, DOI, DOT, USDA, and State and local agencies and one individual. (ELR Order No. 51598.)

Delaware River, Adjacent Waterways, Maintenance, New Jersey, Pennsylvania, and Delaware, October 30: Proposed is the continued operation and maintenance in the navigable portions of the Delaware River and adjacent waterways including repair of training structures and dredged material disposal on existing and proposed upland and riparian sites. Dredging will reduce water quality and cause temporary turbidity and disposal of dredged materials will destroy vegetation on the disposal site (Philadelphia District). Comments made by: EPA, USDA, 2DOC, 2DOI, 2HUD, 2DOT, AHP, and State and local agencies. (ELR Order No. 51589.)

Hammond Small-Boat Basin, Clatsop County, Oreg., October 30: Proposed is the repair of the existing breakwater and construction of a rubblemound east breakwater and groin, and dredging and maintenance of an entrance access channel of Hammond Small-Boat Basin. The project will result in disturbance of the aquatic community, turbidity, and elimination of some habitat for small animals at the site of dredge disposal (Portland District). Comments made by: EPA, DOC, DOT, AHP, DOI, USDA, and State agencies. (ELR Order No. 51587.)

Freeport Harbor Maintenance Dredging, Brazoria County, Tex., October 30: Proposed is the widening and deepening of Freeport Harbor, Texas, by periodic removal of shoal deposits from the harbor. Dredge material will be deposited in leveed land areas and in the Gulf of Mexico. Adverse impacts include removal of bottom dwelling organisms, destruction of vegetation used for fishery resource habitat, high localized turbidity, and objectionable odors from land disposal operations (Galveston District). Comments made by: HEW, EPA, HUD, DOC, DOI, DOT, AHP, and State and local agencies and one individual. (ELR Order No. 51090.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460, (202) 755-0940.

Draft

New Motorcycle Emissions Standards, October 28: Proposed are emissions standards for new motorcycles to reduce the levels of CO and HC in the air, 5 percent of which is caused by motorcycle exhaust in some areas. If left uncontrolled, the emissions could climb to over 10 percent of total emissions of HC and CO in such areas by 1990. Potential disadvantages will be slight increases in nitrogen oxides, possible sulfate emissions from post-1979 motorcycles, and the unknown compatability of emission controls with future regulations of motorcycle noise. (ELR Order No. 51564.)

Energy Co. of Alaska Topping Plant, North Pole, Alaska, October 28: The statement concerns the issuance of a new source NPDES permit for discharge of process waters from ECA's proposed topping plant into the Tanana River. The proposed plant will be capable of processing up to 25,000 barrels per day of crude oil from the Trans-Alaska Pipeline. The plant will employ 100 persons during construction and 60 persons during operation. Addition of the refinery employees will put a strain upon the already strained housing market of the Fairbanks-North Pole area. (ELR Order No. 51569.)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street, NW., Washington, D.C. 20426, (202) 386-6084.

Draft

Transcontinental Gas Pipeline Corp., Curtailment, October 28: The action consists of FPC's analysis of two permanent curtailment plans for the Transcontinental Gas Pipe Line Corporation. Environmental impacts resulting from curtailment are the increased use of coal and oil to replace the curtailed natural gas and the associated cost increases and increased pollution in the form of sulfur dioxide and particulates. Reference is made to the fact that rate structure and deregulation are not included as alternatives to curtailment. (ELR Order No. 51566.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, (202) 343-4161.

Final

Federal Building and Parking Facility, Norfolk, Va., October 30: The proposed action consists of the construction of a Federal Building and parking facility for the consolidation of Federal agencies in Norfolk, Virginia. The cost of the project, including site acquisition, relocation, design, construction and inspection will be about 14.5 million. Long-term environmental impacts are primarily those related to the use of limited resources and City services necessary for the operation of the facility. Comments made by: COE, DOC, EPA, DOI, DLAB, and State and local agencies. (ELR Order No. 51596.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7258, 451 7th Street SW., Washington, D.C. 20410, (202) 755-6308.

Draft

Residencial Interamericana, Trujillo Alto, Puerto Rico, October 29: The project consists of the development of 1,286 dwelling units on a 128 acre site in Las Cuevas Ward, Trujillo Alto, Puerto Rico. Construction of the units will augment the supply of moderate-income housing in the San Juan area. Temporary construction disruption will result. (ELR Order No. 51580.)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Draft

Great Alamance Creek Project, North Carolina, October 29: Phase I of the Great Alamance Creek Water Supply Project consists of the construction of a temporary weir and intake on Alamance Creek, a raw water pumping station, and a trunk main connection to distribution system. The project would provide water supply for the City of Burlington, North Carolina. Approximately 5 acres of land will be required for the structural measures. (ELR Order No. 51581.)

Mahon School Area Rehabilitation, Lubbock, Texas, October 30: The statement concerns the proposed rehabilitation of a 116.73 acre area around the Mahon School in Lubbock, Texas. The projetc consists of providing an improved housing supply of 675 units. Of this, 419 units will come from rehabilitation, 155 from redevelopment of 10.32 acres which are currently occupied by 45 structures, and 101 units will be constructed on vacant land. Twenty-five households will be displaced, and construction disruption will result. (ELR Order No. 51591.)

Final

Nautaushaun Brook Improvement Project, Rockland County, N.Y., October 29: The statement describes a proposed flood alleviation project including channelization of portions of the brook, replacement of structures incapable of withstanding a 100-year retention period flood, the acquisition of land for flood-water retention and right-of-way and easements for purposes of construction. Land use management alternatives are discussed in contrast to engineering solutions. Defoliging of the area and construction disruption will result. Comments made by: EPA, COE, and State and county agencies. (ELR Order No. 51582.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Draft

North Umpqua Canyon, Douglas County, Oreg., October 29: The statement concerns a multiple-use management plan for 16,000 acres of O&C lands. The plan includes road construction, timber management, and development of recreation facilities. Construction of a multi-purpose road on the south side of the North Umpqua River will adversely affect the fisheries resources, and sustained-yield timber management practices will cause impacts on vegetation and wildlife. (ELR Order No. 51583.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. A. Giambusso, Director of Division of Reactor Licensing, P-722, NRC, Washington, D.C. 20555, 301-492-7373.

Draft

Co-60 Spark-Gap Irradiators, Licensing Exemption, October 28: The statement concerns a proposed amendment to NRC regulations to exempt from requirements for a license the receipt, possession, use, transfer, export, ownership, or acquisition of spark-gap irradiators that contain cobalt-60 for use in spark-ignited fuel-oil burners. About 6000 microcurie of Co-60 could be distributed into the environment in 6000 discrete sources, each containing no more than 1 microcurie. Estimated external radiation doses to maximally exposed individuals are included. (ELR Order No. 51573.)

William B. McGuire Station, Units 1 and 2, Operation, Mecklenburg County, N.C., October 29: The proposed action is the issuance of operating licenses to the Duke Power Company for the startup and operation of the

William B. McGuire Nuclear Station, Units 1 and 2. Both units will employ pressurized water reactors to produce up to 6822 thermal megawatts and 2360 MW net of electrical power capacity. Cooling condenser water could be heated to as high as 97 degrees F., and loss of fish due to impingement on the water intake screens will occur. Effluent will be discharged into the Catawba River. (ELR Order No. 51586.)

Final

Perkins Nuclear Station, Units 1-3, Construction, Davie County, N.C., October 28: Proposed is the issuance of a construction permit to the Duke Power Company for the construction of the Perkins Nuclear Station Units 1, 2 and 3. The units will produce 3817 MWt and 1280 MWe each. Make-up water for cooling will be drawn from and discharged to the Yadkin River, A total of 2402 acres will be used for the PNS site, displacing 26 families from the site proper and another 16 families from the Carter Creek area. Aquatic organisms entrained in the service water system will be killed due to thermal and mechanical shock, and there is potential for impingement of aquatic organisms at the intake structure as proposed. Comments made by: USDA, DOC, DOT, HEW, ERDA, EPA, FPC, DOI, and State and private agencies and one individual. (ELR Order No. 51563.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

Birmingham Municipal Airport Improvements, Jefferson County, Ala., October 28: Proposed is the implementation of 3 improvement projects for the Birmingham Municipal Airport. These projects would involve the strengthening and widening of a connecting taxiway from the North-South Runway to the airplane run-up ramp, the strengthening of airplane parking aprons on each side of the existing Passenger Terminal Building, and site preparation for the extension of the taxiways for the N-S Runway. Adverse effects are limited to increase in noise levels for residents in the North and South approaches to the extended runway. (pages). Comments made by: DOT, HEW, EPA, HUD, and DOI. (ELR Order No. 51577.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

Brookwood Station Area Improvements, I-85, I-75, Fulton and DeKalb Counties, Ga., October 28: Proposed are improvements of Brookwood Interchange (I-75, I-85 Interchange), I-75 extending 0.5 miles NW and I-85 extending 3.1 miles NE of the Brookwood Interchange. Project goals include the reduction of existing congestion at the Brookwood Interchange and improvement of the Facility's capacity such that it can accommodate anticipated traffic volume increases. The proposed action also includes the addition of driving lanes to I-85 and provision of an arterial connector facility connecting Pershing Point and Buford Hwy. Displacement of 8 families and 26 businesses will occur. (ELR order No. 51570.)

Brown Road, I-70 to I-270, St. Charles and St. Louis Counties, Mo., October 30: The proposed highway improvement consists of the construction of a section of Freeway between I-70 and I-270 in Hazelwood. It will provide a six-lane, fully access controlled facility for a length of about 11 miles. Approximately 400 acres, 70% of which is highly productive farmland, will be required for the construction of the project. As many as 34 families will be displaced. (ELR Order No. 51592.)

Wautoma-Waupaca Road (STH 22, FAP 38), Portage and Waupaca Counties, Wis., October 30: Proposed is the construction of a 2-lane, bituminous surfaced roadway beginning at Portage-Waushara County Line and extending northeasterly to the city of Waupaca. The project would necessitate the acquisition of 190 acres of land and 6 homes. Minor changes would be made to the Radley Creek Fishery. A 4(f) statement is included. Comments made by: (ELR Order No. 51595.)

U.S. 83, North Platte South, Lincoln County, Nebr., October 31: Proposed is the improvement of a 3.3 mile portion of U.S. 83 from two to four lanes. Acquisition of 95 acres of land will be required for the relocation which will be constructed on new alignment west of the existing roadway. Increased traffic will result in an increase in air and noise pollution. (ELR Order No. 51597.)

I-88, Hinmans Corner to Port Crane, Broome County, N.Y., October 28: The proposed project is a connection between the SW end of Interstate Route 88 and Interstate Route 81. The length of the main line of this connection is approximately 3 mifes for each of the 6 alternates. Environmental effects of the project will fall mainly on residential and commercial properties, possibly as many as 466 in number. Plant and animal life in the area will be somewhat affected. Some increase in air and noise pollution is expected. (ELR Order No. 51567.)

Final

U.S. 67, Scott County, Iowa, October 28: The statement refers to the reconstruction of US 67 from Riverdale to I-80. The 5.4 mile project will require the acquisition of 21 acres of additional right-of-way. Comments made by: HEW, USDA, DOI, EPA, and State and local agencies. (ELR Order No. 51574.)

U.S. 56, Marion County, Kans., October 28: Proposed is the improvement of approximately 15 miles of U.S. 56, a 2-lane highway in Marion County, Kansas. The project includes right-of-way acquisition, extensive grading, bridge construction and surfacing. Adverse impacts include: the displacement of families and businesses, the destruction of some wildlife habitat, and the temporary noises, air and water pollution due to construction. Comments made by: USDA, EPA, HUD, DOI, DOT, COE, and State and local agencies. (ELR Order No. 51571.)

U.S. 30 Bypass, North Platte, Lincoln County, Nebr., October 28: Proposed is an improved, controlled access facility which would bypass the central business district of North Platte on the east side with a connection to U.S. 83 on the south at the country road south of I-80 and with a connection to U.S. 30 and U.S. 83 on the north at 12th Street extended. Included in the project will be the improvement to 12th St. from Silbur Avenue east to the intersection with Bypass 1. Approximately 130 acres of additional right-of-way will be required. Crossing of streams and rivers could cause adverse environmental effects. Comments made by: DOT, COE, USDA, HUD, EPA, and State agencies. (ELR Order No. 51578.)

Wellsville Arterial, Allegany County, N.Y., October 29: The statement refers to the construction of a segment of highway in the Village of Wellsville in Allegany County between the SE junction and the northwest junction of Rtes. 17 and 19. The project is about 1.6 miles in length, and is located along the Genesee River, by-passing the main business section and residential areas. The project would require the acquisition and utilization of land from 2 village parks, Island Park and Tullar Field (a 4(f) statement is included) and would tend to sever the community with the utilization of controlled access right-of-way between at-grade intersections. The project would have some effect on the Genessee River and the fish within the stream. Comments made by: USDA, HEW, DOI, FPC, EPA, AHP, DOT, and State agencies. (ELR Order No. 51585.)

North-South Arterial, Ulster County, N.Y., October 30: The statement refers to the construction of 2.48 miles of arterial highway through the City of Kingston and into the Towns of Esopus and Ulster. Adverse impacts include increased air and noise pollution and the displacement of 60 families and 4 businesses. Comments made by: USDA, HEW, DOI, FPC, EPA, AHP, DOT, and State and local agencies. (ELR Order No. 51593.)

URBAN MASS TRANSPORTATION ADMINISTRATION

South Quincy Area Transit Station, Mass., October 31: Proposed is the construction of the South Quincy area rapid transit station that owuld improve accessibility to South Shore residents into the city of Boston. Plans for the station include provisions for feeder bus and local bus access, "kiss and ride" dropoff, and pedestrian access. The project would require the use of 3.6 acres of wetlands out of a total 20.6 acres. The parking garage will cause a visual impact from the residential area. (ELR Order No. 51599.)

U.S. COAST GUARD

Draft

LORAN-C Chain, Moses Lake, Washington (Supplement), Grant County, Wash., October 31: The statement is a supplement concerning the Moses Lake project site of the LORAN-C at Moses Lake, Washington. Site activities may increase the sediment load in the Frenchman Hills Wasteway, and normal construction disruption will result. (ELR Order No. 51600.)

GARY L. WIDMAN,
General Counsel.

[FR Doc.75-30023 Filed 11-6-75;8:45 am]

[FRL 449-3]

ADVISORY COMMITTEES

Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463), it is determined that establishment of the following advisory committees as entities of the Agency's Science Advisory Board is in the public interest in connection with the performance of duties imposed on the U.S. Environmental Protection Agency by law:

Committee Title. Environmental Measurements Advisory Committee.

Purpose. The Environmental Measurements Advisory Committee will provide to the Administrator, EPA, expert and independent advice on issues related to scientific and technical problems associated with environmental measurements and monitoring. Problems involved include the detection, identification, quantification, and continual monitoring of biological, chemical, and physical pollutants in air, water, soils, other environmental media, and human and plant tissues. Among the pollutants of concern are pathogenic bacteria and viruses, pesticides and other toxic or hazardous chemicals and radiation, noise, and solid wastes.

Committee Title. Environmental Pollutant Movement and Transformation Advisory Committee.

Purpose. The Environmental Pollutant Movement and Transformation Advisory Committee will provide to the Administrator, EPA, expert and independent advice on pollutant movement and transformation within and among various environments. The issues to be addressed will concern air, land, water, and intermedia pollutants, and radiation.

Committee Title. Technology Assessment and Pollution Control Advisory Committee.

Purpose. The Technology Assessment and Pollution Control Advisory Committee will provide to the Administrator, EPA, expert and independent advise on technology and pollution control techniques. The issues to be addressed will concern air, land, water, and intermedia pollutants, noise, and radiation.

Copies of committee charters will be filed with appropriate standing committees of the Congress and the Library of Congress as required by the Federal Advisory Committee Act.

RUSSELL E. TRAIN,
Administrator.

NOVEMBER 3, 1975.

[FR Doc.75-30065 Filed 11-6-75;8:45 am]

[FRL 453-4]

CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES

Public Hearings

Section 231 of the Clean Air Act directs the Administrator of the Environmental Protection Agency to establish "standards applicable to emission of any air pollutant from any class or classes of aircraft or aircraft engines which in his judgment cause or contribute to or are likely to cause or contribute to air pollution which endangers the public health or welfare." Such standards were promulgated for new and certain in-use subsonic aircraft engines on July 7, 1973 (38 FR 19088) and appear in 40 CFR Part 87.

Standards limiting emissions from in-use subsonic aircraft turbine engines rated at greater than 29,000 pounds of thrust were proposed on July 17, 1973 (38 FR 19050). On September 10, 1974, EPA announced that the comment period for these proposed standards would remain open until the close of the public hearings required to be held on such proposed aircraft engine standards by Section 231 of the Act. (39 FR 32631).

Notice is hereby given of public hearings to be held at

Environmental Protection Agency—Room 2117, 401 M Street SW., Washington, D.C.

on December 16 and 17, 1975, starting at 9:30 a.m.

These hearings are intended to provide an opportunity for interested persons to state their views or arguments, or provide information relative to the proposed emission standards for in-use aircraft.

In addition, notice is given that testimony at the hearings is invited on the status of the development of technology necessary for compliance with certain emission standards applicable to new aircraft turbine engines promulgated in 1973. Since the promulgation of these standards, engineering studies have been in progress under both private and public sponsorship to develop technology capable of reducing engine emissions to the required levels. The progress of this work has demonstrated that confidence in the compliance with the 1979 standards is still generally justified. However, EPA has received information through its continuing program to assess aircraft emission control technology development that indicates the need for review of certain aspects of the established standards at this time, in particular the oxides of nitrogen standards applicable to turbojet/turbofan engines and to auxiliary power units. The hearings on the proposed in-use engine standards provide an appropriate occasion to make EPA's present assessment of technology available and to solicit for the record the information and views of interested persons on these issues.

In order to focus the hearings on the principal issues involved in the standards, this notice sets forth specific subjects on which comments are particularly requested.

A. *Proposed standards limiting emissions from certain in-use aircraft turbine engines (38 FR 19050).* The proposed standard would apply to in-use aircraft turbine engines of over 29,000 pounds rated thrust and would require that all such engines manufactured prior to January 1, 1979, be modified by January 1, 1983, to meet the same standards applicable to newly manufactured engines of that class. This proposal was published as part of an overall strategy which included relaxation of the originally proposed standards for newly manufactured engines to levels for which a program ot retrofit the new low emissions apparatus into existing engines would be possible. Early responses to this NPRM from interested parties indicated that little conclusive information relative to its technical feasibility could be provided at that time. This led to the announcement by EPA (39 FR 32631, September 10, 1974) extending the comment period on this NPRM through the close of the hearings announced herein. Accordingly, the EPA is interested in receiving informed responses on the following points, as they relate to the proposed standards applicable to in-use aircraft turbine engines of over 29,000 pounds rated thrust:

(a) What concepts for emissions control are reasonably retrofitable? What emissions levels are associated with each concept? What difficulties might arise during the retrofit of each?

(b) For each concept identified in (a), what is the incremental total cost per engine, broken down into the increase or decrease in:

(i) Production cost, including amortized development and recertification costs over the projected additional production of retrofit kits and new engines (give projections for each application)

(ii) Markup

(iii) Installation Costs

(iv) Operational cost, as measured by changes in the specific fuel consumption and maintenance requirements.

(c) For each concept identified in (a), how much additional time is necessary to make the retrofit kits available to the airlines for service evaluation, and what are the necessary steps remaining and the time requirements for each? How much time is necessary for service evaluation and for the airlines to perform the retrofit?

(d) What difficulties and penalties would be incurred by requiring one level of emissions control for those engines affected by this proposed regulation and a second, more stringent, standard for newly manufactured engines produced after January 1, 1979.

(e) Would the retirement rate of the affected engines change as a result of this retrofit? If the retirement rate is expected to change, what is the rationale to support this project and to what extent is the retirement rate expected to change?

B. *Status of technology for compliance with aircraft standards for new and certain in-use aircraft engines (40 CFR Part 87).* An interim report of findings regarding available technology derived from the EPA Aircraft Emissions Technology Assessment Program will be available for inspection and copying before the hearing at the EPA Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. In addition, reports of findings relative to these hearings which have been published by the National Aeronautics and Space Administration and the Air Force will also be available at the above address.

Interested persons are invited to address the following issues regarding the technology for compliance by the following classes of aircraft engines subject to standards:

Small turbojet and turbofan engines (T1 Class). EPA recognizes the inherent difficulties in the discontinuous transition from the T1 class to the T2 class at 8,000 pounds of thrust. The engine classifications were initially established to group engines according to their principal applications (e.g., air carrier versus general aviation), and also to consider any design characteristics which affect their emissions. The T1 class was established to group the general aviation turbine engines (business jet engines) and those engines which by virtue of their small size would be expected to have a more difficult time complying with the T2 class standards because of the large surface to volume ratio of their combustors and the mechanical difficulty in achieving the higher pressure ratios so conducive to good combustion efficiency. Also, the air quality impact of the small engines used on general aviation jets, most often at secondary airports, was considerably different from the impact of the larger commercial jets. The more lenient standards as compared to the T2 class reflect these considerations.

In light of the concerns expressed to EPA in this regard and the fact that

EPA originally proposed the transition point between general aviation and air carrier turbines at 6,000 pounds thrust (relaxing it to 8,000 pounds thrust in final promulgation only to give the manufacturers more flexibility), consideration may be given to a sliding scale of standards for engines which are rated at 8,000 pounds thrust and below. EPA requests informed comment as to the thrust level at which the special effects of small size noted above cease to be a predominant influence on emissions performance. EPA's preliminary view is that the T1 standard should begin to slide linearly at 4,000 pounds thrust to reach the T2 standard at 8,000 pounds thrust.

EPA has received information suggesting that the oxides of nitrogen standard for the T1 class can be met only with resort to more complex systems (e.g., staged fuel systems or water injection) both of which may have drawbacks for this class of engines. EPA invites comments with regard to the severity of the possible drawbacks of such more complex systems.

Large turbojet and turbofan engines (T2 Class). EPA is confident that the hydrocarbon (HC) and carbon monoxide (CO) standards are achievable for the T2 class. However, information gathered to date suggests that the oxide of nitrogen (NOx) standard can be met only by use of water injection. Information about the extent to which NOx can be controlled without resort to water and the penalties associated with water injection is solicited.

Turboprop engines (P2 Class). EPA notes with considerable interest the recent publicity given to the possibility of the return to turboprop propulsion to large commercial transports as a fuel conservation scheme. The present P2 standard is quite lenient when compared to other gas turbine propulsion systems, and most existing engines are expected to meet the standards with little effort. Although the use of turboprop propulsion should be encouraged because of its generally low emissions now and its low fuel consumption, nonetheless, the existing standards fail to assure utilization of the best available low emissions technology. If turboprops return in large number and in large sizes, their impact on the air pollution load will grow considerably, thereby warranting stronger standards of control. EPA is, therefore, requesting information and views on revising the P2 class standards downward to reflect utilization of the best available technology and in anticipation of a larger impact from these engines.

Auxiliary propulsion units (APU Class). EPA has been informed that there are substantial difficulties with many of the APU engines in complying with both the CO and the NOx standards despite the fact that the emissions constraint occurs only at a single power setting. Information is requested by the EPA explaining why it has been so difficult to reduce the CO and NOx emissions from APU class engines.

While consideration of the foregoing issues is the basic purpose for these hearings, EPA will accept comments on other aspects of the standards. However, any such comments which deal with a perceived need for a specific revision to a standard should be supported by complete technical justification establishing the need for and merits of the proposed revision. In particular, such justification for a comment that a specific standard cannot be met by a regulated party should be accompanied by documentation showing the efforts made to comply with the standard, and the results of such efforts. Such documentation should show the alternate emissions level(s) or compliance date(s) with which the party could reasonably comply. Cost of compliance may be a consideration in establishing reasonableness.

The information derived from these hearings will, together with that available through the EPA Aircraft Emission Control Technology Assessment Program, serve as a basis for consideration of new rulemaking action, if determined necessary to ensure that the best available technology is applied to the reduction of emissions from aircraft turbine engines manufactured on or after January 1, 1979, and to large in-use engines after 1983.

Mrs. Leslie Carothers is hereby designated as the Presiding Officer for the hearings. She will be responsible for maintaining order; excluding irrelevant or repetitious material; scheduling presentations; and to the extent possible, notifying participants of the time at which they may appear. The hearings will be conducted informally. Technical rules of evidence will not apply.

Any person desiring to make a statement at the hearings or submit material for inclusion in the record of the hearings should provide written notice of such intention not later than 15 days prior to the hearing date. Also, 10 copies of the proposed statement or material for inclusion in the record should be submitted, if possible, not later than five days before the hearing date to the Deputy Assistant Administrator, Office of Mobile Source Air Pollution Control (AW-455), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

This notice of Hearing is issued under the authority of Section 231 of the Clean Air Act, as amended, 42 U.S.C. 1857f-9.

Dated: November 4, 1975.

ROGER STRELOW,
Assistant Administrator for Air and Waste Management.

[FR Doc.75-30086 Filed 11-6-75;8:45 am]

[FRL 453-8; PP5G1649/T18]

THIABENDAZOLE

Establishment of a Temporary Tolerance

Merck, Sharp & Dohme Research Laboratories, Div. of Merck & Co., Inc., Rahway NJ 07065, submitted a pesticide petition (PP 5G1649) to the Environmental Protection Agency (EPA). This petition requested that a temporary tolerance be established for residues of the fungicide thiabendazole (2-(4-thiazolyl)-benzimidazole) in or on the raw agricultural commodity sugar beets at 6 parts per million.

This temporary tolerance will permit the marketing of sugar beets when treated in accordance with an experimental use permit which is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act.

An evaluation of the scientific data reported has shown that the tolerance is adequate to cover residues resulting from the proposed experimental use, and it has been determined that such tolerance will protect the public health. The temporary tolerance is, therefore, established for the fungicide with the following provisions:

1. The total amount of the active fungicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Merck & Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or Food and Drug Administration.

This temporary tolerance expires October 31, 1976. Residues not in excess of this temporary tolerance remaining in or on the above raw agricultural commodity after expiration of this tolerance will not be considered actionable if the fungicide is legally applied during the term and in accordance with the provisions of the experimental use permit and temporary tolerance. The temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this fungicide indicate that such revocation is necessary to protect the public health.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(j)].)

Dated: October 31, 1975.

MARTIN H. ROGOFF,
Acting Director, Registration Division.

[FR Doc.75-30087 Filed 11-6-75;8:45 am]

[OPP—33000/333 FRL 452-5]

NOTICE OF RECEIPT OF APPLICATIONS FOR PESTICIDE REGISTRATION

Data To Be Considered in Support of Applications

On November 19, 1973, the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER (38 FR 31862) its interim policy with respect to the administration of Section 3(c)(1)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This policy provides that EPA will, upon receipt of every application for registration, publish in the FEDERAL REGISTER a notice containing the information shown below. The labeling furnished by the applicant will be available for examination at the Environmental Protection Agency, Room EB-31, East

Tower, 401 M Street, SW, Washington DC 20460.

On or before January 6, 1976 any person who (a) is or has been an applicant, (b) believes that data he developed and submitted to EPA on or after October 21, 1972, is being used to support an application described in this notice, (c) desires to assert a claim for compensation under Section 3(c)(1)(D) for such use of his data, and (d) wishes to preserve his right to have the Administrator determine the amount of reasonable compensation to which he is entitled for such use of the data, must notify the Administrator and the applicant named in the notice in the FEDERAL REGISTER of his claim by certified mail. Notification to the Administrator should be addressed to the Information Coordination Section, Technical Services Division (WH-569), Office of Pesticide Programs, 401 M Street, SW, Washington DC 20460. Every such claimant must include, at a minimum, the information listed in the interim policy of November 19, 1973.

Applications submitted under 2(a) or 2(b) of the interim policy will be processed to completion in accordance with existing procedures. Applications submitted under 2(c) of the interim policy cannot be made final until the 60 day period has expired. If no claims are received within the 60 day period, the 2(c) application will be processed according to normal procedure. However, if claims are received within the 60 day period, the applicants against whom the claims are asserted will be advised of the alternatives available under the Act. No claims will be accepted for possible EPA adjudication which are received after January 6, 1976.

Dated: October 31, 1975.

S/MARTIN H. ROGOFF,
Associate Director, Acting Director Registration Division.

APPLICATIONS RECEIVED [OPP.-33000/333]

EPA File Symbol 12523-E. Allied Service & Supply, McIntre Lane, Decatur AL 35601. MINT ODOR DISINFECTANT COEF. 7. Active ingredients: Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 2.0%; Isopropanol 2.0%; Methyl salicylate 0.5%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 12523-R. Allied Service & Supply, McIntre Lane Decatur AL 35601. MINT ODOR DISINFECTANT COEF. 15. Active Ingredients: Alkyl (C14 58%; C16 28%, C12 14%) dimethyl benzyl ammonium chloride 4.00%; Isopropanol 4.00%; Methyl salicylate 1.00%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA File Symbol 30948-E. Bionomical Chemicals and Services, Inc., 1003 Pineville Rd., Chattanooga TN 37405. SCM-400 WEED KILLER AND GROUND SEMI STERILANT. Active Ingredients: Sodium Chloride 18.0%; Sodium Metaborate (Anhydrous) 6.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM25

EPA Reg. No. 8484-22. Cosan Chemical Corp., 481 River Rd., Clifton, NJ 07014. COSAN 265. Active Ingredients: 1,1'-(2-butenylene) bis(3,5,7 - triaga - 1 - azoniaadamantane chloride) 90%. Method of Support: Application proceeds under 2(a) of interim policy. PM33

EPA Reg. No. 6754-4. Dettelbach Pesticide Corp., 4111 Peachtree Rd. NE, Atlanta, GA 30319. PROFESSIONAL NO. 20 LINDANE EMULSION CONCENTRATE. Active Ingredients: Gamma Isomer of Benzene Hexachloride from Lindane 20.0%; Xylene 75.0%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 6009-U. Eastern Color & Chemical Co., 36 Livingston St., Providence, RI 02940. ECCOGENE GERMICIDE. Active Ingredients: di-isobutyl phenoxy-ethoxy ethyl di-methyl benzyl ammonium chloride 19.0%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA Reg. No. 4816-353. FCM Corp., 100 Niagara St., Middleport NY 14105. DRIONE. Active Ingredients: Pyrethrins 1%; Piperonyl Butoxide, Technical 10%; Amorphous Silica Gel 40%; Petroleum Hydrocarbons 49%. Method of Support: Application proceeds under 2(a) of interim policy. Republished: Added use. PM17

EPA Rep. No. 4816-367. FMC Corp., 100 Niagara St., Middleport NY 14105. DRIONE INSECTICIDE SPRAY. Active Ingredients: Pyrethrins 0.1%; Piperonyl Butoxide, Technical 1.0%; Silica Gel 4.0%; Petroleum Distillate 4.9%. Method of Support: Application proceeds under 2(a) of interim policy. PM17

EPA File Symbol 1117-LE. Fort Dodge Laboratories, Inc., Div. of American Home Products, Box 518, Fort Dodge IA 50501. NOLVASAN AEROSOL. Active Ingredients: 1,1'-Hexamethylenebis [5-(p-chlorophenyl) biguanide] gluconate 0.4%; Ethyl alcohol 55.70%. Method of Support: Application proceeds under 2(b) of interim policy. PM33

EPA Reg. No. 1471-94. Elanco Products Co., Div. of Eli Lilly & Co., PO Box 618, Indianapolis IN 46206. ELANCO A-REST SOLUTION. Active Ingredients: ancymidol (a-cyclopropyl-a-(p-methoxyphenyl) - 5 - pyrimidinemethanol] 0.0264%. Method of Support: Application proceeds under 2(b) of interim policy. Republished: Added use. PM25

EPA File Symbol 7796-U. Dr. MacDonald's Vitamized Feed Co., Inc., PO Box 1077, Fort Dodge IA 50501. #307 LARV-X PASTURE BLOCK. Active Ingredients: Phenothiazine 0.66%. Method of Support: Application proceeds under 2(c) of interim policy. PM15.

EPA Reg. No. 3125-280. Chemagro Agricultural Div., Mobay Chemical Corp., PO Box 4913, Hawthorn Rd., Kansas City MO 64120. MONITOR 4 LIQUID INSECTICIDE. Active Ingredients: O,S-Dimethyl phosphoramidothioate 40%. Method of Support: Application proceeds under 2(b) of interim policy. PM15

EPA File Symbol 6020-RA. MOM Chemical Co., 7775 NW 66th St., Miami FL 33166. WHISP DISINFECTANT-DEODORIZER-MILDEW-CIDE. Active Ingredients: Alkyl (C14 90%, C12 5%, C16 5%) dimethyl 3,4-dichlorobenzyl ammonium chloride 1.250%; Alkyl (C14 58%, C16 28%, C12 14%) dimethyl benzyl ammonium chloride 0.625%; Alkyl (C14 90%, C12 5%, C16 5%) dimethyl ethyl ammonium bromide 0.625%; Sodium carbonate 0.500%; Ethylenediaminetetraacetic acid, tetrasodium salt 0.190%; Essential Oils 0.250%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

EPA Reg. No. 524-124. Monsanto Co., Agricultural Div., 800 N. Lindbergh Ave., St. Louis MO 63166. AVADEX BW. Active Ingredients: S-2,3,3-Trichloroallyl)-diisopropylthiocarbamate 46.3%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA Reg. No. 524-145. Monsanto Co., Agricultural Div., 800 N. Lindbergh Ave., St. Louis MO 63166. FAR-GO. Active Ingredients: S-2,3,3-Trichloroallyl)-diisopropylthiocarbamate 46.3%. Method of Support: Application proceeds under 2(a) of interim policy. PM25

EPA File Symbol 33710-R. Shamrock Chemical Co., Inc., PO Box 1132, Huntington WV 25714. SHILLELAGH 211 MICROBIOCIDE. Active Ingredients: Didecyl dimethyl ammonium chloride 50%; Isopropyl alcohol 20%. Method of Support: Application proceeds under 2(c) of interim policy. PM31

[FR Doc.75-29782 Filed 11-6-75;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 75-1090]

ASPEN INSTITUTE PROGRAM ON COMMUNICATIONS AND SOCIETY AND CBS, INC.

Declaratory Order; Memorandum Opinion and Order Clarifying Commission Rulings

By the Commission: Commissioners Lee and Hooks dissenting and issuing statements; Commissioner Quello issuing a statement in which Commissioner Robinson joins; Commissioners Washburn and Robinson issuing separate statements.

1. The Commission is in receipt of petitions filed by Mr. Douglass Cater, Director of the Aspen Institute Program on Communications and Society (Aspen), received April 22, 1975, and by CBS, Inc. (CBS), received July 16, 1975. Both petitions raise questions concerning the applications of the provisions of Section 315 of the Communications Act.

2. Aspen seeks revision or clarification of the Commission's policies concerning the applicability of the 1959 Amendments to Section 315 to certain joint appearances of political candidates. It is urged, that the two revisions will enable broadcasters to "more effectively and fully * * * inform the American people on important political races and issues" and to "make the Bicentennial a model political broadcast year."

3. The two revisions sought by the Institute are:

(1) The Commission should give the Section 315(a)(4) exemption for on-the-spot coverage of bona fide news events its proper broad remedial construction, and should thus overule the NBC (Wyckoff) and Goodwill Station decisions; [1] and

(2) The Commission should clarify its position on Section 315(a)(2)—the exemption for bona fide news interview programs—in light of the Chisholm case.[2]

These are crucial, in Aspen's view, because the Commission, in its interpretive rulings, has not given full scope to the Congressional purpose in enacting the

[1] The Goodwill Station, Inc., 40 FCC 362 (1962); National Broadcasting Co., 40 FCC 370 (1962).

[2] Hon. Sam Yorty and Hon. Shirley Chisholm, 35 FCC 2d 572, remanded and order for interim relief granted, No. 72-1505, D.C. Circuit, June 2, 1972, on remand, 35 FCC 2d 579 (1972).

1959 Amendments to Section 315, and its rulings are founded upon mistaken assumptions and interpretations of law, which must be acknowledged and corrected as a matter of law and policy.

4. The Institute seeks these revisions in the context of Docket No. 19260, which addressed political broadcasting issues or, in the alternative, in a new policy statement or declaratory ruling.

5. Because the proposed revisions concern a broader set of issues than those discussed in the Fairness Report, 48 FCC 2d 1 (1974), and in the First Report-Handling of Political Broadcast, 36 FCC 2d 40 (1972), we believe that these broader issues should not be decided without further consideration in a more expansive proceeding.[3] However, the first issue raised by the petition as to the legal misinterpretation which underlies our 1962 decisions with respect to Section 315(a)(4), can be dealt with at this time in a declaratory ruling.[4]

6. CBS requests a declaratory ruling that Presidential press conferences are exempt from the "equal opportunities" provision of Section 315 of the Communications Act. CBS contends that the live broadcast of such news conferences constitutes (1) "on-the-spot coverage of bona fide news events," within the meaning of Section 315(a)(4) of the Act, and (2) "a bona fide news interview," within the meaning of Section 315(a)(2) of the Act. Petitioner urges that we reexamine our decision in Columbia Broadcasting System, Inc., 40 FCC 395 (1964) (hereinafter referred to as CBS).[5]

7. Section 315, as it was originally worded, established a principle of absolute equality for competing political candidates in the "use" of broadcast facilities. In the 1959 "Lar Daly" case, the Commission interpreted the statute to mean that the equal time rule applied even to the appearance of a candidate on a regularly scheduled newscast. Columbia Broadcasting System, 18 RR 238, reconsideration denied, 18 RR 701 (1959). Daly, a perennial candidate in both the Republican and Democratic mayoralty primaries in Chicago, had complained to the Commission that several stations presented newsclips showing the major candidates in the two primaries but refused to afford him equal time. The Commission ruled that the presentation of these film clips were "uses" within the meaning of the statute, and that consequently Daly was entitled to equal time. The Commission's position on this matter created a national furor, and it was feared that this strict application of the equal opportunities provision "would tend to dry up meaningful radio and television coverage of political campaigns." Sen. Rep. No. 562, 86th Cong. 1st Sess. 10 (1959).

8. This concern led Congress to a realization that the concept of absolute equality among competing political candidates would have to give way, to some extent, to two other "worthy and desirable" objectives:

> First, the right of the public to be informed through broadcasts of political events; and Second, the discretion of the broadcaster to be selective with respect to the broadcasting of such events.

Hearings on Political Broadcasts-Equal Time Before the Subcommittee on Communications and Power of the House Committee on Inter-state and Foreign Commerce, 86th Cong., 1st Sess. 2 (1959) (comments of Chairman Harris).

9. In order to attain these worthy objectives, Congress adopted the 1959 amendments to the Communications Act. These amendments provided that an appearance by a candidate on any one of four types of news programs should not be deemed to be a "use" of the station by that candidate. The four categories of exempt programs are as follows:

(1) bona fide newscast,

(2) bona fide news interview,

(3) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary), or

(4) on-the-spot coverage of bona fide news events (including but not limited to political conventions and activities incidental thereto).

The Congress also provided that the Commission should have broad discretion in interpreting and implementing the new policy. See 47 U.S.C. § 315(c). Indeed, in the words of the Senate Report:

> It is difficult to define with precision what is a newscast, new interview, news documentary, or on-the-spot coverage of news event * * *. That is why the committee in adopting the language of the proposed legislation carefully gave the Federal Communications Commission full flexibility and complete discretion to examine the facts in each complaint which may be filed with the Commission * * *. In this way the Commission will be able to determine on the facts submitted in each case whether a newscast, new interview, news documentary, [or] on-the-spot coverage of news event * * * is bona fide or a "use" of the facilities requiring equal opportunity.

Sen. Rep. No. 562, 86th Cong., 1st Sess. 12 (1959).

10. In The Goodwill Station, Inc., radio station WJR broadcast a debate sponsored by the Economic Club of Detroit between two major candidates for Governor of Michigan, then-Gov. John B. Swainson and Republican challenger George Romney. The two participants were invited by the Club to debate issues following a dinner meeting. Neither had any part in establishing the format for the debate. The candidates appeared as invited, debated, and following the debate answered questions posed by Economic Club members. Each candidate had an opportunity to respond to an equal number of questions. Station WJR merely covered "live," the debate and question and answer period. It exercised no control whatsoever over the program content. The Commission ruled that this was not a "bona fide news event" under Section 315(a)(4), a ruling which had the effect of affording equal time to the candidate of the Socialist Labor Party, a party which in the previous election received only 1,479 votes out of a statewide total of 3,255,991. The Commission's construction of 315(a)(4) excluded debates from that exemption. Indeed, it concluded that only events "incidental to" the presentation of a bona fide news event (e.g., where a Congressman seeking re-election appeared in connection with a ribbon cutting ceremony for a new highway or bridge) or some, but not all, activities incidental to the presentation of a political convention might be exempt. The Commission based its conclusion on House Report No. 802, 86th Cong. 1st Sess., August 6, 1959. It took the position that the deletion of the term "debate" from the House version of the bill, as well as the evidence of Congressional action in 1960, which permitted the Great Debates, which it assumed to have been outside the 1959 Amendment's exemptions from Section 315, clearly indicated a legislative intent that debates were not exempt formats. Further, it said that the 315(a)(4) exemption for "on-the-spot coverage of bona fide news events", if applied to debates, would result in the exemption swallowing the rule.

11. National Broadcasting Co., *supra*, involved a debate between Governor Brown of California and Richard Nixon before the annual convention of the United Press International which NBC covered "live." The debate was arranged by UPI, and NBC had nothing to do with the arrangements.[6] Indeed, NBC was not invited to cover the debate until after the arrangements had been completed. However, it decided to cover the event, as did all the major newspapers in California, based upon its assessment that the event was singularly newsworthy. The Commission held that equal time must be afforded to the Prohibition Party's candidate for Governor, thereby virtually eliminating the possibility that such debates would receive further broadcast coverage. In elaborating on its Goodwill Station opinion, the Commission stated that merely because an event might be considered newsworthy by the broadcaster did not make the event "bona fide" for purposes of the exemption. The Commission said:

> Where the appearance of a candidate is designed by him to serve his own political advantage and such appearance is ultimately the subject of a broadcast program encompassing only his entire appearance, such program cannot be considered to be on-the-spot coverage of a bona fide news event

[3] We expect to reconsider the issues raised in or Chisholm ruling, supra, among other political broadcast questions, at that time.

[4] Parties who wish to challenge this Declaratory Ruling on appeal will have an opportunity to do so well in advance of the 1976 elections. Felix v. Westinghouse Radio, 186 F.2d 1 (3rd Cir. 1950), cert. denied, 341 U.S. 909 (1951).

[5] Informal comments have been filed in opposition to this request by the Democratic National Committee, which urges us to reaffirm the validity of the CBS decision. See paragraph 17, infra. An additional request for the same relief asked for by Aspen was filed by Henry Geller on September 18, 1975.

[6] Neither of these cases involved a debate or joint appearance in a studio.

simply because the broadcaster deems that the candidate's appearance (or speech) will be of interest to the general public and, therefore newsworthy. For as Chairman Harris stated in discussing the conference report on the House floor, an "appearance of a candidate in the on-the-spot coverage of news events is not to be exempt from the equal time requirements unless the program covers bona fide events. And no assertion has been made by either CBS or NBC that this program encompassed any aspect of the UPI convention other than the joint appearance of Governor Brown of Mr. Nixon.

The Commission, in conclusion, repeated that it did not question the broadcaster's news judgment but only the contention that it should consider only the broadcaster's news judgment in the context of the legislative guidelines for the 315(a)(4) exemption.

12. In *CBS*, we held that press conferences of the President, or a non-incumbent candidate for election to the presidency, would be considered non-exempt "uses" within the meaning of Section 315. In that decision we relied on the language of the Conference Report accompanying the bill containing the 1959 Amendments to Section 315 which stated that in order to qualify for exemption as "bona fide news interview" within the meaning of Section 315(a)(2), a broadcast must meet each of the following criteria:

(1) The broadcast must be regularly scheduled.

(2) The selection of the content, format, and participants of the broadcast must be under the exclusive control of the licensee or network.

(3) Broadcaster decisions as to format, content, and participants must have been made in the exercise of bona fide news judgment and not for the political advantage of any candidate.

13. In addition, we held that the broadcast of such press conferences failed to qualify for exemption as "on-the-spot coverage of bona fide news events," within the meaning of Section 315(a)(4). This conclusion rested on our decisions in Goodwill Station and Wyckoff, supra. We also stated that the mere fact that an event might be considered newsworthy by the broadcaster did not, per se, bring the event within the Section 315(a)(4) exemption, and that we were not questioning the networks' news judgment but only the contention that the Commission should consider only such news judgment in determining whether a broadcast was exempt under Section 315(a)(4).

14. In support of its contention that live broadcast of Presidential press conferences constitutes "on-the-spot coverage of bona fide news events," within the meaning of Section 315(a)(4), CBS argues that a reasonable decision by a broadcaster that a Presidential press conference is sufficiently newsworthy to merit on-the-spot live broadcast coverage should be determinative of whether the broadcast is exempt under Section 315(a)(4).

15. CBS stresses the unique status of the Presidency and the inherent newsworthiness of Presidential communications with the public. Thus, it contends, a distinction must be drawn between those Presidential press conferences called by a President-candidate in furtherance of his duty as Chief Executive to keep the people informed on important national and international issues, and purely political press conferences.[1] The network claims that, under the CBS decision, no such distinction is drawn and, hence, any press conference now called by President Ford—political or non-political—will give rise to "equal opportunity" rights in opposing candidates and will, therefore, be effectively barred from live broadcast coverage by licensees.

16. To support its assertion that a Presidential press conference constitutes a "bona fide news interview," within the meaning of Section 315(a)(2), CBS submits that while the regularity of broadcast of a news interview program and its control by the licensee are relevant considerations in determining whether or not such an interview is exempt from the "equal opportunities" provision of Section 315, the Commission's perspective in evaluating these considerations has been too narrow. Thus, CBS submits that in our decision in CBS, supra, the Commission applied an overly strict and mechanistic definition of the term "regularly scheduled." In its view, this term is most reasonably construed as meaning "recurrent in the normal and usual course of events," rather than as "recurrent at fixed and uniform time intervals." See CBS, supra, 40 FCC at 404 (dissent of Commissioner Loevinger). Presidential press conferences are "regularly scheduled," since they have been held over the course of many years and are held on a periodic basis. With respect to the element of licensee control, it is claimed that Congress's primary concern with control of news interview programs was that such control be outside the hands of a candidate; it takes the view that Congress did not intend that such control remain exclusively with the broadcaster. Finally, CBS contends that the principle concern of Congress with respect to "bona fide news interview" programs was the prospect of rigging by some local broadcasters to promote the candidacies of local candidates, and that this concern is obviated in the case of nationwide broadcast of Presidential press conferences. Thus, although a President may make a statement before opening the session to questions, the crux of the press conference is in the questions and answers themselves, and such questions are out of the hands of the President.

17. The Democratic National Committee (DNC), in its informal comments, concedes that "past decisions should be re-examined in light of new facts, new laws, or new interpretations of past laws and facts." However, DNC contends that the reversal of the Commission's 1964 CBS decision would, in effect, "nullify the objectives of Section 315 and render it meaningless as it applies to Presidential elections." DNC further contends that the purpose of the 1959 Amendments was "to provide enough leeway to broadcasters to disseminate the news without incurring equal time obligations," and that "CBS is free to broadcast portions of the Presidential press conference on bona fide news shows or bona fide news documentaries." In its view, an exemption for Presidential press conferences from Sections 315 would "deprive opposing candidates of equal opportunities" and would cause "irreparable damage . . . to its 1975 Presidential nominee" and all future candidates opposing incumbent presidents. DNC urges the Commission to retain the "incidental to" test which it has applied since 1962 in interpreting Section 315(a)(4). It contends that if the Commission abandons this test, it is left to determine only whether a licensee's judgment that a program is newsworthy is reasonable, and that the FCC would be left with neither a rational test for determining either the bona fides of a broadcast news event, nor a test with the precision of the equal time rule.

18. DNC also opposes the CBS contention that "regularly scheduled news interviews" refers to "recurrent in the normal and usual course of events, rather than at fixed and uniform time intervals." In its view, that interpretation would be administratively unworkable, and could make a farce out of the well defined news interview exemption. It also contends that the legislative history does not support this CBS assertion. Furthermore, it believes that Presidential press conferences, called at the whim of the President, are subject to abuse. It also believes that many of the significant factors associated with Presidential press conferences are under the control of the President and, thus, the problem of abuse would be heightened by exemption of such programs in direct disregard of the "control" requirement as set forth in the legislative history.

19. DNC believes that the Commission should take into consideration: (1) that if Section 315 is to continue to work effectively, it must continue to work with the "automatic and mathematical" precision it has exhibited in the past; (2) the equal time requirement posits a particular right in candidates to ensure that they receive an equal opportunity of access to the airways in order to discuss campaign issues, and such rights should not be left to the whim of a station or network; (3) the impact of such a ruling would inhibit the chances of any candidate's bid to unseat an incumbent President running for re-election; (4) that the President's unique status as a newsworthy individual should not be determinative in this case; (5) such an interpretation would be inconsistent with the interpretations of the First Amendment in Red Lion Broadcasting Co. v. FCC, 395 U.S. 367 (1969).

20. The Media Access Project (MAP) has filed a lengthy informal pleading on behalf of the National Organization of Women (NOW) and Congresswoman Shirley Chisholm. MAP argues that the

[1] In this respect, CBS relies heavily on the 1964 dissenting opinions of Commissioners Ford and Loevinger and the separate opinion of Chairman Hyde (which was in substance a dissent).

Commission cannot properly issue declaratory rulings in this matter, but may only proceed by way of a rulemaking proceeding. Aside from the procedural arguments, MAP essentially alleges that the potential for abuse of the exemptions in Section 315 requires the Commission to prohibit any use of the exemptions for on-the-spot coverage of bona fide news events. Additionally, it is argued that if a candidate intends to gain an advantage by his or her appearance, coverage of the appearance may not be exempt, and that debates may never be exempted because Congress did not create a specific exemption for them. Moreover, MAP argues that the Commission could, as a matter of administrative discretion, use a test which was rejected by Congress in its determination—the "incidental to" test applied in the 1962 decisions.

21. For the reasons discussed below, we hereby overrule our earlier decisions in The Goodwill Station, Inc., supra, and National Broadcasting Co., supra, and will in the future interpret § 315(a)(4), so as to exempt from the equal time requirements of Section 315 debates between candidates as "on-the-spot coverage of bona fide news events" in situations presenting the same factual contexts in Goodwill Station and Wyckoff. At the same time we overrule that part of the 1964 CBS decision which relies on Goodwill Station and Wyckoff, for reasons also discussed below. Thus the press conferences of the President and all other candidates for political office broadcast live and in their entirety, qualify for exemption under Section 315(a)(4).[8]

DISCUSSION

DEBATES: THE ASPEN PETITION

22. As Aspen points out, and after thorough review we are compelled to agree, the Commission's decisions in Goodwill Station and Wyckoff, are based on what now appears to be an incorrect reading of the legislative history of the newscast exemptions and subsequent related Congressional action. Our conclusion that the debates were not exempt rested on language in the House Report of August 6, 1959, which indicated that in order for on-the-spot coverage to be exempt the appearance of the candidates would have to be "incidental to" the coverage of a separate news event. The Goodwill Station, Inc., 40 FCC at 364. It was obvious, of course, that in a debate between two candidates the appearance of neither could be deemed to be incidental to the news event. Indeed, the appearance of the candidates would naturally be the central focus of the event. The problem with this reasoning is that it was based on a report of a bill which was not enacted into law. The bill discussed in the August 6 House Report did indeed require that appearances by candidates must be "incidental to" another event—and this requirement was explicitly set forth in the bill. The bill as enacted, however, did not limit the exemption to appearances of candidates which were "incidental to" other news. During the floor debate in the House, Rep. Bennett of Michigan warned the House that the "incidental to" language must be deleted or the bill would not work, citing the text of the bill and the language of the House Committee report. 105 Cong. Rec. 16241. The language was stricken in conference, and in floor discussion of the conference report Bennett again took the floor to comment on the deletion of the provision: "I am glad to see that the conference substitute omits this language because the majority of conferees felt as I do, that this requirement would lead to even greater confusion than we have at present." 105 Cong. Rec. 17778. The conference bill was then adopted.[9] The rejection by a legislature of a specific provision contained in a reported bill militates against an interpretation of the resulting statute which, in effect, includes that provision. See Carey v. Donohue, 240 U.S. 430 (1916).

23. Thus, the Commission's conclusion, in The Goodwill Station Inc., that a program which might otherwise be exempt should lose its exemption because the appearance of a candidate is a central aspect of the presentation, is not supported by the legislative history.[10] Newscasts, news interviews, news documentaries and "on-the-spot coverage of news events" were exempted in order to foster public consideration of major candidates while assuring minor candidates access

[8] Because Aspen and CBS both requested declaratory rulings by the Commission, they are the only formal parties before the Commission. DNC and MAP have, therefore, filed informal comments in opposition to the views of Aspen and CBS. The Commission has fully considered the arguments advanced in all those comments in reaching its determination.

[9] Rep. Moss, who drafted the "incidental to" language, dissented from the conference report and during the floor debate circulated a letter detailing his reasons. Chairman Harris, the floor manager, responded as follows:

The letter alleges that this change replaces "the objective requirement of the House's bill that the appearance be incidental to the reporting of news with the subjective test that the newscast or news interview be bona fide." It states that the conference substitute provides for "a purely subjective text (sic) almost impossible of proof without either the showing of the grossest kind of favoritism or of a long pattern of preferential treatment by the broadester" * * *.

He replied to this allegation:

The test to be applied under the conference substitute is by no means too subjective to permit this.

Continuing, he stated the sentence quoted by the Commission in the NBC opinion:

* * * and appearance of a candidate in on-the-spot coverage of news events is not to be exempt from the equal time requirement unless the program covers bona fide news events.

He continued, in a passage not quoted by the Commission:

This requirement regarding the bona fide nature of the newscast, news interview or news events, was not included without thoughtful consideration by the conference committee. It sets up a test which leaves reasonable latitude for the exercise of good faith news judgment on the part of broadcasters and networks. However, it is not intended that the exemption shall apply where such judgment is not exercised in good faith. For example, to state a rather extreme case, the exemption from section 315(a) would not apply where the program, although it may be contrived to have the appearance or give the impression of being a newscast, news interview, or on-the-spot coverage of news events, is not presented as such by the broadcaster, but in reality has for its purpose the promotion of the political fortunes of the candidate making an appearance thereon. 105 Cong. Rec. 17782.

Thus, Chairman Harris equated the test as to bona fide in 315(a)(4) to those for "newscasts and news interviews." This statement conflicts with the Commission's 1962 ruling which, as described herein, mistakenly interprets the exemption as if the "incidental to" language had been retained.

[10] The Commission appears to have been confused by the legislative history in its 1962 interpretation of the test as to what constituted a bona fide news event under Section 315(a)(4). This confusion resulted in part from the langage of the Conference Report, p. 4. The Report discussed the test for "bona fide" news interview, specifying that in addition to certain format requirements, "the determination must have been made by the station or network, as the case may be, in the exercise of its 'bona fide' news judgment and not for the political advantage of a candidate for public office." However, in specifying the "bona fide" test as applied to on-the-spot coverage of bona fide news events, the Report said:

In the Conference substitute, in referring to the on-the-spot coverage of news events, the expression "bona fide news events" instead of "news events" is used to emphasize the intention to limit the exemptions from the equal time requirement to cases where the appearance of the candidate is not designed to serve the political advantage of that candidate.

The lack of parallel mention of the broadcaster's bona fide news judgment in that paragraph may well have led the Commission, in 1962, to conclude that when Chairman Harris stated that in order to be exempt the program must cover "bona fide events", he meant that the broadcaster's news judgment was not to be considered. However, Congress recognized that the appearance of a candidate at any event would, objectively, serve his political interest. Furthermore, the language of the exemption, "including but not limited to political conventions and activities incidental thereto" indicates that the exemption does not limit broadcasters only to the coverage of nonpartisan or non political events. Thus, it is hard to see how the appearance of a candidate at a political convention is not intended to serve the candidate's advantage. Therefore, we believe that the question of what is a "bona fide event" cannot be answered by looking only at the event itself, because if that interpretation were to be given effect, no political event could be covered except the most innocuous ribbon-cutting ceremony. Even then, the broadcaster would be forced to inquire whether the politician's subjective motive for attending was his political advancement. The real question is as to intent-and it is clear here that Congress was naturally focusing on the broadcaster's role.

to reasonable opportunities for air time.[11] The Commission's mandate was to devise standards to insure that these guidelines were enforced. There is no indication that Congress intended the Commission to take an unduly restrictive approach which would discourage news coverage of political activities of candidates. Rather, Congress intended that the Commission would determine whether the broadcaster had in such cases made reasonable news judgments as to the newsworthiness of certain events and of individual candidacies and had afforded major candidates broadcast coverage. Conference Report, H. Rep. No. 1069, 86th Cong. 1st Sess. In some circumstances this might logically entail exclusion of certain programs from within an exemption, such as programs designed for the specific advantage of a candidate, or those which were patently not bona fide news. It would not in our view extend to a restrictive application as to certain categories of events simply because the candidate's appearance is the central aspect of the event. Accordingly, a program which might otherwise be exempt does not lose its exempt status because the appearance of a candidate is a central aspect of the presentation, and not incidental to another news event.

24. In the Goodwill Station, Inc., the Commission concluded that, since there was no special exemption for debates, these events could not attain exempt status merely by being presented under one of the four exempt formats provided for in the 1959 amendments. This conclusion is unfounded. No appearance of a candidate (in a debate or otherwise) has a special exemption independent of the 1959 provisions, but such events may be properly covered, for example, under the exemption provided for bona fide newscasts. During the House of Representatives floor debate, Congressman Harris noted that a number of important program categories were not specifically exempted from Section 315, but then he made the following observation:

> On the other hand, and I want you to get this, * * * the elimination of these categories by the committee was not intended to exclude any of these programs if they can be properly considered to be newscasts or on-the-spot coverage of news events.

105 Cong. Rec. 16229 (August 18, 1959). This view is consistent with the legislative history as to the other news exemptions as well.

25. The Commission, in 1962, stated that its restrictive interpretation of the exemptions (at least as it affected debates) was strengthened by the fact that Congress enacted special legislation in 1960 to exempt the Great Debates. We do not believe that Congress meant that debates presented within an exempt format would somehow lose their exemption. Indeed, the 1960 legislation had no special relevance to the coverage of debates. The legislation was intended to apply to any appearance by the presidential candidates regardless of format; and the measure was adopted prior to the time when the candidates and the networks proposed the Great Debates. Senator Yarborough offered an amendment which would have limited the exemption to debates, but this amendment was withdrawn. See 106 Cong. Rec. 13423–13428 (June 27, 1960).

26. Why then was the 1960 legislation needed if debates could be carried as on-the-spot coverage of a bona fide news event? It was hoped that the exemptions would "lead to a fuller and more meaningful news coverage of the actions and appearances of legally qualified candidates"; but the Congress recognized that by 1960 not enough time had elapsed "for a full evaluation of this amendment." Sen. Rep. No. 1539, 86th Cong., 2d Sess., p. 2 (1960). As we have already noted, the Congress fully expected the Commission to act to explain fully the scope of the 1959 amendments. At the time of the adoption of the 1960 legislation, however, the Commission had done little to clarify the meaning of the exemptions. The urgent necessity for Congressional action, as stated by Senator Pastore in his remarks of June 27, 1960, was that:

> (1) Not enough time has elapsed to permit full evaluation [by the FCC] of [the 1959] amendment; and (2) "As the 1960 presidential and vice-presidential campaign approached, great concern had been expressed about the serious limitations that were involved in the full application of section 315 to such candidates. 106 Cong. Rec. 13424 (daily ed.).

Thus, it was suggested by broadcasters and agreed to by Congress that Section 315 would be suspended as to major Presidential and Vice Presidential candidates for the 1960 elections, to insure that "adequate free time would be offered voluntarily" by the networks. 105 Cong. Rec. 13424 (June 27, 1960). Thus, reliance by the Commission on the proposition that the 1960 Suspension assumed that a debate was not an exempt format was, and is, misplaced.

27. Furthermore, we are convinced that as a matter of policy the Commission's reversal of these prior decisions comports with the original legislative intent and serves the public interest by allowing broadcasters to make a fuller and more effective contribution to an informed electorate.[12] As Aspen points out in its petition, "[t]he consequence of these [1962] rulings has been to greatly diminish the efficacy of the on-the-spot news exemption, and thus the broadcaster's coverage of political news events," (Petition, p. 5)[13] rather than "to make it possible to cover the political news to the fullest degree * * *" and "to give full and meaningful coverage to the significant events of the day."[14] By departing from these prior opinions, we can aid the broadcaster in rendering a most unique public service—bringing a political debate "live into the homes of every interested voter."

28. However, we must advert to the legal arguments raised by the Commission in 1962 rulings as to the difficulties posed by loosening the exemptions to Section 315.

(a) It has been argued that giving Section 315(a)(4) a broader construction would render meaningless the other three exemptions to Section 315. By applying our Declaratory Order here to the circumstances covered by the two cases overruled,[15] We believe we have preserved the essential nature of the exemption. However, to the extent appearances in debates would fall within another exemption, e.g., newscast or news interview, quite obviously that argument is vitated.

(b) As to the argument that a broader construction would render meaningless the 1960 suspension, S.J. Res. 207, P.L. 86–677, that is of little relevance. As we have pointed out in some detail, Congress acted in 1960[16] because it was uncertain how the Commission would interpret the 1959 Amendments and in order to facilitate the offer by the networks of free broadcast time to the major Presidential and Vice-Presidential candidates. Furthermore, the 1960 exemption did not specify a debate format at all; rather, it provided that free time could be offered by broadcasters for the candidate's use, without subjecting broadcasters to the equal time requirements.

(c) It is also suggested that the broader construction of the exemption would permit the broadcaster to ignore the equal time requirement. Thus, it is said, the opportunity to characterize as "newsworthy" any event covered live and on-the-spot would be irresistable to a broadcaster bent upon aiding a particular

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[11] Sen. Rep. No. 562, 86th Cong. 1st Sess., at p. 10; 105 Cong. Rec. 14445 (1959) (remarks by Sen. Pastore); 106 Cong. Rec. 13424 (1960) (remarks of Senator Pastore). See Lawrence M. C. Smith, 40 FCC 549 (1963); Dr. Benjamin Spock, 38 FCC 2d 316 (1972).

[12] Although, our ruling is most directly necessitated by the canon which requires an administrative agency to heed guidelines established by Congress, and to correct clear legal errors which were material to decisional results, we also agree with petitioner's argument that post-1960 developments in the law which support First Amendment interests of the public to view political news and to receive "wide-open, uninhibited and robust debate," Red Lion Broadcasting Co. v. FCC, 395 U.S. 367, 390 (1969), New York Times v. Sullivan, 376 U.S. 254 (1964), Garrison v. Louisiana, 379 U.S. 64 (1964), are consistent with Congress's intent in enacting the 1959 Amendments.

[13] Sen. Rep. No. 562, supra, at 10: "An informed public is indispensable for the continuance of an alert and knowledgeable democratic society. The public should not be deprived of the benefits that flow from this dynamic form of communications during the critical times of a political campaign . . ."

[14] Remarks of Senator Pastore, 105 Cong. Rec. 14445 (1959) and 106 Cong. Rec. 13424 (1960).

[15] See paragraphs 10–11, supra.

[16] We are aware that Congressional legislation is proposed which would exempt major Presidential and Vice Presidential candidates from the provisions of Section 315 altogether. The Commission has previously proposed to limit the equal opportunities requirement to major party candidates or candidates with "significant public support." See First Report, supra at 51–52 (para. 35). We do not contemplate that this Declaratory Order will obviate the need for more sweeping action by Congress.

candidate in a partisan, discriminatory fashion. This argument is answered in part by the fact that we have limited our action on the 315(a)(4) exemption to the circumstances of Goodwill Station, NBC and CBS. This limited holding does not offer the opportunity for broadcaster abuse that already exists in the "newcast" or "new interview" exemptions. Nor does the narrow exemption reviewed here threaten to swallow the equal time rule. Realistically, the likelihood of broadcaster abuse is remote in coverage of more prominent political races (President, Senator, Governor, etc.). While the opportunity for abuse may exist at the less visible political office level (e.g., councilman, school board, district legislative races), we feel that the absence of abuse in the past 15 years of a broad newscast exemption fails to support the doomsayers' thesis—that this narrower exemption will be abused.

29. Most importantly, we believe that when Congress adopted the 1959 Amendments it squarely faced the risks of political favoritism by broadcasters which might be created by the exemptions—and, on balance, Congress preferred to make available to broadcasters the opportunity "to cover the political news to the fullest degree." [17] Today, these risks are substantially lessened.[18] Yet, the Commission's failure to accord the appearances in Goodwill and Wyckoff the exemption of Section 315(a)(4) did not give adequate scope to the Congressional action; rather, the Commission took a more cautious position which would insure that the threat of abuse would never materialize. To do so merely to preserve administrative convenience is not an appropriate course on which we will continue.

PRESS CONFERENCES: THE CBS PETITION

30. The preceding discussion of the Section 315(a)(4) exemption as it pertains to coverage of debates is also relevant to the question of live coverage of a press conference. As we stated in paragraph 23, *supra:*

> * * * [A] program which might otherwise be exempt does not lose its exempt status because the appearance of the candidate is a central aspect of the presentation, and not incidental to another news event.

Under this test, press conferences do not lose their exemption merely because the candidate's appearance is the central aspect of the news event. The Commission allows reasonable latitude for exercise of good faith news judgments by broadcasters and networks by leaving the initial determination as to eligibility for Section 315 exemption to their reasonable good faith judgment. See United Community Campaigns of America, 40 FCC 390, 391 (1964). Congress intended that the Commission would determine whether the broadcaster had made reasonable and good faith judgments as to the newsworthiness of certain events and of individual candidacies, and had afforded major candidates broadcast coverage. See *Conference Report*, H. Rep. No. 1069, 86th Cong. 1st Sess. CBS's premise is that its judgment as to the newsworthiness of such press conferences, and its consequent decision to afford such conferences live broadcast coverage, are necessarily wholly determinative of whether such broadcasts are exempt under Section 315(a)(4). However, newsworthiness is not the sole criterion to be used in determining whether Section 315(a)(4) has been properly invoked. A question whether the coverage of a press conference was intended by the broadcaster to be for the specific advantage of that candidate would be considered in terms of the licensee's good faith in deciding to cover the press conference. See 105 Cong. Rec. 17782 (remarks of Oren Harris).

31. With respect to CBS's contention that a Presidential press conference constitutes a "bona fide news interview," within the meaning of Section 315(a)(2), we cannot agree with the claim that our perspective in evaluating the criteria for exemption under that subsection has been too narrow. The Conferenee Report on the bill containing the exemptions to Section 315(a) set forth the criteria for exemption under subsection (a)(2) with clarity:

> The intention of the committee of conference is that in order to be considered "bona fide" a news interview must be a regularly scheduled program.
>
> It is intended that in order for a news interview to be considered "bona fide" the content and format thereof, and the participants, must be determined by the licensee in the case of a news interview originating with the licensee of a station and by the network in the case of a news interview originating with a network; and the determination must have been made by the station or network, as the case may be, in the exercise of its "bona fide" news judgment and not for the political advantage of the candidate for public office. H. Rept. No. 1069, 86th Cong., 1st Sess. 4 (1959).

Moreover, Senator Pastore, Senate Manager of the bill, stated:

> We have spelled out in the House Report itself precisely what we mean by bona fide news interview. It is provided, specifically, first of all, that it shall be a regularly scheduled program. Secondly, the content and format must be exclusively under the jurisdiction of the broadcaster or of the network. 105 Cong. Rec. 17829 (September 3, 1959).

32. The legislative history makes it clear that "regularly scheduled" meant to Congress a program which a licensee or network initiates and schedules for regular, recurrent broadcast, rather than a program which covers an event (such as a press conference) which, although possibly "recurrent in the normal and usual course of events," is initiated by a candidate and takes place and is broadcast only at such times and with such frequency as the candidate may specify. See 105 Cong. Rec. 16224–5 (August 18, 1959) (remarks of Representative Brown of Ohio). The legislative history refers to such programs as "Meet the Press", "Face the Nation" and "College Press Conference" as examples of the type of "regularly scheduled" news interview program contemplated for exemption. See, e.g., 105 Cong. Rec. 16224–5 (August 18, 1959) (remarks of Representative Brown of Ohio); 105 Cong. Rec. 17829 (September 3, 1959) (remarks of Senators Engle and Pastore); id. at 17831 (remarks of Senator Scott). "Regularly scheduled" programs were thus thought to be those scheduled by a licensee or network for broadcast * * * say every day at a certain time or every week at a certain time * * *" 105 Cong. Rec. 17780 (September 2, 1959) (remarks of Representative Harris). The legislative history does not support the view that the term "regularly scheduled" encompasses broadcasts of press conferences called by a candidate solely at his discretion and at such times and with such regularity as only he may specify. In light of the foregoing, we are unable to accept CBS's suggestion that we construe the term "regularly scheduled" as meaning "recurrent in the normal and usual course of events."

33. As to the "control over content and format" aspect of the test for exemption under Section 315(a)(2), the legislative history unequivocally mandates that such control "* * * must be exclusively under the jurisdiction of the broadcaster or of the network." 105 Cong. Rec. 17829 (September 3, 1959) (remarks of Senator Pastore). Specifically, "* * * the content and format . . . [of the news interview program] * * *, and the participants, must be determined by the licensee in the case of a news interview originating with the licensee of a station and by the network in the case of a news interview originating with a network * * *." H. Rept. No. 1069, 4. We are unwilling to impose on this plain language the strained interpretation that CBS suggests, *viz.*, that as long as the control over most of a news interview program is out of the hands of a candidate the "control" criterion for exemption is satisfied.

34. In view of the fact that the broadcasts of such conferences are not "regularly scheduled," within the Congressionally contemplated meaning of that term, we reaffirm our view that the broadcast coverage of Presidential press conferences is not exempt as a "bona fide news interview," within the meaning of Section 315(a)(2). We are not persuaded to alter this conclusion by the network's claim that Congressional concern with respect to news interview programs was primarily directed at the danger of such programs being "rigged" by some broadcaster at the local level to further the candidacy of a local candidate. The fact that there was concern with regard to locally originated broadcasts does not necessarily imply that Congress intended that a more permissive standard for exemption under Sec-

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[17] 105 Cong. Rec. 14444 (remarks on Sen. Magnuson).

[18] Aspen correctly notes that when Congress faced those risks, the fairness doctrine was enforced through the renewal process. Thus, a misuse of an exemption could not be corrected during the critical days of the political campaign. See 105 Cong. Rec. 17782 (remarks of Chairman Harris) (September 2, 1959). Since then, however, additional protection has been afforded candidates through prompt consideration of fairness and Section 315 complaints.

tion 315(a)(2) be used in connection with nationwide broadcasts, as CBS seems to suggest. Rather, the discussion of the danger of local broadcaster "rigging" of news interview programs appears in the legislative history merely as explanation for the need to include the words "bona fide" in the formulation of the subsection (a)(2) exemption. See 105 Cong. Rec. 17778 (September 2, 1959) (remarks of Representative Harris); 105 Cong. Rec. 17831 (September 3, 1959) (remarks of Senator Scott).

35. CBS errs when it states that "other Republican candidates may announce their candidacies within seven days of the press conference and demand "equal time." (Petition, p. 2 n. 1). Candidates seeking equal opportunities must have become legally qualified prior to the "use" in order to properly obtain the right provided by the statute. See, e.g., 47 CFR §§ 73.120(e), 73.657(e). Moreover, an early declaration of candidacy is irrelevant to whether or not news coverage of the candidate is exempt under Section 315. Although we recognize that the equal opportunity requirement offers a disincentive to live coverage of appearances by candidates, particularly in such a situation, we could not for that reason alone alter our prior rulings if the legislative history of Congressional intent indicated otherwise.

36. DNC argues that the continued effectiveness of Section 315 depends on its precise, indeed "mathematical" operation. Equal opportunity is required by law only after it is determined that a prior, non-exempt "use" has been made on a broadcast. Congress clearly intended that the Commission had ongoing authority to issue interpretive rulings and across-the-board rules to effectuate Section 315 exemptions. See H. Rep. No. 1069, 86th Cong., 1st Sess. 12, 13 (1959). Equal opportunity still is required when a "use" has been made. The rule will operate as precisely after this decision as before. Indeed, it will operate with greater clarity, and in accord with legislative intent. With respect to DNC's argument that Section 315 vested in candidates a right to broadcast after a Section 315 "use", we point out that Congress modified that right in 1959. At that time, it instructed the Commission to implement this modification. We have determined that the Commission, in 1962, misinterpreted Congressional intent, the result of which was an unsupported construction of the Section 315(a)(4) exemption. In this decision, we have sought to remedy that error of law. The "automatic and mathematical" precision described by DNC, *viz.*, an unwarranted narrow construction, was perhaps more convenient to administer. However, strict limits on the exemption cannot be justified if they undermine legislative intent.

37. DNC's assertion that "irreparable harm" will result to its 1976 candidate, or any candidate opposing an incumbent President, from live broadcast coverage of a Presidential press conference is speculative and conclusory. Free-wheeling, wide-open press conferences do not necessarily yield the kind of favorable publicity for the holder which DNC too easily assumes. Most of all, however, we believe that the intent of Congress was to pursue the "right of the public to be informed through broadcasts of political events." Supra, para 8. The fundamental concept which underscores this objective is that the continued vitality of a democratic society and its freedoms requires the "widest possible dissemination of information," Associated Press v. United States, 326 U.S. 1, 20 (1945), and that the broadcasters' role is to insure "that the American public must not be left uninformed." Green v. FCC, 447 F.2d 323, 329 (1973). We must always keep in mind that "speech concerning public affairs is more than self-expression; it is the essence of self-government." Garrison v. Louisiana, 379 U.S. 64, 74–75 (1964). We believe that the public's interest in "uninhibited, robust, wide-open" debate on public issues far outweighs the imagined advantages or disadvantages to a particular candidate. New York Times v. Sullivan, 376 U.S. 254, 270 (1964).

38. We reject the network's suggestion that we distinguish between press conferences called by an incumbent candidate in his official capacity and those called in furtherance of his candidacy. Such as approach would, necessarily place the Commission in the position of deciding, in each case, whether the appearance of the official is political or non-political. We have steadfastly eschewed making such determinations, because to draw such distinctions would require us to make subjective judgments concerning the content, context and potential political impact of a candidate's appearance. See Paulsen v. FCC, 491 F.2d 887, 890–91 (9th Cir. 1974).[38]

39. Finally, we reject the suggestion by CBS that, in determining whether press conferences are exempt, we consider the unique status of the Presidency and the inherent newsworthiness of Presidential communications with the public. It must be recognized that, although, it is reasonable to conclude that the President's unique status as Chief Executive makes his communications relative to major national and international events inherently newsworthy, it is equally as reasonable to conclude that, in any given state in the country, the Governor's unique status as chief executive of that state may well make similar communications concerning that state newsworthy for its citizens. In our view there is no rational distinction to be made between press conferences at one level or another, since no such distinction can be found within the legislative history of the 1959 Amendments, nor are there any persuasive indications that the Congress intended to distinguish between press conferences exempt at one level and those at another level of political offices which would not be exempt. Thus, routine presidential press conferences, as well as press conferences by governors, majors, and, indeed, any candidates whose press conferences are considered newsworthy and subject to on-the-spot coverage may be exempt from Section 315 under our interpretation.

40. Thus, for the reasons stated above, we today announce that in the future we will not follow our 1962 decisions in The Goodwill Station, Inc., and National Broadcasting Co. (Wyckoff), and we will thus permit on-the-spot coverage of appearances by candidates in the circumstances covered by those cases. See para. 10–11, *supra*. We also announce that we will no longer follow our 1964 CBS decision to the extent that it denies an exemption under Section 315(a)(4), for coverage of a press conference by a candidate for public office.[39]

[38] The Commission reviews only whether or not the broadcaster intends to promote the interest of a particular candidate in presenting coverage of a news event. Supra, paras. 22–26 and footnote 9 therein.

[39] We believe that MAP's contention that we may not accomplish this end through declaratory relief, supra, para. 20, to be without merit. Although the Commission may not adopt an interpretation which is inconsistent with a statutory term, it has freedom within the guidelines established to interpret the statute in light of its greater expertise. Cf. American Broadcasting Co. v. United States, 110 F. Supp 374 (EDNY), aff'd 347 U.S. 284 (1953). Furthermore, a regulatory agency is not wedded to its past decisions. FFC v. WOKO, Inc., 329 U.S. 223 (1946). When faced with new developments, or on further consideration of a policy, an agency may alter its past rulings and policies. American Trucking Ass'n v. A.T. & S.F. RR. Co., 387 U.S. 397, 416 (1967). When it reverses course, however, the agency must provide "an opinion or analysis indicating that the standard is being changed and not ignored and assuring that it is faithful and not indifferent to the rule of law." Columbia Broadcasting System, Inc. v. FCC, 454 F.2d 1018, 1026 (D.C. Cir. 1971). We have squarely confronted both the legal and policy issues specifically involved, and have articulated our reasons for the change. The choice between rulemaking and adjudicated decision-making is largely one of agency discretion. NLRB v. Bell Aerospace Co., 416 U.S. 267, 290–295 (1974); S.E.C. v. Chenery Corp., 332 U.S. 194, 202 (1947). Declaratory relief, in the form of an advisory ruling, is appropriate where, as here, the controversy concerns the correctness of a Commission's interpretation of law. As we point out herein, the Commission's decisions in 1962 and 1964 as to the on-the-spot coverage of bona fide news event relied upon a mistaken interpretation of law. See para. 22–26 herein. This error of law cannot stand as the proper view in the future. Thus, a prompt prospective application of new policy, which is entailed by correction of legal error is properly within the context of a declaratory ruling. Cf. N.L.R.B. v. Majestic Weaving Co., 335 F.2d 854, 860 (2d Cir. 1966). Furthermore, this action is consistent with Congress's intent that the Commission had ongoing authority to make decisions on a case-by-case or by rules in interpreting the exemptions. See Sen. Rep. No. 562, 86th Cong., 1st Sess. 12, 13 (1959); Cf. N.L.R.B. v. Wyman-Gordon Co., 394 U.S. 759, 764 (1969). We believe our rulings will resolve these legal issues well in advance of the 1976 election year, are essential to promote the purposes of the 1959 Amendments to Secion 315, and will clarify their interpretation for candidates, licensees, and the Commission staff. Hence, we are not persuaded that our discretion to issue declaratory orders is so limited.

As we said above, the undue stifling of broadcast coverage of news events involving candidates for public office has been unfortunate, and we believe this remedy will go a long way toward ameliorating the paucity of coverage accorded these news events during the past fifteen years.

41. Accordingly, *it is ordered*, That the petitions of the Aspen Institute Program on Communications and Society and of CBS, Inc., are granted in part and denied in part, to the extent indicated above.

Adopted: September 25, 1975.

Released: September 30, 1975.

FEDERAL COMMUNICATIONS COMMISSION,[21]
[SEAL] VINCENT J. MULLINS,
Secretary.

[FR Doc.75-30028 Filed 11-6-75;8:45 am]

COMMON CARRIER SERVICES INFORMATION[1]

Re: Domestic Public Radio Services Applications Accepted for Filing[2]

NOVEMBER 3, 1975.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix below if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20593-CD-MP-76, Richard F. Blyler dba Lebanon MobileFone (KSV940), Modification of CP to change antenna system operating on 454.025 & 454.075 MHz. located on Sand Hill Rd., 2.75 miles N. of Lebanon, Pennsylvania.

20709-CD-P-(2)-76, Southwest Communications Corporation (KUS269), C.P. to change antenna system operating on 454.150 & 454.250 MHz. located on Crego Hill, approximately 9 miles SW of Chehalis, Washington.

20710-CD-P-76, Tel-Illinois, Inc. (new), C.P. for a new 2-way station to operate on 152.03 MHz to be located at S edge of Indian Hills Country Club, Mt. Vernon, Illinois.

20711-CD-P-(3)-76, Tel-Illinois, Inc. (new), C.P. for a new 2-way station to operate on 152.09, 152.18 & 152.21 MHz to be located at 1811 15th Street Place, Moline, Illinois.

20712-CD-TC-76, Central Telephone Co., Inc. Consent to Transfer of Control from Stockholders of Mid-Texas Communications Systems, Inc., TRANSFERORS to Central Telephone and Utilities Corporation, TRANSFEREE. Station: KLB325, Decatur, Texas.

20713-CD-TC-76, Clifton Telephone Co. Consent to Transfer of Control from Stockholders of Mid-Texas Communications Systems, Inc., Transferors to Central Telephone and Utilities Corporation, Transferee. Station: KLB579, Clifton, Texas.

20714-CD-TC-(2)-76, Mid-Texas Telephone Co. Consent to Transfer of Control from Stockholders of Mid-Texas Communications Systems, Inc., Transferors to Central Telephone and Utilities Corporation, transferee. Stations: KUC998, Killeen, Texas, and KLB616, Harker Heights, Texas.

20715-CD-P-76, Mobilefone Northwest (KOF918), C.P. for additional facilities to operate on 152.18 MHz at Loc. #3: Badger Mountain, 7 miles N.W. of Wenatchee, Washington.

20716-CD-P-76, Fresno Mobile Radio, Inc. (KMA830), C.P. for developmental facilities to operate on 152.165 MHz at Loc. #1: Alder Springs, 30 miles NE of Fresno, California.

20717CD-AP-76, John D. Gould dba Sioux Communications Company. Consent to Assignment of CP from Sioux Communications Company, Transferor to John N. Farrington d.b.a. Spencer Mobilephone.

20718-CD-P-76, American Radio-Telephone Service, Inc. (KGA249), C.P. for additional facilities to operate on 152.18 MHz at a new site described as Loc. #2: Northside of Gillis Rd., 1500' West of Woodbind Road, Winfield, Maryland.

20719-CD-P-76, Mobilphone-Paging Radio Corporation (KRS653), C.P. for additional control facilities to operate on 72.64 MHz at Loc. #1: Falmouth Street, 300 yds. from Ashby Street, Johnston, Rhode Island.

20720-CD-P-76, Hawkins Communications, Inc. (new), C.P. for a new 1-way station to operate on 43.22 MHz to be located 1.6 miles SE of Westminster, Maryland.

RURAL RADIO SERVICE

60205-CR-P/L-76, Fresno Mobile Radio, Inc. (new), C.P. for developmental facilities to operate on 158.625 MHz to be located at any temporary-fixed location within the territory of the grantee.

946-CF-R-76, Michigan Bell Telephone and Telegraph Company (KKU73), Location: In any temporary fixed location within the territory of the Grantee. Application for Renewal of Radio Station License (Developmental) expiring November 12, 1975. Term: November 12, 1975 to November 12, 1976.

1184-CF-P-76, The Bell Telephone and Telegraph Company of Pennsylvania (KYJ36), 210 Pine Street, Harrisburg, Pennsylvania. Lat. 40°15'44" N. Long. 76°53'07" W. C.P. to add frequency 6197.2H MHz toward Peters Mountain, Pennsylvania on azimuth 342.8°.

1185-CF-P-76, (WJM40), 2.8 Miles NNW of Dauphin, Pennsylvania Lat. 40°24'28"N Long. 76°56'39" W. C.P. to add frequencies 5945.2V MHz toward Harrisburg, Pennsylvania on azimuth 162.8°, and 5945.2V MHz toward Trevorton, Pennsylvania on azimuth 25.9°.

1186-CF-P-76, Same (WLJ56), 2.1 Miles SW of Trevorton, Pennsylvania. Lat. 40°45'46" N. Long. 76°43'04'W. C.P. to add frequencies 6197.2H MHz toward Peters Mountain, Pennsylvania on azimuth 206°, and 6197.2V MHz toward Tiadaghton, Pennsylvania on azimuth 342.1°.

1187-CF-P-76, Same (WLJ57), Tiadaghton, 1.9 Miles South of Montoursville, Pennsylvania. Lat. 41°13'01"N. Long. 76°54'45" W. C.P. to add frequencies 5945.2H MHz toward Trevorton, Pennsylvania on azimuth 161.9°, and 10995.0V 11075.0V MHz toward Williamsport, Pennsylvania on azimuth 287.8°.

1188-CF-P-76, Same (WLJ58), 404 W. 4th Street, Williamsport, Pennsylvania. Lat. 41°14'25"N. Long. 77°00'33"W. C.P. to add frequencies 11525.0H and 11605.0H MHz toward Tiadaghton, Pennsylvania on azimuth 107.7°.

2122-CF-TC-(7)-76, Telephone Utilities Services Corp. Consent to Transfer of Control from Telephone Utilities Services Corp., Transferor, to Central Telephone and Utilities Corp., Transferee, for stations KLV63-Jonesboro, TX; KLV64-Copperas Cove, TX; KLV65-Walnut Springs, TX; KRW84-Nix, TX; KRW85-Belton, TX; WIV72-Taylor, TX; WAS495-Oak Hill, TX.

1142-CF-MP-76, American Television & Communications. (WAT981), 1.0 Mile North of Reidsville, North Carolina. Lat. 36°23'17" N. Long. 79°39'11"W. C.P. to add 5974.8H MHz toward Burlington, North Carolina.

1171-CF-MP-76, Eastern Microwave, Inc. (KCK71), Beech Hill, 7.0 Miles E of Marlboro, New Hampshire. C.P. to add 6241.7H MHz & 6301.6H MHz toward Mt. Greylock, Massachusetts.

(Note: Waiver of 21.701(i) requested by Eastern Microwave, Inc.).

1147-CF-MP-76, RCA Global Communications, Inc. (WAH584), 60 Broad Street, New York City, New York. Lat 40°42'19"N. Long. 74°00'44"W. C.P. to add 6404.8V MHz toward Edison, New York.

1148-CF-MP-76, Same. (WAH586), Edison, New Jersey. Lat. 40°31'45"N. Long. 74°23' 34"W. C.P. to add 6004.5H MHz toward New York, New York; 6093.5H MHz toward Lawrence, New Jersey.

1149-CF-MP-76, Same. (WAS464), Lawrence, New Jersey. Lat. 40°17'00" N. Long. 74°41'20" W. C.P. to add 6197.2V MHz toward Edison, New Jersey; 6197.2V MHz toward Wyndmoor, Pennsylvania.

1150-CF-MP-76, Same. (WAH588), Wyndmoor, Pennsylvania. Lat. 40°04'58"N. Long. 75°10'54"W. C.P. to add 6093.5H MHz to-

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[21] By the Commission: Commissioner Lee and Hooks dissenting and issuing statements; Commissioner Quello issuing a statement in which Commissioner Robinson joins; Commissioners Washburn and Robinson issuing separate statements which are filed as a part of the original document.

[1] All applications listed in the appendix below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).

ward Lawrence, New Jersey; 10895.0H MHz toward Valley Forge, Pennsylvania.

1158-CF-MP-76, Microwave Transmission Corporation. (KNK60), Cuesta Ridge, 5.5 Miles North of San Luis Obispo, California. Lat. 35°21'37"N. Long. 120°39'18"W. C.P. to add 6152.8H MHz toward San Luis Obispo, Calif.; Paso Robles, Calif.; Arroyo Grande, Calif.; and Morro Bay, Calif.

1172-CF-MP-76, Eastern Microwave, Inc. KCL72), Mt. Greylock, 2.0 Miles NW of Adams, Massachusetts. Lat. 42°38'14"N. Long. 73°10'47"W. C.P. to add 5945.2V MHz and 6063.8V MHz toward Helderberg Mt., New York.

1173-CF-P-76, Lincoln Telephone and Telegraph Company. (KBH86), Lincoln, Nebraska. Lat. 40°48'42"N. Long. 96°41'58"W. C.P. to add 6108.3H MHz toward Mead ETV, Nebraska.

1178-CF-P-76, Mid-Kansas, Inc. (new), .5 Mile East of Larned, Kansas. Lat. 38°10'50" N. Long. 99°04'17"W. C.P. for a new station on 6212.0H MHz toward Kinsley, Kansas.

1179-CF-P-76, Same. (new), 2.0 Miles North of Kingsley, Kansas. Lat. 37°57'29"N. Long. 99 25 44 W. C.P. for a new station on 5945.2V MHz toward Greensburg, Kansas.

1180-CF-P-76, Same. (NEW) 1.25 Miles N. of Greensburg, Kansas. Lat. 37°38'00"N. Long. 99°17'42"W. C.P. for a new station on 6241.7H MHz toward Pratt, Kansas.

APPLICATIONS ACCEPTED FOR FILING:

POINT TO POINT MICROWAVE RADIO SERVICE:

1181-CF-P-76, American Telephone & Telegraph Company. (KGJ), Germantown, Maryland. Lat. 39°10'33" N. Long. 77°15' 27" W. C.P. to add 4050.0V MHz toward Garden City, Virginia.

1182-CF-P-72, Same. (KIB27), Garden City, Virginia. Lat. 38°53'45" N. Long. 77°08'07" W. C.P. to add 4090.0H MHz toward Washington, D.C.; and 4170.0V MHz toward Germantown, Maryland.

1183-CF-P-76, Same. (KGH27), Washington, D.C. Lat. 38°53'57" N. Long. 77°01'45" W. C.P. to add 4130.0H MHz toward Garden City, Virginia.

1189-CF-P-76, Western Tele-Communications, Inc. (KPT21), Nelson Peak, 18.0 Miles SW of Salt Lake City, Utah. Lat. 40°36'28" N. Long. 112°09'27" W. C.P. to add 6271.3V MHz, 6301.3H MHz, 6330.7V MHz, & 6360.3H, via power split, toward New Promontory, Utah.

1190-CF-P-76, Same. (KOC422, New Promontory, 20.0 Miles West of Tremonton, Utah. Lat. 41°45'10" N. Long. 112°33'00" W. C.P. to add 5945.2H MHz, 6004.5H MHz, 6063.8H MHz and 6123.1H MHz toward Pilot Range, Utah.

1193-CF-P-76, Sierra Microwave, Inc. (KOV62), Elko Mtn., 8.0 Miles NE NE of Elko, Nevada. Lat. 40°53'41" N. Long. 115° 37'42" W. C.P. to replace transmitters and add 6226.9H MHz, 6286.2H MHz, 6345.5H MHz & 6197.2V MHz toward Elko, Nevada.

1191-CF-P-76, Same. (WIV40), Pilot Range, 7.0 Miles SW of Lucin, Utah. Lat. 41°17' 35" N. Long. 114°00'34" W. C.P. to add 6197.2V MHz, 6256.5V MHz, 6315.9V MHz and 6375.2V MHz toward New Wells, Nevada.

1192-CF-P-76, Same. (WHB20), New Wells, 6.0 Miles N of Wells, Nevada. Lat. 41°11' 52" N. Long. 114°56'33" W. C.P. to replace transmitters and add 5974.8H MHz, 6004.5V MHz, 6034.2H MHz & 6093.5H MHz toward Elko Mtn., Nevada; and add 5974.8V MHz, 6004.5H MHz, 6034.2V MHz & 6093.5V MHz toward Wells, Nevada.

[FR Doc.75-30030 Filed 11-6-75;8:45 am]

[Docket No. 20402]

TELEVISION PROGRAM PRODUCT AND PROGRAMMING

Policies and Procedures; Order Extending Time

In the matter of inquiry into policies and practices concerning the exclusive purchase of television program product and the ability of conventional television stations, subscription television stations, cable television systems, and subscription cable television operations to obtain programming, Docket No. 20402.

1. On March 20, 1975, the Commission issued a "Notice of Inquiry" in the above-captioned proceeding.[1] The original deadlines for filing comments and reply comments were September 26, 1975, and October 30, 1975, respectively. At the request of the National Cable Television Association, Inc., these deadlines have been extended to November 10, 1975, and December 15, 1975, respectively.

2. On October 29, 1975, Paramount Pictures Corporation (Paramount) filed a "Motion for Extension of Time to File Comments and Reply Comments" pursuant to § 1.46 of the Commission's rules. The motion of Paramount requests that the Commission further extend the dates for filing comments and reply comments in Docket 20402 to December 1, 1975, and January 12, 1976, respectively.

3. Paramount states that the extension it requests will allow parties in this proceeding sufficient time to analyze and comment upon the record of the 1975 hearings before the Senate Subcommittee on Antitrust and Monopoly, Committee on the Judiciary, which will be available in about one week. The record of these hearings, states Paramount, contains material relevant to the Commission's inquiry, and prior access to this document will be particularly helpful to all parties in preparing their comments in this proceeding.

4. The deadlines for filing comments in this proceeding were previously extended in order to afford parties an opportunity to comment upon the hearing record of the Senate Subcommittee on Antitrust and Monopoly. Because comment upon this material may be useful to the Commission, a grant of the extension requested by Paramount appears to be in the public interest. However, the public interest also favors expeditious handling of the Commission's inquiry in Docket 20402. Therefore, additional extensions of time based upon further delays in the printing of the subject hearing record are not anticipated.

Accordingly, it is ordered, That the dates for filing comments and reply comments in the captioned proceeding are extended to December 1, 1975, and January 12, 1976, respectively.

This action is taken by the Chief, Cable Television Bureau pursuant to authority delegated by § 0.288(a) of the Commission's rules.

Adopted and released: November 3, 1975.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] DAVID D. KINLEY,
Chief, Cable Television Bureau.

[FR Doc.75-30029 Filed 11-6-75;8:45 am]

[1] See issue of Friday, October 3, 1975 at page 45873.

FEDERAL DEPOSIT INSURANCE CORPORATION

PRIVACY ACT OF 1974

Notice of Additional Systems of Records

Correction

In FR Doc. 75-28498, appearing on page 49935 in the issue of Friday, October 24, 1975, the following changes should be made:

1. In the second line under System location the zip code "20409" should read "20429".

2. In the third line under System location the word "of" should read "or".

3. The fifth line under Routine uses of records reading "credit institutions for loan and credit purposes (solely to verify the" should read "credit institutions for loan and credit reference purposes (solely to verify the".

4. In the second line under System manager(s) and address the zip code "20409" should read "20429".

FEDERAL HOME LOAN BANK BOARD

[No. AC-2]

AMERICAN SAVINGS & LOAN ASSOCIATION OF FLORIDA

Approval of Conversion

Notice is hereby given that on November 3, 1975, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 75-992, approved the application of American Savings & Loan Association of Florida, Miami Beach, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretary of said Corporation, 320 First Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, 260 Peachtree Street, NW., Atlanta, Georgia 30303.

Dated: November 3, 1975.

By the Federal Home Loan Bank Board.

[SEAL] J. J. FINN,
Secretary.

[FR Doc.75-30052 Filed 11-6-75;8:45 am]

FEDERAL MARITIME COMMISSION

ALABAMA STATE DOCKS DEPARTMENT AND JAFFE CORP., INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to

section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 27, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Mr. C. D. Haig, Jr., General Traffic Manager, Alabama State Docks Department, P.O. Box 1588, Mobile, Alabama 36601.

Agreement No. T-3181, between Alabama State Docks Department (ASD) and Jaffe Corporation, Inc. (Jaffe), provides for the ten-year lease (with options to renew) by ASD to Jaffe of certain premises located on the Tennessee River. In addition to the premises ASD shall grant the right to use the canal adjacent to the leased premises and to construct and maintain barge loading and mooring facilities subject to provisions set forth in the agreement. The premises shall be used as a ferrous and nonferrous scrap processing plant and storage facility and a coal handling facility. As compensation, ASD shall receive $42,500 as rental for the initial term of the agreement. Jaffe shall pay as wharfage: (1) 23 cents per ton for new and scrap ferrous and nonferrous metals moving over the premises; and (2) 15 cents per ton for coal moving over the premises during any calendar month up to 15,000 tons and 10 cents per ton in excess of 15,000 tons. In addition, Jaffe shall pay $4.50 for each loaded car of new and scrap ferrous and nonferrous metals and/or coal moved over ASD's railroad tracks. Jaffe guarantees a minimum total payment or $5,520 each year and to move a minimum 24,000 tons of metals and coal through the processing plant and facility during each year.

By Order of the Federal Maritime Commission.

Dated: November 3, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-30058 Filed 11-6-75;8:45 am]

BAILMENT AGREEMENT: OKINAWA

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 27, 1975. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

Gary R. Edwards, Esq., Ragan & Mason, The Farragut Building, 900 Seventeenth Street NW., Washington, D.C. 20006.

Agreement No. 10189, entered into by the United States Government, American President Lines, Sea-Land Service, Inc. and States Steamship Co., provides for the establishment of a cooperative working arrangement whereby the United States Government, in conjunction with performing all drayage of the containers of the above ocean carriers within Okinawa, agrees to furnish space within the Military Port terminal for the use of said carriers. The agreement is for the purpose of:

(1) Defining the Government's liability for loss of or damage to the carrier's container or trailer while it is in the possession of the Government or its contractors or agents;

(2) Establishing the amount of free time allowed the government for retention of the carrier's container or trailer, without charge;

(3) Establishing a detention rate payable to the carrier when the government fails to return containers or trailers within the specified free time;

(4) Establishing the ratio of trailers to the number of containers to be positioned or made available at the terminal;

(5) Establishing the carrier's responsibilities for movement of vans from the ship yard to the Container Yard and for Container Yard maintenance; and

(6) Establishing procedures for handling commercial cargo.

By order of the Federal Maritime Commission.

Dated: November 4, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-30055 Filed 11-6-75;8:45 am]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916, (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Rebel Forwarding, Inc., 2945 Columbia Street, Torrance, California 90503. Officers: Billy D. Greek, President, Anna L. Cardwell, Vice President, Susan A. Raef, Secretary/Treasurer.

Angel Osvaldo Diez, 4471 N.W. 36th Street, Miami Springs, Florida 33166.

Air, Land & Sea, Inc., 9561 W. Berwyn Avenue, Rosemont, Illinois 60018. Officers: Walter Leonartowicz, President/Treasurer, F. E. Tomaszewski, Vice President/Secretary.

Khawaja Mahmoudali Razavi d/b/a, Quickways Travel & Tours, 412 West 6th Street, Suite No. 1019, Los Angeles, California 90014.

John W. Newton, Jr., 470 Orleans Street, Suite 601, Beaumont, Texas 77704. Officers: John W. Newton, Jr., Owner/President, Roger A. Chilton, Manager/Vice President.

Antonio S. Jimmy, 2505 Champlain Street NW., Apt. 2, Washington, D.C. 20009.

Silver Arrow Transport Systems, Inc. d/b/a The Caran Transport Group, 993 U.S. Highways 1 and 9, Iselin, New Jersey 08830. Officer: Frank E. Caran, President.

Sea Cargo Systems, 9815 W. Leland Avenue, Schiller Park, Illinois 60176. Partnership: Matilde P. Diamond, Rayond B. Countryman.

Associated Air Freight, Inc., 167-16 146 Avenue, Jamaica, New York 11434. Officers: Norman Freeman, President, Anne Free-

man, Vice President, Harold Freeman, Secretary/Treasurer.
Albert J. Redihammer, 2637 Casablanca Drive, Miramar, Florida 33023.
Ronald D. Stribling d/b/a Ronald D. Stribling Co., 10312 N.E. Marx Street, Portland, Oregon 97220.
J. M. Pietri Assoc., Inc. Chase Manhattan Building, Suite 701, P.O. Box 2928, Old San Juan, Puerto Rico 00903. Officers: Jose M. Pietri, President, Amparo S. de Pietri, Secretary, Ivette E. Pietri, Treasurer, Jose A. Roman, Vice President.
Frank Reyes (Customhouse Broker), Houston First Savings Building, 711 Fannin Suite 808, Houston, Texas 77002.
Jose G. Florez Alvarez, P.O. Box S-2695, Calle Comercio No. 400, San Juan, Puerto Rico 00903.
Societe Commerciale D'Affretements Et De Combustibles, Inc., 405 Lexington Avenue, Room 4321, New York, New York 10017. Officers: Robert Desneiges, President, Jean-Claude Mouton, Secretary/Treasurer, William Rand, Assistant Secretary.
Efrain A. Tubens d/b/a Albens International Forwarders, Box 59-3181, Airport Mail Facilities, AMF Miami, Florida 33159.

By the Federal Maritime Commission.

Dated: November 3, 1975.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-30037 Filed 11-6-75;8:45 am]

[Exemption No. 18]

PUGET SOUND TUG AND BARGE CO., ET AL.

Intent To Make an Environmental Assessment

In the matter of: Puget Sound Tug and Barge Co., Exemption No. 19; Alaska Barge & Transport, Inc., Exemption No. 20; Foss Launch and Tug Co., and Foss Alaska Line, Inc.

The above referenced applications are for a three year exemption from the provisions of the Shipping Act, 1916 and Intercoastal Shipping Act, 1933 for the transport of general cargo between ports in the contiguous continental United States and Prudhoe Bay, Alaska, by the direct all-water barge service of Puget Sound Tug and Barge Company, Foss Launch and Tug, Foss Alaska Line and Alaska Barge and Transport, Inc. The exemption period of three years would commence January 1, 1976.

The Commission believes that its final resolution of the issues in this proceeding may constitute a major Federal action significantly affecting the quality of the human environment. Consequently, the environmental factors involved warrant consideration and evaluation before decision making is undertaken.

Therefore, notice is hereby given that the Federal Maritime Commission intends to make an environmental assessment to determine whether its final decision in this proceeding will constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA). Written comments regarding possible environmental effects which may occur from the eventual resolution of the proceeding are invited. Such comments should be submitted within 30 days of the date of this Order to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.75-30058 Filed 11-6-75;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. ER76-153]

ALABAMA POWER CO.

Tariff Filing

OCTOBER 31, 1975.

Take notice that on September 29, 1975, Alabama Power Company (Alabama) filed herein as a part of its FPC electric tariff, an executed service agreement dated August 5, 1975, with the City of Evergreen, Alabama.

In connection with the filing of the above service agreement, Alabama states as follows:

The Company will serve the electrical requirements of the #3 delivery point of The City of Evergreen, pursuant to such tariff as amended by the Company's filing with this Commission on June 17, 1974, submitting Revision No. 1—Rate Schedule MUN-1 to the Commission for approval. The City of Evergreen #3 delivery point was previously served under FPC Rate Schedule No. 124; however, pursuant to a provision in such rate schedule, the Company has been charging the rates contained in Revision No. 1—Rate Schedule MUN-1 since September 12, 1974, in accordance with an order of the Commission dated September 12, 1974, in FPC Docket E-8851. The #3 delivery point of The City of Evergreen will be served pursuant to FPC Electric Tariff, Original Volume No. 1, of Alabama Power Company and under Revision No. 1, Rate Schedule MUN-1 incorporated in such tariff as allowed to become effective by this Commission, subject to refund, in its order in FPC Docket No. E-8851, issued September 12, 1974.

Alabama further states that a copy of this filing was mailed to the City of Evergreen and to its attorneys of record in FPC Docket No. E-8851.

Any person desiring to be heard or to make protest with reference to said filing should file a petition to intervene or protest with the Federal Power Commission 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 20, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29970 Filed 11-6-75;8:45 am]

[Docket No. RP76-10]

ARKANSAS LOUISIANA GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Intervention and Establishing Procedures

OCTOBER 31, 1975.

On September 15, 1975, Arkansas Louisiana Gas Company (Arkla) tendered for filing proposed changes in its FPC Gas Tariff Original Volume No. 3 [1] for service to Cities Service Gas Company (Cities) under Arkla's FPC Rate Schedule X-26. By these revised tariff sheets, Arkla seeks to increase its rates to Cities from 24.27¢ per Mcf to 55.64¢ per Mcf and to include a new purchased gas cost adjustment clause for this service to Cities. Arkla's cost of service is based on costs for the twelve months ended June 30, 1975, as adjusted for claimed known and measurable changes through March 31, 1976. Arkla requests that these tariff sheets be made effective November 1, 1975.

Notice of Arkla's filing was issued September 19, 1975, with protests or petitions to intervene due on or before October 6, 1975. Cities filed a timely petition to intervene.

Our review of Arkla's proposed rate increase indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. We shall accordingly accept Third Revised Sheet No. 185 and First Revised Sheet No. 186 (the tariff sheets providing for the increase to 55.64¢ per Mcf) for filing and suspend them for five months, or until April 1, 1976, when they will be permitted to become effective, subject to refund pending hearings and decision as to the justness and reasonableness of the proposed rates. We shall accept the tariff sheets containing the proposed PGA clause for filing and suspend them for one day, when they will be permitted to become effective, subject to refund, pending hearing and decision as to the justness and reasonableness of the rates contained therein.

Without limiting the rights of the parties in their presentations at the hearing hereinafter ordered, we direct the parties, including our Staff to give careful consideration to the claimed increases in operating expenses, including labor and materials and supplies, the claimed overall rate of return of 12.23 percent, reflecting a return on equity of 15.32 percent, and Arkla's classification and allocation of costs.

With regard to the proposed purchased gas cost adjustment clause, we note that Arkla claims herein an average cost of 26.03¢ per Mcf, while in supporting the PGA adjustment for its Rate Schedule G-2, it claims an average cost of 28.22¢ per Mcf in its filing of September 26, 1975 in RP74-61 PGA76-1. The PGA clause for G-2 service was approved by order issued February 22, 1974 in Docket No. RP74-61.

[1] Third Revised Sheet No. 185; First Revised Sheet Nos. 186, 187, 188; and Original Sheet Nos. 188-A, 188-B, and 188-C.

In the instant docket, Arkla excludes the cost of its own production from the operation of its PGA clause, seeking waiver of section 154.38 of the Commission's Regulations. Under these circumstances, we shall institute a separate investigation of these matters. Specifically, we shall investigate the PGA clause herein under section 4 of the Natural Gas Act and the prior approved PGA clause for Rate Schedule G–2 under section 5 of the Act together to determine the reasons for the discrepancy between the average cost of purchased gas in these different rate schedules, the propriety of excluding Arkla's own production from its clause under Rate Schedule X–26, and any appropriate modifications necessary to assure that both clauses are just and reasonable. For purposes of hearing and decision, this investigation shall be in a phase separate and apart (RP76–10 (PGA)) from the investigation of the increased rates proposed herein for service to Cities.

The Commission finds. (1) Good cause exists to accept Arkla's revised tariff sheets containing the proposed increased rates for service to Cities for filing and suspend them for five months, or until April 1, 1975, when they will be permitted to become effective, subject to refund.

(2) Good cause exists to accept Arkla's tariff sheets containing its proposed PGA clause for filing and suspend them for one day, when they will be permitted to become effective, subject to refund.

(3) Good cause exists to institute an investigation pursuant to Section 5 of the Natural Gas Act into the justness and reasonableness of the PGA provisions contained in Arkla's Rate Schedule G–2.

The Commission orders. (A) Pending hearing and decision as to the lawfulness of the increased rates proposed herein, the revised tariff sheets filed by Arkla containing the proposed increased rates for service to Cities are hereby accepted for filing and suspended for five months, until April 1, 1976, when they will be permitted to become effective, subject to refund, in the manner provided by the Natural Gas Act.

(B) Pending hearing and decision as to the lawfulness of the PGA clause contained herein the tariff sheets containing such clause are hereby accepted for filing and suspended for one day, when they will be permitted to become effective, subject to refund, in the manner provided by the Natural Gas Act.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on March 23, 1976, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the lawfulness of the rate increase to Cities service proposed herein.

(D) On or before February 13, 1976, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of the intervenor shall be served on or before February 27, 1976. Any rebuttal evidence by the Company shall be served on or before March 12, 1976.

(E) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Chapter I), we hereby institute an investigation separate and apart (RP76–10 (PGA)) from the hearing ordered in (C), supra, to determine the justness and reasonableness of the PGA clause herein proposed and the PGA clause contained in Arkla's Rate Schedule G–2, with a public hearing to commence in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on February 10, 1976.

(F) Arkla shall present its direct testimony and exhibits for Docket No. RP76–10 (PGA) on or before December 2, 1975. Prepared testimony and exhibits of the Commission Staff shall be served on or before January 6, 1976. Intervenor testimony and exhibits shall be filed on or before January 20, 1976. Arkla shall file its rebuttal on or before February 3, 1976.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearings in this proceeding, shall preserve relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(H) The above mentioned petitioner is hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* that the participation of such intervenor shall be limited to matters affecting the rights and interests specifically set forth in its petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any other or orders issued by the Commission in this proceeding.

(I) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.8 of the Commission's rules of practice and procedure.

(J) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29971 Filed 11-6-75;8:45 am.]

[Docket No. RP76–18]

ARKANSAS LOUISIANA GAS CO.

Order Accepting for Filing and Suspending Proposed Rate Increase, Granting Intervention and Establishing Procedures

OCTOBER 31, 1975.

On October 1, 1975, Arkansas Louisiana Gas Company (Arkla) tendered for filing a proposed change in rates for transportation service to Arkansas-Missouri Power Company.[1] The proposed change would increase the transportation rate from 3.56¢ per Mcf to 18.58¢ per Mcf, Arkla's claimed systemwide cost of service transportation rate based on the 12 months ended June 30, 1975, as adjusted for known and measurable changes through March 31, 1976. Arkla proposes to make this rate change effective November 1, 1975.

Notice of the proposed increase was issued October 6, 1975, with protests or petitions to intervene due on or before October 20, 1975. Arkansas-Missouri Power Company (Ark-Mo) filed a timely protest and petition to intervene, requesting a hearing and a five month suspension.

Our review of Arkla's proposed increased rates reveals that they have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we shall accept Arkla's tariff sheets for filing and suspend them for five months, when they will be permitted to become effective, subject to refund.

Without limiting the rights of the parties in their evidentiary presentations, we direct the parties, including our Staff, to give careful consideration in their evidentiary presentations to the propriety of charging Ark-Mo on the basis of system-wide transportation and storage costs, the claimed increases in wages and employee benefits, materials and supplies expenses, and the claimed overall return of 12.23 percent, including a return on equity of 15.32 percent.

The Commission finds. (1) Good cause exists to accept Arkla's revised tariff sheets for filing and suspend them for five months, or until April 1, 1975, when they will be permitted to become effective, subject to refund.

(2) Good cause exists to permit Ark-Mo to intervene.

The Commission orders. (A) Pending hearing and decision as to the lawfulness of the increased rates proposed herein, the revised tariff sheets filed by Arkla are hereby accepted for filing and suspended for five months, until April 1, 1976, when they will be permitted to become effective, subject to refund, in the manner provided by the Natural Gas Act.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections

[1] Second Revised Sheet No. 44 and First Revised Sheet No. 47 to First Revised Volume No. 2 of its FPC Gas Tariff.

4 and 5 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held on March 30, 1976, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, classification, and services contained in Arkla's FPC Gas Tariff, as proposed to be amended herein.

(C) On or before February 18, 1976, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of the intervenor shall be served on or before March 9, 1976. Any rebuttal evidence by the Company shall be served on or before March 23, 1976.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See delegation of authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall preserve relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(E) The above mentioned petitioner is hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting the rights and interests specifically set forth in its petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc. 75-29972. Filed 11-6-75; 8:45 a.m.]

[Docket No. RI74-144]

AZTEC OIL AND GAS CO.

Extension of Procedural Dates

OCTOBER 30, 1975.

On October 20, 1975, Aztec Oil and Gas Company filed a motion to establish a settlement conference and to defer procedural dates set by order issued September 9, 1975, as most recently extended by notice issued October 3, 1975, pending review at the settlement conference.

Notice is hereby given that a settlement conference will convene on November 10, 1975 at 2 p.m. at the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426.

The procedural dates in the above proceeding are modified as follows:

Service of Company Testimony, November 28, 1975.
Service of Staff Testimony, December 18, 1975.
Service of Intervenor Testimony, January 5, 1976.
Service of Rebuttal Testimony, January 23, 1976.
Hearing, January 30, 1976 (10 a.m. e.s.t.)

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29983 Filed 11-6-75;8:45 am]

[Docket No. ER76-157]

CAMBRIDGE ELECTRIC LIGHT CO.

Order Accepting for Filing, Denying Motion To Reject, Suspending Proposed Rate Change, Granting Intervention, Providing for Hearing and Establishing Procedures

OCTOBER 31, 1975.

Cambridge Electric Light Company (Cambridge) submitted for filing on October 1, 1975, a proposed change in its Rate Schedule FPC No. 26 as supplemented governing its sale for resale of electric energy to the Town of Belmont, Massachusetts (Belmont). Cambridge's filing consisted of a proposed Rate RS-2 with an accompanying unexecuted Service Agreement. Cambridge presently serves Belmont under Rate RS-1, which is being collected subject to refund in Docket Nos. E-8949, et al. Cambridge notes that proposed Rate RS-2 will supersede settlement rates in Docket Nos. E-8445 and E-8949, which were approved for settlement purposes by Commission Order issued September 22, 1975. The Order requires Cambridge to file its settlement rate schedule on or before October 22, 1975. In its filing, Cambridge states that the proposed rate will result in increased revenues from Belmont of approximately $200,397 (7.5 percent) annually, based on the 12-month test period ending June 30, 1975.

In support of its proposed rate increase, Cambridge points out that its revised Rate Schedule FPC No. 26, as approved by the Commission for settlement, was based on a 1973 test year. Based on the 12-month test period ending June 30, 1975, however, Cambridge avers that the settlement rate would produce an overall rate of return of 3.31 percent from service to Belmont, which Cambridge terms inadequate. Under the proposed Rate RS-2, Cambridge states that the realized rate of return would be 7.20 percent.

The settlement agreement in Docket Nos. E-8445 and E-8949 contains a moratorium provision[1] which prohibits Cambridge from petitioning for any increase in rates to Belmont which would become effective prior to April 1, 1976. Therefore, although the proposed effective date of the instant submittal is November 1, 1975, Cambridge requests a five-month suspension of the increase until April 1, 1976.

Notice of Cambridge's filing was issued on October 8, 1975, with comments due on or before October 24, 1975. A Protest, Petition to Intervene and Motion to Reject was filed October 24 by The Municipal Light Department of Belmont, Massachusetts (Belmont). In the event the Commission does not reject Cambridge's filing, Belmont requests that the Commission suspend the proposed revised rate schedule for five months, as proposed by Cambridge.

Belmont asserts that Cambridge: has incorrectly included in its rate base its equity investment in nuclear plants and those items relating solely to its steam operations; has failed to adjust other expenses associated with its steam operations; has attempted to charge Belmont for transmission facilities on the basis of specific segments rather than on a rolled-in, integral basis; and has included in its expenses assigned to Belmont $30,000 for expenses incurred in previous rate filings.

The assertions made in Belmont's motion do not constitute grounds for rejection of Cambridge's filing but are instead issues which should be addressed in an evidentiary proceeding as established herein.

We have reviewed the proposed Rate RS-2 filed by Cambridge and have concluded that the proposed rate has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Therefore, we shall accept for filing Cambridge's proposed rate change and suspend it for five months until April 1, 1976, when it shall become effective subject to refund, and established hearing procedures.

Without limiting the rights of the parties, including Staff, in presenting such further evidence as they deem relevant and material, we hereby direct that the parties and Staff present evidence addressed to the appropriateness of Cambridge's treatment of the following cost-of-service items:

(1) Reclassification of per books distribution facilities and cost to transmission function.

(2) Functionalization of general plant, common plant, and administrative and general expenses on functional plant ratios and allocated operation and maintenance expenses.

(3) Inclusion of Account 123.1—Investment in Subsidiary Companies in the rate base.

(4) Inclusion of plant utilized for steam heating in the rate base.

(5) Fuel Adjustment Clause.

The Commission finds. (1) Good cause exists to accept for filing the proposed rate change tendered by Cambridge on October 1, 1975, to suspend it for five months until April 1, 1976, when it shall become effective, subject to refund.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal

[1] Article V of the settlement agreement.

Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Cambridge's proposed Rate RS–2.

(3) Good cause does not exist to grant Belmont's motion to reject Cambridge's filing.

(4) Good cause does exist to grant the intervention of Belmont.

The Commission orders. (A) Cambridge's October 1, 1975, proposed rate change is accepted for filing and suspended for five months, until April 1, 1976, at which time said filing shall become effective, subject to refund.

(B) Pursuant to the authority of the Federal Power Act, particularly section 205 thereof, the Commission's rules of practice and procedure, and the Regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held on February 18, 1976, at 10 a.m., prevailing local time, in a hearing room at the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the justness and reasonableness of the proposed rates, charges, terms, and conditions included in Cambridge's October 1, 1975, filing in this docket.

(C) Belmont's motion to reject Cambridge's filing is hereby denied.

(D) Belmont's petition to intervene is hereby granted.

(E) On or before January 7, 1976, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of any and all intervenors shall be served on or before January 21, 1976. Any rebuttal evidence by Cambridge shall be served on or before February 4, 1976.

(F) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(G) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-30013 Filed 11-6-75;8:45 am]

[Docket Nos. RP74-14, RP74-34; PGA 76-1]

CASCADE NATURAL GAS CORP.

Tariff Sheet Filing

OCTOBER 30, 1975.

Take notice that on October 15, 1975 Cascade Natural Gas Corporation (Cascade), pursuant to § 154.62 of the regulations under the Natural Gas Act, filed Seventh Revised Sheet No. 2 to its FPC Gas Rate Schedule No. 1. Cascade states that the filed tariff sheet relates to the Unrecovered Purchased Gas Cost Account of the Purchased Gas Adjustment Provision authorized by the Commission's order issued November 28, 1973 in Docket Nos. RP74–14 and RP74–34. More specifically, the tariff sheet reflects a net decrease over that currently being collected of 2.54 cents per Mcf to be effective December 1, 1975, as proposed by Cascade.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29989 Filed 11-6-75;8:45 am]

[Docket No. CP76-131]

CASCADE NATURAL GAS CORP.

Application

OCTOBER 31, 1975.

Take notice that on October 14, 1975, Cascade Natural Gas Corporation (Applicant), P.O. Box 24464, Seattle, Washington 98124, filed in Docket No. CP76–131 an application pursuant to section 7(b) of the Natural Gas Act for a certificate of public convenience and for permission and approval to abandon by sale to Mountain Fuel Resources, Inc. (Mountain Resources), a wholly-owned subsidiary of Mountain Fuel Supply Company (Mountain Fuel), its jurisdictional facilities known as the Colorado-Utah Division, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it entered into a sales agreement with Mountain Resources on September 8, 1975, for the sale of Applicant's Colorado-Utah Division properties for $9,000,000, which price is said to reflect the depreciated book cost of the facilities on December 31, 1974.

The facilities proposed to be sold by Applicant are said to consist of a pipeline extending from the Divide Creek field in Garfield and Mesa Counties, Colorado, to a terminus at Bonanza, Utah, including gathering pipelines, and appurtenant facilities, and other equipment, tools, materials, buildings, and supplies necessary for the operation of the pipeline. Applicant requests permission and approval to abandon approximately 92.2 miles of 14-inch O.D. pipeline and 29.1 miles of 10¾-inch pipeline, the Robbit Mountain compressor station, the Dragon Trail compressor station, the Exchange compressor station, and the Piceance Creek compressor station. Applicant states that Mountain Resources would continue to operate the facilities proposed to be sold in a manner so that there would be no impact on existing customers of Applicant. Applicant states that it has been unable to acquire adequate supplemental reserves in the area because of the fixed-price, fixed-margin contract under which it has been rendering service to Mountain Fuel. It is further stated that Applicant has been obligated by contract to achieve a peak-day delivery capability of 66,667 Mcf of natural gas to Mountain Fuel, but that goal was never reached; deliveries in the 1974–1975 winter season measuring 20,266 Mcf of gas per day. Further, Applicant states that it has acquired no additional gas reserves since January, 1972, and that throughout has been declining since 1968.

Mountain Resources is alleged to be able to connect to substantial additional volumes of gas for interstate transportation and delivery through the Colorado-Utah Division.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 25, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-30012 Filed 11-6-75;8:45 am]

[Project No. 1268]

COLORADO

Order Vacating Land Withdrawals

OCTOBER 30, 1975.

The Forest Service, United States Department of Agriculture, has requested that the land withdrawals for transmission line Project No. 1268 be vacated insofar as they pertain to National Forest lands, thereby requiring Commission consideration under Section 24 of the Federal Power Act. This order also pertains to lands other than National Forest lands which are withdrawn for Project No. 1268.

Portions (totaling about 60.80 acres) of the following described sections were variously withdrawn pursuant to the filing on July 7, 1934, of a completed application for license, on February 29, 1936, of an amendment thereto, and on September 12, 1938, of an application for amendment of license, for Project No. 1268 for which the Commission gave notices of land withdrawal to the General Land Office (now Bureau of Land Management) by letters dated January 22, 1936, June 11, 1937, and August 3, 1939. Said notices were based on Exhibit K maps designated FPC Nos. 1268–2, 5, and 6.

SIXTH PRINCIPAL MERIDIAN, COLORADO

T. 11 S., R. 82 W.,
Secs. 7, 8, 9, 10, 15, 16, 22.
T. 11 S., R. 83 W.,
Secs. 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 23, 24.
T. 10 S., R. 84 W., secs. 18, 29, 33, 34.
T. 11 S., R. 84 W., secs. 2, 3, 11, 12.

All of the subject lands except those in sec. 18, T. 10 S., R. 84 W., lie within the White River or San Isabel National Forests.

Project No. 1268 consisted of a 13.2 kv transmission line which extended from the Aspen hydroelectric plant (retired in 1965) of the Roaring Fork Water, Light and Power Company, to the portals of the Twin Lakes transmountain water diversion tunnel near Independence Pass, and provided power for use in the construction of the tunnel. The 5-year minor-part license for the project, held by the Roaring Fork Water, Light and Power Company, expired on June 1, 1942, and the project works were subsequently dismantled. The Forest Service has reported that the National Forest lands involved were restored to a satisfactory condition.

The Commission finds. The withdrawals for Project No. 1268 serve no useful purpose and should be vacated.

The Commission orders. The withdrawals pursuant to the applications for Project No. 1268 are hereby vacated in their entirety.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29960 Filed 11-6-75;8:45 am]

[Docket Nos. RP72-122 (PGA 76-1) and RP75-86]

COLORADO INTERSTATE CORP.

Proposed Change in Rates

OCTOBER 31, 1975.

Take notice that Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), on October 14, 1975, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1, pursuant to the Commission's Order issued on September 29, 1975, in the above dockets and in voluntary compliance with the FPC Staff's motion filed October 8, 1975, in Docket No. RP75-86, et al.

CIG states that Second Substitute Thirteenth Revised Sheet Nos. 5 and 6 reflect the exclusion from the filings in Docket Nos. RP75-86 and RP72-122 (PGA 76-1) of (1) that portion of small producer purchased gas cost resulting from prices in excess of the "130 percent formula" prescribed in Opinion No. 742, (2) that portion of the cost of gas purchased from producer-parties in Docket Nos. CP75-323 and CP75-300 which may have been priced in excess of the applicable area rates, (3) that cost of service related to facilities included in the filing in Docket No. RP75-86 which were neither certificated nor placed in service as of October 1, 1975, and (4) the cost-of-service effect of the increase in depreciation rates filed in Docket No. RP75-86. These Second Substitute Thirteenth Revised Sheet Nos. 5 and 6 are proposed to be made effective for one day, October 1, 1975.

CIG also states that Second Replacement Fourteenth Revised Sheet Nos. 5 and 6 reflect the exclusion from the filings in Docket Nos. RP75-86 and RP72-122 (PGA 76-1) of (1) that cost of service related to facilities included in the filing in Docket No. RP75-86 which neither certificated nor placed in service as of October 1, 1975, and (2) the cost-of-service effect of the increase in depreciation rates filed in Docket No. RP75-86. These Second Replacement Fourteenth Revised Sheet Nos. 5 and 6 are proposed to be made effective on October 2, 1975.

Copies of the filing have been served upon the Company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 11, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties in the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29773 Filed 11-6-75;8:45 am]

[Docket No. CP76-135]

COLUMBIA GAS TRANSMISSION CORP.

Application

OCTOBER 30, 1975.

Take notice that Columbia Gas Transmission Corporation (Columbia), a Delaware corporation, having its principal place of business at 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314, filed on October 16, 1975, an abbreviated application pursuant to section 7 of the Natural Gas Act, as amended, for a certificate of public convenience and necessity authorizing the transportation of natural gas for Knit-Away, Inc. (Knit-Away), as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Specifically, Columbia requests authorization to transport up to 380 Mcf per day, which will be received from producers in Gilmer and Upshur Counties, West Virginia. Knit-Away will purchase the gas so transported from independent producers for a term expiring May 1, 1977. The transportation by Columbia will be subject to the limits of its pipeline capacity and to its service obligations to its CD, WS, SGES, G and SGS customers and will be further limited to the high priority end-use requirements of Knit-Away. Columbia's transportation charge for this service will be its average system-wide unit storage, gathering and transmission costs exclusive of company-use and unaccounted-for gas, as reflected in its FPC rate filings. Columbia will retain for company-use and unaccounted-for gas 3.6 percent of the volumes received for the account of Knit-Away.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 18, 1975, file with the Federal Power 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, as amended, (18 CFR 157.10). All protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the 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 Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission of 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 Columbia to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29985 Filed 11-6-75;8:45 am]

[Docket No. RP75-106; RP75-105]

COLUMBIA GAS TRANSMISSION CORP. AND COLUMBIA GULF TRANSMISSION CO.

Further Extension of Procedural Dates

OCTOBER 30, 1975.

On October 21, 1975, Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company jointly filed a motion to extend the procedural dates fixed by order issued July 14, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of Intervenor, Testimony, December 11, 1975.
Service of Company Rebuttal, December 24, 1975.
Hearing, January 13, 1976 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29986 Filed 11-6-75;8:45 am]

[Docket No. CP72-189]

COLUMBIA GULF TRANSMISSION CO.

Petition To Amend

OCTOBER 31, 1975.

Take notice that on October 8, 1975, Columbia Gulf Transmission Company (Petitioner), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP76-189 a petition to amend the order of the Commission of August 23, 1972 (48 FPC 380), issued in said docket pursuant to section 7(c) of the Natural Gas Act to include in the certificate of public convenience and necessity authorization to operate an additional point for the receipt of natural gas on the Blue Water Project from Consolidated Gas Supply Corporation (Consolidated Gas) all as more fully set forth in the petition on file with the Commission and open to public inspection.

Petitioner in the instant petition to amend requests authorization for an additional point of receipt from Consolidated Gas which would be located on Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), existing platform at the terminus of a pipeline designated Project 349 and said to be jointly owned by Texas Eastern Transmission Corporation, Tennessee and Texas Gas Transmisison Corporation. The location of the proposed point of receipt would be Ship Shoal Area, Block 198, offshore Louisiana. The contract demand volume that Petitioner would transport for Consoliated Gas is said to be unchanged at 50,000 Mcf per day.

It is stated that the additional receipt point would allow Consolidated Gas to transport gas reserves that are available to it from the Ship Shoal Area, South Addition, offshore Louisiana.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 19, 1975, file with the Federal Power 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 National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30002 Filed 11-6-75;8:45 am]

[Docket No. E-9538]

COMMUNITY PUBLIC SERVICE CO. AND PUBLIC SERVICE COMPANY OF NEW MEXICO

Application

OCTOBER 29, 1975.

Take notice that on October 14, 1975, the Community Public Service Company (Applicant), filed an Application, pursuant to section 203 of the Federal Power Act, seeking authorization to purchase from the Public Service Company of New Mexico approximately 20 miles of 115 kv electric transmission line and appurtenant substation and other facilities located in Grant County, New Mexico for a consideration of $184,440. The consideration was arrived at by arm's length bargaining between the parties.

Applicant is incorporated under the laws of the State of Texas, is domesticated in the States of New Mexico and Arizona, with its principal business office at Fort Worth, Texas and is engaged in the manufacture, purchase, distribution, and sale of electricity and the purchase, distribution and sale of natural gas.

Public Service Company of New Mexico is incorporated under the laws of the State of New Mexico, with its principal business office at Albuquerque, New Mexico and is engaged primarily in the manufacture, distribution, purchase, and sale of electricity.

After acquisition of the line by community, it will continue to be operated essentially as it is now. The line constitutes the only interconnection of community's electrical facilities in the Siver City-Lordsburg district over which community can receive electrical energy for its customers in the said district, or over which it can deliver energy for its Tularosa and Ruidoso customers in Otero and Lincoln Counties, and over which it may give other members of the Rio Grande Power Pool emergency assistance under appropriate circumstances. By acquiring the said facilities, community will own facilities in territory which it has served for many years. The right to tap the line in Grant County will be of benefit to Community in increased reliability to portions of its system.

Any person desiring to be heard or to make any protest with reference to the Application, should on or before November 21, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29976 Filed 11-6-75;8:45 am]

[Docket No. E-8952]

CONNECTICUT LIGHT AND POWER CO.

Further Extension of Procedural Dates

OCTOBER 30, 1975.

On October 24, 1975, Connecticut Municipal Intervenors filed a motion to extend the procedural dates fixed by order issued July 21, 1975, as most recently modified by notice issued September 29, 1975, in the above-designated proceeding.

Upon consideration, notice is hereby given that the procedural dates in the above proceeding are modified as follows:

Service of Intervenor Testimony, October 29, 1975.
Service of Company Rebuttal, November 18, 1975.
Hearing, November 20, 1975 (10 a.m. e.s.t.).

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29987 Filed 11-6-75;8:45 am]

[Docket No. ER76-45]

CONSUMERS POWER CO.

Order Denying Application for Rehearing

OCTOBER 29, 1975.

On July 30, 1975, Consumers Power Company (CPC or Company) tendered for filing revised tariff sheets that would increase wholesale rates to certain partial and fuel requirement customers[1] by $5,065,720 based on sales for the twelve month period ending December 31, 1975. In response to public notice issued August 7, 1975, of CPC's filing, Twelve Publicly Owned Wholesale Customers (Systems) timely filed a petition to intervene, together with a motion to reject or, in the alternative, motion for summary judgment of that portion of the proposed rate increase attributable to comprehensive tax normalization and five month suspension of the remainder of the proposed increase. By order issued August 29, 1975 we, inter alia, suspended CPC's proposed rate increase for 30 days, denied Systems' motion to reject and provided for response to Systems' motion for summary disposition on the tax normalization issue.

On September 29, 1975, Systems filed an application for rehearing in part of our August 29, 1975, order. Systems contends that (1) a suspension period of five months, or at least longer than the 30 days imposed by our order, is justified in light of the "price squeeze" effect of the increase and alleged anticompetitive conduct of the Company, (2) the filing should have been rejected based on noncompliance with Commission regulations in CPC's alleged failure to file the most recent 12 months cost data and alleged failure to provide adequate work papers to support its cost of service and (3) that the "end result" of our order that "the Cities must pay the rates the Company asks" is unjustified.

Systems' first contention that a longer suspension period should have been granted renews two arguments presented in its earlier Motion to Reject in this docket. First, Systems states that "CPC has demonstrated a long-standing pattern of anticompetitive conduct" and this filing only furthers that pattern of behavior. Secondly, Systems argues that the Commission could avoid a wholesale-retail price squeeze by granting a five-month suspension period which would put Commission action on this wholesale rate increase more closely in line with the deadline for action on CPC's retail price increase now pending before the Michigan Public Service Commission. Our decision to suspend for 30 days was based on our review of CPC's filing and the testimony and exhibits in support thereof. Based on such review we exercised our independent judgment in light of our expertise in this area and concluded that a 30 day suspension was sufficient to protect the public interest and the parties to this proceeding. Upon further review, we reaffirm our prior order and conclude that the 30 day suspension was proper. The period of suspension is a matter of discretion and not subject to judicial review. "Municipal Light Boards v. F.P.C.", 450 F.2d 1341, 1352 (1971).

Systems second contention is that CPC has failed to file its most recent 12 months cost data and hence its filing must be rejected for non-compliance with Commission's regulations under the Federal Power Act.[2] In support of this, Systems cites Interstate Power Company, Docket No. ER76-70, in which by order issued September 10, 1975, its filing was rejected on the basis of data over 7 months old, and Boston Edison Company, Docket No. ER76-90, in which by letter order issued September 24, 1975, its rate increase filing was rejected based on similar data.

During the year 1975, we have accepted electric filing utilizing Period I data for the 12 months ended December 31, 1974, as meeting the filing requirement of § 35.13(b)(4)(iii) of the regulations that such data be ". . . for the most recent twelve consecutive months for which actual data available. . . ." However, we realized in so doing that at some point in time data for the twelve months ended December 31, 1974, would eventually become stale and thus outside any reasonable interpretation of § 35.13(b)(4)(iii) of the regulations which requires submission of the most recently available data. In the Interstate order, we were dealing with data that was 7½ months old and made the determination that such data was too stale to be "the most recently available" and therefore rejected Interstate's filing for failure to comply with § 35.13(b)(4)(iii) of the regulations. Since that action, we have consistently refused to accept rate filings containing Period I data which was more than seven months old. Accordingly, since Consumers has not reflected data for Period I which is more than seven months from the date of its tender for filing, we shall deny Systems' motion to reject. We find that the Period I data contained in Consumers' filing is sufficient to meet the requirements of § 35.13(b)(4)(iii) of our regulations.

Finally, Systems contends that the "end result" of our order is "unjustified and unjustifiable" in that "the end result is that the Cities must pay the rates the Company asks." We believe that the public interest is protected in this respect by that provision of our order which places the rate increase into effect subject to refund pending the outcome of the hearing thereon. The issues raised by intervenors, such as rate-of-return and substantiation of cost-of-service studies, among other, can be best pursued at open hearing where a complete evidentiary record can be established to determine the lawfulness of the proposed rate increase. At that time, should any of the proposed increase be found not to be just and reasonable, CPC will be required to refund that portion of the rate increase collected pursuant to the conditions of our August 29, 1975 order with interest at 9 percent annum.

For the reasons discussed above, we are of the opinion that Systems' application for rehearing of those parts of our August 29, 1975 order dealing with length of suspension period, acceptance of CPC's filing as submitted, and Systems' "end result" contentions contained therein should be denied.

The Commission finds. Systems' application for rehearing filed September 29, 1975, in the subject docket presents no new facts or principals of law which warrant modification of our order of August 29, 1975, in the subject docket.

The Commission orders. (A) Systems' September 29, 1975, application for rehearing of our order of August 29, 1975 is hereby denied.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29977 Filed 11-6-75;8:45 am]

[1] See order issued August 29, 1975, in the subject docket for list of customers affected by the proposed rate increase.

[2] Regulations Under Federal Power Act, § 35.13(b)(4)(iii).

[Docket No. RI76-35]

CONTINENTAL OIL CO.

Application for Certificate of Public Convenience and Necessity With Request for Temporary Authorization and Petition for Special Relief

OCTOBER 31, 1975.

Take notice that on September 29, 1975, Continental Oil Company (Applicant), Post Office Box 2197, Houston, Texas 77001, filed in Docket No. RI76-35 an application for a certificate of public convenience and necessity covering a sale of gas to Tennessee Gas Pipeline Company (Tennessee). Sales volumes are estimated by Applicant to be 275,000 Mcf per month attributable to one-half of Applicant's 33⅓ percent working interest in gas from the subsea surface down to and including the base of the RD Sand, or its correlative equivalent, from West Cameron Block 69 (North Half), Offshore Louisiana. The contract price is $1.60 per Mcf, at 15.025 psia, including all adjustments and tax reimbursement. However, Applicant has expressed its willingness to accept, subject to refund upon final order of the Commission, a rate of $1.33 per Mcf. Applicant seeks temporary authorization to commence this sale of gas.

Applicant states that a total of seven wells have been completed on the property committed to this proposed sale, five at depths greater than 15,000 feet and two at depths less. Applicant seeks special relief under 18 CFR 2.56a(g) for all the wells, and with regard to the two wells under 15,000 feet, seeks special relief in the alternative under 18 CFR 2.76.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 24,

1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30014 Filed 11-6-75;8:45 am]

[Docket No. ER76-151]

DELMARVA POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Increased Rates, and Establishing Hearing Procedures

OCTOBER 31, 1975.

On September 29, 1975, Delmarva Power and Light Company (Delmarva of Delaware), a utility operating and holding company, and its two wholly-owned subsidiaries, Delmarva Power and Light Company of Maryland (Delmarva of Maryland) and Delmarva Power and Light Company of Virginia (Delmarva of Virginia) (jointly, Delmarva) tendered for filing, pursuant to § 35.13(b)(4)(ii), proposed changes in the intercompany Power Supply Agreement.[1]

The proposed changes would increase the rate of return on fixed charges for the three companies from 8.625 percent to 9.9 percent, thereby increasing payments by Delmarva of Delaware to Delmarva of Maryland and Delmarva of Virginia by $1,267,868, based on billing for the 12 months ending October 31, 1976. Insofar as the proposed increase in rate of return is to affect only interconnection transfers of power among the three companies, there would be no net change in revenues for the combined operations of the companies. The proposed effective date for the increase is November 1, 1975.

Delmarva of Delaware and its two Maryland and Virginia subsidiaries form an integrated electric supply system serving energy in the State of Delaware, the nine counties comprising the so-called Eastern Shore of Maryland and the two counties comprising the so-called Eastern Shore of Virginia. Production and power supply transmission is designed and operated on a system approach and the system costs are divided among the three companies.

To develop an integrated system, Delmarva of Delaware and its two subsidiaries entered into a Power Supply Agreement,[2] an interchange arrangement in the nature of a power pool, on July 16, 1964. By terms of the Agreement, a cost of service is computed periodically and then applied to transactions in subsequent periods. The Agreement has been modified by Supplement No. 2, dated August 27, 1975 and Supplement No. 4, dated April 4, 1975.

Delmarva alleges that Supplement No. 4, providing for a rate of return of 8.625 percent, is inadequate. It states that its embedded cost of long-term debt has increased from 6.32 percent in August, 1973, when it tendered the filing which resulted in our approval of Supplement No. 4, to a current embedded cost of 7.16 percent. Delmarva also states that that there has been a decline in the market for its common stock in recent years which has materially increased the cost of raising money through the issuance of such stock. These as well as other financial considerations lead Delmarva to conclude that the 8.625 percent rate of return no longer provides revenue which are sufficient to meet the increased costs of capital. Consequently, Delmarva has now filed for a 9.9 percent rate of return, including a 15 percent return on equity.

We have previously recognized the need of the electric industry as a whole to attract the capital necessary to provide adequate service to the consuming public,[3] and we have stated that a utility's need to increase its revenues so as to be able to satisfy its capital requirements may be a sufficient justification for a rate increase.[4] However, without prejudging the outcome in Docket No. E-8947, serious questions raised therein regarding Delmarva's alleged financial requirements, coupled with our own evaluation of the filing now before us, bring us to conclude that the proposed change in rate of return has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful.

Accordingly, we shall accept the proposed rates for filing and suspend the use thereof for ninety (90) days until January 30, 1976 when it will be permitted to become effective, subject to refund, and we shall establish hearing procedures to determine the justness and reasonableness of Delmarva's filing.

Evidence relevant to the issues raised by the instant filing should be submitted by all parties, including the Commission Staff. Without limiting the rights of the parties, including Staff, in presenting such further evidence as they deem relevant and material to determining the justness and reasonableness of Delmarva's proposed rate of return, we hereby direct the parties and our Staff to present evidence which addresses itself not only to the issues raised by Delmarva's allegations as noted above and by our prior discussion, but also to (1) Delmarva's proposal for a 15.0 percent return on equity, (2) Delmarva's present and future needs for capital, (3) the adequacy and significance of Delmarva's present pre-tax debt interest coverage ratio, (4) the adequacy and significance of the past and present ratios of market value to book value of Delmarva's common stock, (5) Delmarva's contention that, in comparison to allegedly comparable utilities, it has a financial standing below that of the group of comparable utilities, (6) the standing of Delmarva in particular and the standing of comparable utilities generally in the market for capital, (7) how and to what degree, if any, an increase in interconnection charges will improve Delmarva's standing in markets for capital, and (8) the consequences of an increase in interconnection charges for Delmarva's customers.

Notice of Delmarva's filing was issued on October 2, 1975, with protests and petitions to intervene due on or before October 15, 1975. A notice of intervention has been filed by the Public Service Commission of Maryland.

The Commission finds. It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the increased rates, charges, and conditions of service as proposed by Delmarva in Docket No. ER76-151 and that such increase be accepted for filing and suspended as hereinafter provided.

The Commission orders. (A) Pending a hearing and final decision thereon, Delmarva's proposed changes in its rates, charges, and conditions of service as filed on September 29, 1975, are accepted for filing and suspended for ninety (90) days and the use thereof deferred until January 30, 1976, when the proposed rate schedule supplements shall become effective, subject to refund.

(B) Pursuant to the authority of the Federal Power Act, particularly sections 205 and 206 thereof, and the Commission's rules and regulations (18 CFR Ch. I) a public hearing shall be held on March 9, 1976, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, to determine the lawfulness and reasonableness of the proposed rates, charges, and conditions of service contained in Delmarva's rate increase filed on September 29, 1975.

(C) The Commission Staff shall serve its prepared testimony and exhibits on or before January 27, 1976. Any intervenor evidence shall be filed on or before February 10, 1976. Any rebuttal evidence by Delmarva shall be served on or before February 24, 1976.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(E) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of

[1] Designations of the proposed rate schedules are shown in Appendix A.

[2] Designated "Rate Schedule FPC No. 33" for Delmarva of Delaware, "Rate Schedule FPC No. 10" for Delmarva of Maryland, and "Rate Schedule FPC No. 5" for Delmarva of Virginia.

[3] Ibid.

[4] "See e.g., Nevada Power Company," Docket No. ER76-40, issued October 15, 1975.

settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

DESIGNATIONS

Filed: September 29, 1975
Effective: November 1, 1975

(1) *Delmarva Power and Light Company.* Supplement No. 5 to Rate Schedule FPC No. 33 (Certificate of Concurrence Supersedes Supp. No. 4).

(2) *Delmarva Power and Light Company of Maryland.* Supplement No. 5 to Rate Schedule FPC No. 10 (Fourth Supplemental Power Supply Agreement Supersedes Supp. No. 4).

(3) *Delmarva Power and Light Company of Virginia.* Supplement No. 5 to Rate Schedule FPC No. 5 (Certificate of Concurrence Supersedes Supp. 4).

[FR Doc.75-30003 Filed 11-6-75;8:45 am]

[Docket Nos. RP72-155, RP75-39, PGA76-1]

EL PASO NATURAL GAS CO.

Tariff Sheets Tender

OCTOBER 31, 1975.

Take notice that on October 15, 1975, El Paso Natural Gas Company (El Paso) filed, pursuant to Part 154 of the Commission's regulations under the Natural Gas Act, the following revised tariff sheets, to become effective October 1, 1975:

ORIGINAL VOLUME NO. 1

First Substitute Fifteenth Revised Sheet No. 3-B.

THIRD REVISED VOLUME NO. 2

First Substitute Fifth Revised Sheet No. 1-D.

ORIGINAL VOLUME NO. 2A

First Substitute Seventh Revised Sheet No. 1-C.

El Paso states that the Commission order issued September 30, 1975, permitted El Paso to file revised tariff sheets to become effective October 1, 1975, reflecting that part of the increase proposed in its PGAC tender of August 15, 1975, other than the increased costs associated with that portion of 60 and 180 day emergency purchases from other than small producers in excess of the rates prescribed by the Commission's Opinion No. 699-H and the increased costs associated with that portion of small producer purchases in excess of the rate levels resulting from the 130% formula prescribed by the Commission's Opinion No. 742 issued August 28, 1975, at Docket No. R-393. El Paso further states that the instant tender is designed to implement its PGAC increase on October 1, 1975, as permitted by said order of September 30, 1975.

El Paso states that the rates set forth on the tendered tariff sheets provide for a net decrease to its currently effective rates of 5.54¢ per Mcf, effective as of October 1, 1975, and is comprised of annualized purchased gas cost increases equating to 0.69¢ per Mcf, plus 4.03¢ per Mcf representing the balance in Account 191 as of June 30, 1975, less El Paso's currently effective surcharge adjustment of 8.87¢ per Mcf and the 1.39¢ per Mcf amortization charge for special overriding royalty costs permitted by Commission order issued March 31, 1975, at Docket Nos. RP72-155, et al. El Paso states that such decrease results from the deletion of emergency purchases at rates in excess of the Commission's Opinion No. 699-H and small producer purchases at rate levels above the 130% formula prescribed by Opinion No. 742 included in El Paso's Purchased Gas Cost Adjustment (PGAC) notice of change in rates filed with the Commission on August 15, 1975, and is 0.23¢ per Mcf below the PGAC adjustment of 4.95¢ per Mcf set forth in said August 15, 1975, filing. El Paso further states that such rates are consistent with the Commission's order issued September 30, 1975, in the captioned proceedings.

El Paso states that copies of the instant tender have been served upon all parties of record in Docket Nos. RP72-155 and RP75-39 and, otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before November 11, 1975, file with the Federal Power 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-30004 Filed 11-6-75;8:45 am]

[Docket Nos. RP67-9, AR64-1, etc.]

EL PASO NATURAL GAS CO.

Payment of Refunds

OCTOBER 30, 1975.

Take notice that on October 20, 1975, El Paso Natural Gas Company (El Paso) tendered for filing a Report of Refunds Made on September 12, 1975, to its interstate pipeline system jurisdictional and nonjurisdictional keyed customers entitled thereto. El Paso states that such refunds were made in compliance with the Commission's letter order issued August 25, 1975, in the captioned dockets and in accordance with the Stipulation and Agreement dated as of January 1, 1967, approved by Commission order issued April 3, 1967, at Docket No. RP67-9, and the applicable provisions of Commission orders issued November 26, 1968, and March 17, 1975, in Docket Nos. AR61-1, et al., and AR64-1, et al., respectively.

El Paso further states that the refunds made in conformity with Article IV of the Stipulation and Agreement dated January 1, 1967, approved at Docket No. RP67-9 and encompass producer-supplier refunds, both principal and interest, aggregating $1,082,843.46.

El Paso states that copies of the filing were served on all parties of record in Docket No. RP67-9, and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to this filing should, on or before November 10, 1975, file with the Federal Power 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29988. Filed 11-6-75;8:45 am]

[Docket No. CI76-214]

EXXON CORP.

Application

OCTOBER 31, 1975.

Take notice that on October 10, 1975, Exxon Corporation (Applicant), P.O. Box 2180, Houston, Texas 77001, filed in Docket No. CI76-214 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to El Paso Natural Gas Company (El Paso) from acreage in Crane County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell and deliver at Warren Petroleum Company's Waddell Gasoline Plant in Crane County up to 108,450 Mcf of gas per month to El Paso at the national rate set forth in § 2.56a of the Commission's General Policy and Interpretations (18 CFR 2.56a). The total price is said to be 57.9032 cents per Mcf which is the sum of a 51.0-cent base price plus a 1.1730-cent Btu adjustment, a 1.5-cent gathering allowance, and a 4.2302-cent tax reimbursement allowance.

Applicant states that the natural gas which Applicant proposes to sell to El Paso is Applicant's mineral fee interest in the natural gas produced from the acreage in Crane County and sold pursuant to a letter agreement between Applicant and El Paso dated July 15, 1975. Applicant explains that such acreage was previously committed under a fifty-year oil and gas lease to Gulf Oil Corporation which made interstate sales of gas to El Paso prior to the expiration of said lease on July 14, 1975. In its Opinion Nos. 737 and 737-A, El Paso Natural Gas Company, et al., Docket No. CP75-209, et al., issued on July 11, 1975, and September 3, 1975, respectively, the Commission held that cessation of deliveries by Applicant, and others, from the Crane County acreage would require abandonment permission and approval under section 7(b) of the Natural Gas Act. However, the order accompanying Opinion No. 737-A: *Provided*, That deliveries of gas by Applicant, and others, are to be made to El Paso subject to a payback provision and other conditions pending final appellate determination of the validity of Opinion Nos. 737 and 737-A. Accordingly, Applicant states, the instant application is filed under protest with full reservation of Applicant's rights.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules and practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30005 Filed 11-6-75;8:45 am]

[Docket Nos. E-9091, E-9521 and E-9522]

GEORGIA POWER CO.

Order Granting Rehearing in Part and Denying Rehearing in Part, Clarifying Previous Order and Extending Procedural Dates

OCTOBER 29, 1975.

On September 29, 1975, Georgia Power Company (Georgia Power) filed an Application for Rehearing and Clarification of this Commission's order issued September 11, 1975, in the above-referenced docket.[1] The Order accepted for filing an initial tariff (PR-1) for partial requirements service and an initial tariff (TS-1) for transmission service, but subject to the condition that the inclusion of CWIP[2] in rate base not be reflected in those sheets; consolidated the PR-1 and TS-1 Dockets with Georgia Power's full requirements wholesale tariffs Docket (WR-8); granted the petitions to intervene filed by Oglethorpe Electric Membership Corporation (Oglethorpe), the City of Dalton, Georgia, and the Municipal Electric Authority of Georgia (MEAG); ordered an investigation under section 206 of the Federal Power Act; established procedural dates; directed Georgia Power to make timely annual filings with respect to transmission facilities and charges and to submit updated cost of service data; and ordered Georgia Power to file, within 30 days, substitute tariff sheets which reflect the exclusion from rate base of CWIP.

Georgia Power is applying for rehearing of that portion of the September 11, 1975, Order in this proceeding which requires it to exclude CWIP from its rate base and asks for clarification of certain other parts of the Order. In addition, Georgia Power requests that the Commission stay the effectiveness of the September 11, Order pending consideration of its Application and judicial review of any denial thereof or, in the alternative, that the Commission extend the deadline for filing substitute tariff sheets until November 12, 1975, providing thirty days for the Commission to consider this Application and an additional two weeks thereafter for Georgia Power to seek a judicial stay of the September 11, Order in the event the Commission denies the relief sought.

With regard to the latter request, the Secretary issued on October 9, 1975, in this proceeding, a Notice which extended until November 12, 1975, the deadline for Georgia Power's filing substitute tariff sheets reflecting the exclusion of CWIP from rate base, as required by the Commission's Order issued September 11, 1975.

Insofar as the Commission conditioned its acceptance of Georgia Power's PR-1 and TS-1 tariff sheets on Georgia Power's filing of substitute tariff sheets reflecting the exclusion of CWIP from rate base, Georgia Power contends the Commission acted without authority. Georgia Power characterizes the Commission's action as a rejection of a portion of a tariff filing and, as such, was governable by the standards established in "Mississippi River Fuel Corp v. F.P.C.[3] where the Court held that a tendered rate filing which fulfilled the filing requirements of the Commission's Regulations could not be rejected.

Georgia Power is incorrect, however, in its characterization of the Commission's conditioning its acceptance of the tariff sheets as a summary rejection of a portion of the filing. § 35.5 of the Commission's regulations authorizes the Secretary to reject any material tendered for filing ". . . which patently fails to substantially comply with the applicable requirements set forth in this part [Part 35], or the Commission's rules of practice and procedure". The aforementioned is not the authority relied upon by the Commission in requiring Georgia Power to submit substitute tariff sheets. Hence, the fact that the Commission did not find Georgia Power's filing deficient with regard to the Commission's Regulations governing filing requirements, nor violative of the Commission's rules of practice and procedure, nor "so patently a nullity as a matter of substantive law"[4] that acceptance would be futile, all of which are reasons for which the Commission may summarily reject a tendered filing, is not relevant to a discussion of the Commission's action on Georgia Power's filing in this proceeding.

In the September 11, 1975, Order, the Commission noted that a portion of the rate being sought in Georgia Power's proposed filing in Docket No. E-9521 was the result of its including the item construction work in progress in the rate base for the partial requirements service for the test year on which its rate is based. The Commission cited Green Mountain Power, Docket No. E-9446, where, by order issued June 13, 1975, the Commission had rejected that portion of tendered tariff charges reflecting the inclusion of CWIP in rate base and stated:

> Commission regulations and practice do not at this time allow any utility to earn a return on CWIP. While this policy is under review in Docket No. RM75-13 (footnote omitted) it would be premature to allow the company to make a filing which contains rate based on CWIP being included in rate base. (Slip Op. at 1)

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[1] "Order Accepting for Filing and Instituting Investigation Under section 206 of the Federal Power Act, Granting Request for Waiver, Granting Interventions, and Establishing Procedures."

[2] CWIP as used herein refers to costs associated with facilities which will not be constructed and in operation before the end of the test period.

[3] 202 F. 2d 899 (3rd Cir., 1953). In that proceeding, the Commission had rejected and returned rate schedules and supporting materials constituting proposed tariff changes by the Mississippi River Fuel Corporation (Mississippi) because the stated justification for about one-third of the proposed increase was increased costs for gas to be purchased by Mississippi from its principal supplier, a jurisdictional rate increase itself for which the supplier had not yet filed and thus, would not be charging to Mississippi at the time the latter proposed its own rate increase be made effective.

[4] See Municipal Light Boards, etc., *Mass.* v. *FPC*, 450 F. 2d 1341 (1971).

We thereafter summarily disposed of the CWIP issue in Georgia Power's filing on the basis that it would be inappropriate to permit Georgia Power to include CWIP in its filing in Docket No. E-9521 and ordered Georgia Power to file substitute sheets reflecting the exclusion of such CWIP from rate base.

Georgia Power asserts that the Commission was not acting pursuant to any valid regulation prohibiting the inclusion of CWIP. The holding in Green Mountain, however, is firmly based upon our consistent policy of refusing to grant final authorization for the inclusion of CWIP in any company's rate base.[5] Under this policy and as a matter of law, Georgia Power cannot possibly justify its treatment of CWIP at a formal hearing. In disposing summarily of one issue prior to the commencement of a formal hearing which would be unproductive and unnecessary as to that single issue, we recognize that there is no dispute as to evidence, in that the Commission has excluded CWIP from Georgia Power's rate base as a matter of policy; and, accordingly, there is no information which Georgia Power could provide which would affect the Commission's ultimate decision. As observed by the Court in Municipal Light Boards, supra,[6]:

[t]here are occasions when an agency may dispose of a controversy on the pleadings without an evidentiary hearing when the opposing presentations reveal that no dispute of fact is involved, but only a question of law or administrative policy of such a nature that there is neither a dispute as to the material facts nor a need to ventilate the underlying facts to aid in policy determination.

In addition, Georgia Power contends in its Application for Rehearing with regard to the Commission's treatment of the CWIP issue that even if the Commission can so condition some rate filings, that it cannot summarily order a change in an initial rate filing under section 206 of the Act. Rather, a hearing must be held and a finding made that the rates are "unjust, unreasonable, unduly discriminatory or preferential" before the Commission can order any change in an initial filing. Having determined to enter upon a section 206 proceeding, Georgia Power asserts that without first having held a hearing, the Commission could not have reached the abovementioned finding as a basis for ordering substitute tariff sheets to be filed. However, the effect of applying our policy prohibiting the inclusion of CWIP in rate base is that a finding has been made that the portion of the rates which reflect CWIP in rate base is unjust and unreasonable. Thus, as discussed above, on the basis of the material filed, the CWIP issue has been disposed of prior to commencement of a formal hearing. Accordingly, we shall deny Georgia Power's Application for Rehearing of so much of the September 11, 1975, Order in this proceeding as requires Georgia Power to exclude CWIP from its rate base in Docket No. E-9521 and which conditions the Commission's acceptance of Georgia Power's PR-1 filing in that docket on the submission of substitute tariff sheets indicating the same.

In its September 29 Application, Georgia Power also requests clarification of certain provisions of our September 11, Order in this proceeding. Ordering Paragraph (A) accepts PR-1 and TS-1 for filing and orders them to become effective July 1, 1975, "subject to refund as agreed by the parties . . .". As we noted at page 3 our Order and Georgia Power reiterates, the parties reached agreement regarding refunds only with regard to PR-1. Accordingly, Georgia Power is correct in interpreting the "subject to refund as agreed by the parties" proviso in Ordering Paragraph (A) to apply only to PR-1, the Partial Requirements Tariff filed in Docket No. E-9521.

Ordering Paragraph (B) of the September 11, Order requires the filing, within 30 days of the issuance of the Commission's Order, of substitute tariff sheets which reflect the exclusion of CWIP from rate base; as noted by the Commission at page 6 of the Order, Docket No. E-9521 reflected the inclusion of CWIP in rate base. Accordingly, no substitute filing is required in Docket No. E-9522, since TS-1 was not found to provide for any return on a rate base including CWIP.

Ordering Paragraph (G) requires Georgia Power to make "timely annual filings of transmission carrying charges as applicable to the proceeding [sic] contract year". Rather, Georgia Power should make that filing for the preceding contract year.

Ordering Paragraphs (C), (E) and (F) consolidate three dockets "for the purpose of hearing and decision" (Docket Nos. E-9091, E-9521, E-9522) and establish procedural dates. Georgia Power notes in its Application that the three dockets contain "extremely dissimilar tariffs" and further, "that the consolidation will result in an extremely complex proceeding".

On October 14, 1975, Oglethorpe Electric Membership Corporation (Oglethorpe) filed its Application for Rehearing of our September 11, 1975, Order in these proceedings. Oglethorpe seeks rehearing regarding the consolidation of Docket No. E-9091 with Docket Nos. E-9521 and E-9522 for hearing and the requirement that Georgia Power include updated cost of service data, as specified in Ordering Paragraph (H). Oglethorpe also requested that the Commission stay the effectiveness of the September 11, Order pending consideration of this Application and judicial review of any denial thereof. The latter was disposed of insofar as the October 9, 1975, Notice by the Secretary extended the deadline for Georgia Power's filing substitute tariff sheets until November 12, 1975, pending the Commission's consideration of these Applications for Rehearing.

With regard to the consolidation of Docket No. E-9091 with Docket Nos. E-9521 and E-9522, the Commission, on its own motion, ordered the joinder. However, Georgia Power and Oglethorpe have expressed their beliefs that the result of consolidation would be to increase the complexity of the proceeding and to make more burdensome the participation of the diverse customers whose respective interests are limited to certain aspects of these proceedings as affect them. Additionally, Oglethorpe asserts that the evidence necessary to justify all or part of PR-1 and TS-1 will be vastly different from the evidence required to support WR-8. In view of these expressions of the parties, we shall sever Docket No. E-9091 from Docket Nos. E-9521 and E-9522 and reestablish separate procedural dates for Docket No. E-9091. Docket Nos. E-9521 and E-9522 shall remain consolidated for hearing.

Oglethorpe also requests that the Commission rescind that portion of the September 11, Order requiring Georgia Power to file updated cost of service data to reflect the most recent available data for the calendar year 1975 and to include actual data for not less than the first six months of 1975, as set forth in Ordering Paragraph (H). With respect to the affected data filed in support of Georgia Power's rates in Docket No. E-9091, Oglethorpe contends it would be burdensome for the wholesale-for-resale customers to analyze updated data in a case which was originally filed by the Company on October 31, 1974, and for which updated data was already once filed on July 11, 1975. Oglethorpe believes Georgia Power would unduly benefit from the opportunity to again file more current information which would in effect, afford them a retroactive rate increase. The Commission may require submittal of whatever information to which it is lawfully entitled to aid it in the enforcement of its statutory duties. Therefore, the requirement that Georgia Power file updated cost of service data as specified in Ordering Paragraph (H) of our September 11, Order will not be rescinded. Separate procedural dates for Docket No. E-9091 will be reestablished, including one for the filing of Georgia Power's updated cost of service data, as well as other service dates remaining for the testimony.

[5] Since Green Mountain, the Commission has reiterated its policy of excluding CWIP from rate base. See, e.g., Tennessee Gas Pipe Line Company, Docket Nos. RP75-113 and RP75-13, Order issued October 10, 1975, in which we stated,

Accordingly, we believe our duty to insure the protection of the consumer requires that we continue to require Tennessee to file tariff sheets excluding the costs resulting from the inclusion of CWIP in rate base (mimeo at 4).

A fortiori, when presented with rates based on a ratemaking theory contrary to our established principals, we believe that eliminating the effect of the inclusion of CWIP in rate base before the rates go into effect is necessary to protect the consumer and foreclose the possibility that refunds may never reach the consumer who would otherwise be required to pay this illegal rate (mimeo at 7).

[6] 450 F. 2d at 1345.

Finally, Georgia Power requests an extension of the procedural dates from those designated in the September 11, Order in the consolidated dockets. In addition to establishing separate procedural dates in Docket No. E-9091, we shall grant Georgia Power's request for an extension of the procedural dates in the remaining consolidated proceedings in Docket Nos. E-9521 and E-9522.

The Commission finds. (1) Georgia Power's Application for Rehearing, filed September 29, 1975, requesting rehearing of so much of the September 11, 1975, Order in this proceeding as requires Georgia Power to exclude CWIP from its rate base and to file substitute tariff sheets in Docket No. E-9521 reflectling the same should be denied.

(2) Oglethorpe's Application for Rehearing, filed October 14, 1975, requesting rehearing of so much of the September 11, 1975, Order in this proceeding as consolidated Docket No. E-9091 with Docket Nos. E-9521 and E-9522 for hearing and for so much of the Order as requires Georgia Power to include updated cost of service data should be granted as to the former request and denied as to the latter request.

(3) Georgia Power's request for clarification of certain portions of the September 11, Order should be granted.

(4) Georgia Power's request for an extension of the procedural dates in these proceedings should be granted, both in the consolidated proceedings in Docket Nos. E-9521 and E-9522 and with respect to the severed proceeding in Docket No. E-9091.

The Commission orders. (A) Georgia Power's Application for Rehearing, filed September 29, 1975, requesting rehearing of so much of the September 11, 1975, Order in this proceeding as requires Georgia Power to exclude CWIP from its rate base and to file substitute tariff sheets in Docket No. E-9521 reflecting the exclusion of CWIP from rate base is denied.

(B) Oglethorpe's Application for Rehearing, filed October 14, 1975, requesting rehearing of so much of the September 11, 1975, Order in this proceeding as consolidated Docket No. E-9091 with Docket Nos. E-9521 and E-9522 for hearing is granted, and Docket No. E-9091 is hereby severed from these proceedings for hearing and decision.

(C) Oglethorpe's request for rehearing of so much of the September 11, Order as requires Georgia Power to include updated cost of service data is denied. Georgia Power shall file the updated cost of service data specified in Ordering Paragraph (H) of the September 11, Order in this proceeding, together with all supporting workpapers, on the service dates designated hereinbelow.

(D) Georgia Power's request for clarification of certain portions of the September 11, Order is granted, as hereinafter specified:

(1) In Ordering Paragraph (A) of our September 11, 1975, Order in this proceeding, the provision that acceptance of the filing is "subject to refund as agreed by the parties" applies only to PR-1, the Partial Requirements tariff in Docket No. E-9521.

(2) Ordering Paragraph (B) of the September 11, Order in this proceeding requiring the filing of substitute tariff sheets reflecting the exclusion of CWIP from rate base applies to the filing in Docket No. E-9521, which reflected the inclusion of CWIP in PR-1 and not to the filing in Docket No. E-9522, which excluded CWIP from rate base.

(3) In Ordering Paragraph (G) of the September 11, Order in this proceeding, on line 7, change "proceeding contract year" to "preceding contract year".

(E) Georgia Power's request for an extension of the procedural dates in these proceedings is granted, both in the consolidated proceedings in Docket Nos. E-9521 and E-9522 and with respect to the severed proceeding in Docket No. E-9091. Therefore, the procedural dates in these proceedings are modified as follows:

Docket No. E-9091

Service of Company's Updated Cost of Service Data, November 26, 1975.
Service of Staff Testimony, February 3, 1976.
Service of Intervenor Testimony, February 17, 1976.
Service of Company Rebuttal, March 2, 1976.
Hearing, March 16, 1976.

Docket Nos. E-9521 and E-9522

Service of Company's Direct Testimony, January 15, 1976.
Service of Staff's Testimony, March 11, 1976.
Service of Intervenor Testimony, April 1, 1976.
Hearing, May 6, 1976.

(F) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29978 Filed 11-6-75;8:45 am]

[Docket No. ES76-21]

IDAHO POWER CO.

Application

OCTOBER 31, 1975.

Take notice that on October 17, 1975, Idaho Power Company (Applicant) filed an Application pursuant to section 204 of the Federal Power Act, seeking Authorization to issue and sell at Competitive bidding up to 1,000,000 shares of Common Stock, $5 par value.

Applicant is incorporated under the laws of the States of Maine, with its principal business office at Boise, Idaho and is qualified to do business in the States of Idaho, Oregon, Nevada, and Wyoming. Applicant is engaged in the generation, transmission, distribution and sale of electrical energy in the above mentioned states.

The proceeds from the Common Stock will be use for payment in full of the principal amount of short-term notes outstanding, and the balance, if any, will be used for Construction purposes.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before November 14, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30015 Filed 11-6-75;8:45 am]

[Docket No. E-9520]

ILLINOIS POWER CO.

Order Accepting and Suspending Proposed Rate Increase, Allowing Intervention and Setting Procedures

OCTOBER 29, 1975.

On June 27, 1975 the Illinois Power Company (IP) tendered for filing a proposed increase in the rate schedule identified as "Service Classification 40, Wholesale Electric Service for Resale." Three customers are served under this rate schedule: Village of Ladd (Ladd)—IP Rate Schedule FPC No. 26; City of Oglesby (Oglesby)—IP Rate Schedule FPC No. 28; Cedar Point Light and Water Company (CPL & W)—IP Rate Schedule FPC No. 30. Notice of the filing was issued July 8, 1975 with protests and petition to intervene due on or before July 21, 1975 later extended to July 28, 1975 by Notice issued July 28, 1975. IP proposes a September 1, 1975 effective date.

The three customers named above (Intervenors) filed a joint petition to intervene and motion to reject. Good cause exists to grant the petition to intervene. The motion to reject is based on a claim that the contracts between IP and the Intervenors are fixed-rate contracts within the protection of the rule of Mobile-Sierra,[1] and that certain provisions of the proposed filing violate the anti-trust laws. Due to the complexity of the issues raised by the Intervenors' motion to reject and subsequent IP answers we shall defer action on Intervenors' motion to reject and deal with these issues by separate order.

By letter dated September 2, 1975 the Secretary of the Commission informed IP that a filing date had not been assigned to its submittal because IP had not filed the individual contracts between IP and its customers. On September 30, 1975 IP tendered for filing the individual contracts. We shall assign an

[1] United Gas Pipe Line Company v. Mobile Service Company, 350 U.S. 332 (1956); F.P.C. v. Sierra Pacific Power Company, 350 U.S. 348 (1956).

October 30, 1975 proposed effective date to IP's filing (30 days after filing).

Review of the filing reveals that part of the increase is based upon the inclusion of construction work in progress (CWIP) [2] in the rate base. In recent orders we have rejected that portion of the filing which is based upon the inclusion of CWIP in rate base and required amended filings.[3] However, in this case, the CWIP amounts to a very small part of the allocated rate base ($4711 out of an allocated rate base of $1,433,868). Therefore we shall accept for filing the proposed rates, but summarily dispose of the issue of CWIP in rate base. We shall order IP to refund amounts collected as a result of the inclusion of CWIP in rate base at the time of final Commission disposition of the remaining issues in this proceeding. Such an action is consistent with our action in Green Mountain Power Corporation, Docket No. E-9446, Order Granting Reconsideration and Amending Prior Order, issued August 4, 1975, and will avoid the unnecessary expense of billing adjustments for such a small amount of money.

Further review of the filing reveals that IP has adjusted its rate base by amounts in FPC Account Nos. 281 and 238, directly assigned some transmission facilities and related costs, reclassified per books distribution facilities to the transmission and production functions, and allocated demand costs on the basis of the single annual peak. Parties filing testimony in this case should address themselves to, inter alia, the propriety of these actions. Further, IP states that it faces a $1 billion construction program which will force it to go to outside sources for $750 million. IP alleges that refunding its long term debt will increase its overall long term debt and that recent sales of common stock have diluted the book value of its shares. IP refers to the increasing cost of new plant as a cause of decreased earnings.

Further, IP alleges that a 14.5% rate of return on common equity is needed to maintain current dividend levels. Parties submitting testimony on rate of return should address, inter alia, the specific allegations made by IP concerning adequate dividend levels and the relationship between them and the alleged need for outside financing. Witnesses should demonstrate that their proposed rate of return will allow IP to meet its present and future capital requirements.

The proposed rate levels and provisions have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Neither has the proposed fuel adjustment clause been shown to be in conformance with Order No. 517. Accordingly, we shall suspend the proposed changes for three months to become effective January 1, 1976.

The Commission finds. (1) The above-named customers should be allowed to intervene.

(2) Good cause exists to accept for filing and suspend IP's proposed changes in rates until January 1, 1976.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act, particularly Sections 205, 206, 307, 308 and 309 thereof, that the Commission enter upon a hearing concerning the lawfulness of IP's rates and terms and conditions of service, as proposed to be modified.

The Commission orders. (A) Pursuant to the authority of the Federal Power Act, particularly sections 205, 206, 307, 308, and 309 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held on January 27, 1975, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the lawfulness of the rates, charges, and conditions of service contained in IP's wholesale rate schedule and contracts as proposed to be amended.

(B) Pending a hearing and final decision thereon, IP's proposed changes are hereby accepted for filing and suspended until January 1, 1976.

(C) On or before December 19, 1975 the Commission Staff shall serve its prepared testimony and exhibits. On or before January 2, 1976. Intervenors shall serve their testimony and exhibits. On or before January 16, 1975 IP shall serve any rebuttal testimony and exhibits.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See delegation of authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(E) The above-mentioned petitioners are hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(F) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29079 Filed 11-6-75;8:45 am]

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[2] CWIP refers to plant not completed and in service during the test period.

[3] See, e.g., Central Vermont Public Service Corporation, Docket No. E-9040, issued August 5, 1975; New England Power Company, Docket Nos. E-9316 and E-9140, issued August 5, 1975; and Georgia Power Company, Docket No. E-9091, issued August 5, 1975.

[Docket No. ES76-22]

IOWA PUBLIC SERVICE CO.

Application

OCTOBER 31, 1975.

Take notice that on October 20, 1975, Iowa Public Service Company (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of $25,000,000 principal amount of First Mortgage Bonds. Applicant proposes to sell the New Bonds at competitive bidding in accordance with the applicable requirements of § 34.1a of the Commission's regulations. The interest rate and the price to be paid for the New Bonds will be determined by the successful bidder.

Applicant is incorporated under the laws of the State of Iowa, with its principal business office in Sioux City, Iowa, and is engaged in the electric utility business in northwestern, north central and east central Iowa and a few small communities in South Dakota.

Applicant proposes to use the proceeds from the issuance of the securities (1) to reduce short-term loans incurred and to be incurred prior to the sale of the New Bonds to secure funds for construction purposes and to pay at maturity on December 1, 1975 $7,920,000 principal amount of First Mortgage Bonds and (2) to meet expenditures for the construction program.

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 21, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-30016 Filed 11-6-75;8:45 am]

[Docket No. ES76-20]

IOWA SOUTHERN UTILITIES CO.

Application for Authority To Issue Securities

OCTOBER 31, 1975.

Take notice that on October 16, 1975, the Iowa Southern Utilities Company (Applicant), filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of $20,000,000 aggregate principal amount of unsecured short term promissory notes and commercial paper notes.

Applicant is incorporated under the laws of the State of Delaware with its principal business office at Centerville, Iowa, and is engaged in the electric utility business in 24 counties in Iowa.

Applicant proposes to issue Notes to both commercial banks and to commercial paper dealers. The Notes issued to commercial banks will not exceed $20,000,000 and the Notes to be issued to commercial paper dealers will not exceed 25 percent of the Applicant's most recent twelve months revenue from the sale of electricity and gas, which would presently permit the issuance of $12,100,000.

Applicant maintains that the interest rate on the Notes issued to commercial banks will not exceed $110 percent of the prime interest rate. Applicant further anticipates that the interest rate on commercial paper at the time of issuance will, in general, average from ¼% to 1% below the prime bank rate; but that on occasions it is possible the interest rate could exceed the prime rate.

Notes issued to commercial banks will mature no later than 92 days from date of issue. Commercial paper notes will mature no later than 270 days from date of issue. Notes will be issued from time to time prior to January 1, 1977.

According to the terms of the application, the proceeds from the issuance of the securities will be added to the general funds of the Company, which general funds will be used, among other things, to provide in part, interim funds for construction expenditures to be made in 1976 and 1977.

Any person desiring to be heard or to make any protest with reference to said Application should on or before November 14, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in acordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29989 Filed 11-6-75;8:45 am]

[Project No. 1413]

ISLAND PARK RESORTS, INC.

Issuance of Annual License

OCTOBER 30, 1975.

On June 10, 1974, Island Park Resorts, Inc., Licensee for Project No. 1413, located on the Buffalo River in Fremont County, Idaho, filed an application for a new license under the Federal Power Act and Commission regulations thereunder.

The license for Project No. 1413 was issued effective November 1, 1964, for a period ending October 31, 1974. Since the original date of expiration, the project has been under annual license. In order to authorize continued operation of the project pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Island Park Resorts, Inc. for continued operation and maintenance of Project No. 1413.

Take notice that an annual license is issued to Island Park Resorts, Inc. (Licensee) for the period November 1, 1975, to October 31, 1976, or until the issuance of a new license for the project, for the continued operation and maintenance of the Project No. 1413, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29959 Filed 11-6-75;8:45 am]

[Docket No. E-9539]

LAKE SUPERIOR DISTRICT POWER CO.

Application

OCTOBER 28, 1975.

Take notice that on October 8, 1975, the Lake Superior District Power Company (Applicant), filed an application, pursuant to section 203 of the Federal Power Act, for Authority to sell approximately $2.4 million of electric transmission and substation facilities to Dairyland Power Cooperative, Bayfield Electric Cooperative and Price Electric Cooperative. The proposed sale of facilities is designed to benefit all parties involved by providing additional capital for Applicant and substantially reducing the cost of wheeling power to the purchasers.

Applicant is incorporated under the laws of the State of Wisconsin, with its principal business office at Ashland, Wisconsin, and is engaged in the generation, transmission distribution and sale of electrical energy in the States of Wisconsin and Michigan.

Any person desiring to be heard or to make any protest with reference to the Application, should on or before November 17, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29974 Filed 11-6-75;8:45 am]

[Docket No. ER76-187]

LONG ISLAND LIGHTING CO.

Tariff Filing

OCTOBER 30, 1975.

Take notice that on October 20, 1975, Long Island Lighting Company (LILCO) tendered for filing an electric power agreement entitled "Contract No. 96, Superseding Contract Nos. 22, 22-A, 22-B, and 22-C, Long Island Lighting Company with Incorporated Village of Rockville Centre" and two amendments to that agreement numbered "Contract 96A" and "Contract 96B" between LILCO and the Incorporated Village of Rockville Centre (Rockville Centre).

Service under this agreement began on April 13, 1960 and has continued thereafter. The company states that since the original purpose of this agreement was to provide only limited emergency service it did not deem it necessary to file this agreement with the Federal Power Commission. The Company also states that the same agreement also provides that Rockville Centre will purchase all power needed pursuant to the terms of Long Island's Service Classification No. 6, Power-High Voltage, which the company states is subject to the New York State Public Service Commission's, and not the Federal Power Commission's, jurisdiction, thereby justifying its failure to file said agreement earlier. The company states that the rates under Service Classification No. 6 are designed to provide a reasonable return on the investment necessary to provide service under that rate schedule. The company requests an effective date of April 13, 1960 and also requests a waiver of the notice requirements.

The Company states that the agreement and a copy of this filing were mailed to a Mr. Charles P. Ketler.

Any person desiring to be heard or to make any protest with reference to this submittal should on or before November 10, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Any person wishing to become a party to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's rules. 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 any proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29961 Filed 11-6-75; 8:45 am]

[Docket Nos. RP74-26; AP76-1]

LOUISIANA-NEVADA TRANSIT CO.

Motion To Terminate Proceedings

OCTOBER 29, 1975.

Take notice that on September 16, 1975, Staff filed a motion to terminate proceedings in the above captioned dockets.

Any person desiring to be heard or to protest said motion should file comments with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 10, 1975. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this motion are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29980 Filed 11-6-75;8:45 am]

[Docket No. RP75-96]

MICHIGAN WISCONSIN PIPE LINE CO.

Order Rejecting Revised Tariff Sheets

OCTOBER 31, 1975.

On April 30, 1975, Michigan Wisconsin Pipe Line Company (Mich-Wis) tendered for filing in this docket proposed changes in its FPC Gas Tariff designed to effect a $66 million jurisdictional rate increase. The proposed increase was based on a test period of 12 months ended January 31, 1975, as adjusted for known and measurable changes through October 31, 1975. Mich-Wis requested an effective date of June 1, 1975, for the proposed rate increase.

By order issued May 19, 1975, we accepted the proposed changes for filing, subject to certain conditions, and suspended the use thereof for five months until November 1, 1975. One of the aforementioned conditions was that Mich-Wis file revised tarifff sheets reflecting the elimination from its proposed rates of $11,265,490 in interest reimbursement payments to producers.[1]

On September 15, 1975, Mich-Wis filed tariff sheets intended to further revise its FPC Gas Tariff.[2] The proposed effective date for these revised sheets is November 1, 1975. According to Mich-Wis, these revised tariff sheets reflect: (1) The increased cost of imported Canadian gas; (2) an increase in the cost of gas purchased from Texas Gas Transmission Corporation; (3) an increase in the balance of advance payments outstanding; and (4) the elimination of the $11,265,490 in interest reimbursement payments to producers. Mich-Wis states that the net effect of these revisions is an increase of $65,997,915 in the jurisdictional rate level reflected in the April 30, 1975, filing in this docket.

Our review of Mich-Wis' September 15, 1975, filing indicates that it fails to comply with certain provisions of Mich-Wis' FPC Gas Tariff and with the terms of the settlement agreement which we approved in Mich-Wis' previous general rate increase proceeding.[3] Section 15 of the General Terms and Conditions of Mich-Wis' tariff requires that purchased gas adjustment (PGA) increases be based on cost changes for a "Determination Period" of 12 calendar months ending three months prior to the effective date of the PGA increase. Thus, the proper "Determination Period" for the instant filing is 12 calendar months ending July 31, 1975. Mich-Wis, however, has based the instant filing on a "Determination Period" of 12 months ending October 31, 1975. Accordingly, because that portion of the instant filing reflecting purchased gas cost increases is based on an improper "Determination Period", such portion must be rejected. This rejection is, of course, without prejudice to Mich-Wis' right to file for increased purchased gas costs in accordance with the applicable provisions of its FPC Gas Tariff and our regulations under the Natural Gas Act.

As noted above, the instant filing also includes advance payments in an amount greater than the advance payments balance reflected in Mich-Wis' April 30, 1975, filing in this docket. In our order issued June 26, 1974, in Docket No. PR73-102, we approved a settlement agreement which, among other things, gave Mich-Wis authority to track advance payment increases. However, such tracking authority, by the express terms of the agreement, extends only until the settlement rates are superseded by a general rate increase filed pursuant to section 4 or 5 of the Act. Because the rate increase filed in this docket has been permitted to become effective after suspension on November 1, 1975, Mich-Wis' tracking authority terminates on October 31, 1975. Accordingly, the instant advance payments tracking filing, proposed to be effective November 1, 1975, is untimely and must be rejected.

In light of the foregoing, we shall require that Mich-Wis file revised tariff sheets to be effective November 1, 1975, reflecting only the elimination of the interest reimbursement payments discussed above, as previously ordered herein.[4]

The Commission finds. (1) Good cause exists to reject the September 15, 1975, filing in this docket because of Mich-Wis' failure to comply with the provisions of its purchased gas cost adjustment clause and because of its failure to timely file for advance payment increase pursuant to the tracking authority granted by our order issued June 26, 1974, in Docket No. RP73-102.

(2) Good cause does not exist to grant Mich-Wis' request for waiver of §§ 154.66 (b) and 154.63 of our regulations.

(3) Good cause exists to require Mich-Wis to file revised tariff sheets, to be effective November 1, 1975, reflecting the elimination of $11,265,490, in interest payments to producers.

The Commission orders. (A) Mich-Wis' September 15, 1975, filing in this docket is hereby rejected for the reasons set forth hereinabove.

(B) Mich-Wis' request for waiver of §§ 154.66(b) and 154.63 of our Regulations is hereby denied.

(C) Mich-Wis' shall, within 15 days of issuance of this order, file revised tariff sheets to be effective November 1, 1975, reflecting the elimination of $11,265,490 in interest reimbursement payments to producers.

(D) Rejection of that portion of Mich-Wis' September 15, 1975, filing reflecting increased purchased gas costs is without prejudice to Mich-Wis' right to file for increases in such costs in accordance with the applicable provisions of its FPC Gas Tariff and our regulations under the Natural Gas Act, together with a request for necessary waiver to permit such increases to become effective as of November 1, 1975.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30006 Filed 11-6-75;8:45 am]

[Docket No. CP75-125]

MICHIGAN WISCONSIN PIPE LINE CO.

Amendment to Application

OCTOBER 28, 1975.

Take notice that on October 7, 1975, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP75-125 an amendment to its application of October 29, 1974, in said docket[1] pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of

[1] By order issued July 11, 1975, Mich-Wis' application for reconsideration of our May 19, 1975, order was denied.

[2] The tariff sheets filed on September 15, 1975, are designated: Substitute Tenth Revised Sheet No. 27F to Second Revised Volume No. 1; and Substitute Fifth Revised Sheet Nos. 141 and 142, Substitute Third Revised Sheet Nos. 214 and 215, and Substitute Second Revised Sheet Nos. 231 and 232 to First Revised Volume No. 2.

[3] "Order Approving Settlement, Rejecting Provision and Remanding Issues for Hearing", issued June 26, 1974, in Michigan Wisconsin Pipe Line Company, Docket No. RP73-102.

[4] See Ordering Paragraph "E" of our May 19, 1975, order in this docket.

[1] Notice published November 20, 1974 (39 FR 40817).

an offshore pipeline facility interconnecting the pipeline system proposed by High Island Offshore System (HIOS)[1] with Applicant's existing offshore system in addition to the offshore and onshore transportation service originally proposed in the said application for Texas Gas Transmission Corporation (Texas Gas), all as more fully set forth in the amendment to application on file with the Commission and open to public inspection.

It is stated that HIOS requested in its amendment to application filed September 8, 1975, authorization to construct and operate a pipeline and appurtenant facilities to transport natural gas for Applicant, Texas Gas, Transcontinental Gas Pipe Line Corporation (Transco) and United Gas Pipe Line Company (United) from the High Island Area, offshore Texas, to Block 167, West Cameron Area, offshore Louisiana. Applicant proposes in the instant amendment to application to construct and operate approximately 12 miles of 30-inch diameter pipeline from the northern terminus of the facilities proposed by HIOS in West Cameron Block 167, to Applicant's existing facilities in Block 171, West Cameron Area, offshore Louisiana. Applicant also requests authorization to construct and operate a measuring station for the onshore redelivery of natural gas to Texas Gas at North Tepetate, Louisiana. Applicant estimates that the cost of the proposed facilities would be approximately $11,738,000 which costs would be financed initially with treasury funds, retained earnings and other funds generated internally, together with borrowings from banks under short-term lines of credit as required.

Applicant states that both it and Texas Gas have acquired the right to purchase gas reserves in the High Island Area which they propose to have transported through the HIOS facilities to Block 167, West Cameron Area. Applicant also proposes herein to transport the gas of Texas Gas through the proposed and existing facilities from Block 167 to North Tepetate, Louisiana, for redelivery to Texas Gas. Applicant states that the transportation service would be provided pursuant to the terms of a gas transportation agreement between it and Texas Gas dated August 15, 1975, which specifies a contract demand of 245,815 Mcf of gas per day and a rate of $1.38 per Mcf per month of contract demand, which rate is said to enable Applicant to recover its related cost of service.

Applicant further states that Transco and United have caused their respective affiliates to form U–T Offshore System (U–T), a general partnership, which is alleged to be filing an application for a certificate of public convenience and necessity authorizing the construction and operation of a pipeline and appurtenant facilities to transport gas for Transco and United from the northerly terminus of the HIOS pipeline in Block 167, West Cameron Area, to a point onshore in Cameron Parish, Louisiana.[2] Applicant states that it has agreed that, in the event U–T does not receive timely certificate authorization to construct the facilities and render the transportation service for Transco and United proposed in U–T's application, Applicant will transport gas for Transco and United from Block 167 to North Tepetate, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 13, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of the procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 75–29975 Filed 11–6–75;8:45 am]

[Docket No. E–9534; E–9535]

MINNESOTA POWER & LIGHT COMPANY AND MINNKOTA POWER COOPERATIVE, INC.

Applications

OCTOBER 29, 1975.

Take notice that Minnesota Power & Light Company (MP&L) and Minnkota Power Cooperative, Inc. (Minnkota) filed with the Federal Power Commission on September 22, 1975 the following applications: (1) A joint application by MP&L and Minnkota (Applicants) in Docket No. E–9534 for an order, pursuant to section 202(e) of the Federal Power Act, authorizing the transmission of electric energy from the United States to Canada, and (2) an application by Minnkota in Docket No. E–9535 for a permit, pursuant to Executive Order No. 10485, dated September 3, 1953, authorizing the construction, operation, maintenance and connection at the international border between the United States and Canada of certain facilities for the transmission of electric energy between the United States and Canada.

MP&L is incorporated under the laws of the State of Minnesota, with its principal place of business at Duluth, Minnesota. Minnkota, incorporated under the laws of the State of Minnesota and qualified to do business as a foreign corporation in the State of North Dakota, operates in Minnesota and North Dakota and has its principal place of business at Grand Forks, North Dakota.

The proposed facilities for which Minnkota seeks a permit in Docket No. E–9535 will consist principally of a 230 kv overhead transmission line to be located at the United States-Canadian border near Warroad, Roseau County, Minnesota, where connection will be made with a similar line to be constructed and operated by The Manitoba Hydro-Electric Board (Manitoba Hydro), a principal place of business at Winnipeg, Canadian crown corporation, with its Province of Manitoba, Canada. The electric transmission facilities which Minnkota and Manitoba Hydro propose to construct, operate and connect at the Minnesota-Manitoba border will be part of the proposed international interconnection known as the Ridgeway-Shannon 230 kv Interconnection (Interconnection) which will connect the electric systems of Applicants and Manitoba Hydro. The Interconnection will extend from Manitoba Hydro's proposed Ridgeway Substation near Winnipeg in the north to MP&L's proposed Shannon Substation near Hibbing, St. Louis County, Minnesota, in the south and will include Minnkota's proposed substation near Littlefork, Koochiching County, Minnesota. The Interconnection, which is provided for in certain contracts between Applicants and Manitoba Hydro submitted as part of the applications, will be utilized by Applicants and Manitoba Hydro for the transmission, sale and exchange of electric energy in accordance with the terms and conditions and at the rates and charges set forth in such contracts.

The electric energy which Applicants seek authorization to export in Docket No. E–9534 will be delivered to Manitoba Hydro at the Minnesota-Manitoba border by means of Minnkota's proposed 230 kv transmission line referred to above. The amount of energy to be exported will depend upon various factors, including the needs of the electric systems of Applicants and Manitoba Hydro, the price per kwh of energy, and the capability of those systems to accommodate energy flows. The source of the exported energy will be MP&L's system resources. Manitoba Hydro will utilize

[1] Proposed in the amendment to application of September 8, 1975, in Docket Nos. CP75–81 and CP75–104, notice published October 7, 1975 (40 FR 46353).

[2] Said application was filed October 6, 1975, in Docket No. CP76–118.

the energy received from Applicants to supply the load requirements of Manitoba Hydro's system.

Applicants represent that "the proposed transmission of electric energy to Canada in exchange for a power supply from Manitoba Hydro would improve the sufficiency of the electric supply within the United States, primarily by means of non-fossil fuel generation."

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 28, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The applications are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29981 Filed 11-6-75;8:45 am]

[Docket No. ER76-46]

MONTAUP ELECTRIC CO.

Order Granting in Part and Denying in Part Applications for Rehearing and Amending Prior Order

NOVEMBER 3, 1975.

By order issued August 29, 1975, we accepted for filing and suspended for one month proposed increased rates filed herein by Montaup Electric Company (Montaup). The Municipal Gas and Electric Department of the Town of Middleboro, Massachusetts (Middleboro) and the Rhode Island Consumers' Council and Division of Public Utilities and Carriers of the State of Rhode Island (Rhode Island), both intervenors herein, have filed timely applications for rehearing of our order of August 29, 1975. Montaup also filed a Motion for Reconsideration of our August 29 order. Middleboro requests alternatively that we reject Montaup's filing or lengthen the suspension period from one month to the statutory maximum of five months. Rhode Island also seeks the maximum five month suspension. Montaup seeks an extension of the suspension period for an additional two month period, or until December 1, 1975.

Middleboro relies on our order issued September 10, 1975, in Interstate Power Company, Docket No. ER76-70, rejecting that company's filing for a rate increase on the basis of calendar year 1974 data, which we concluded was too stale to use as the basis for establishing rates for the present or future.

During the year 1975, we have accepted electric rate filings utilizing Period I data for the twelve months ended December 31, 1974, as meeting the filing requirement of § 35.13(b)(4)(iii) of the regulations that such data be ". . . for the most recent twelve consecutive months for which actual data are available . . .". However, we realized in so doing that at some point in time data for the twelve months ended December 31, 1974, would eventually become stale and thus outside any reasonable interpretation of § 35.13(b)(4)(iii) of the regulations which requires submission of the most recently available data. In the Interstate order, we were dealing with data that was 7½ months old and made the determination that such data was too stale to be "the most recently available" and therefore rejected Interstate's filing for failure to comply with § 35.13(b)(4)(iii) of the regulations. Since that action, we have consistently refused to accept rate filings containing Period I data which was more than seven months old. Accordingly, since Montaup has not reflected data for Period I which is more than seven months from the date of its tender for filing, we shall deny Middleboro's motion to reject. We find that the Period I data contained in Montaup's filing is sufficient to meet the requirements of § 35.13(b)(4)(iii) of our regulations.

Middleboro also argues that the proposed method for computing the demand charge and the results thereunder require rejection. In Middleboro's Petition to Intervene it raised similar arguments. Middleboro's Application for Rehearing raises no new issues to persuade us that our statement that this issue of the demand charge computation should be developed at the evidentiary hearing instead of following Middleboro's request for rejection was in error.

Middleboro and Rhode Island both argue that we erred by not suspending the proposed rate increase for five months. While we believe that the one month suspension was clearly legally permissible,[2] we do not address the merits of their arguments since we believe, on the facts before us, that we should grant the relief sought. Montaup's Motion for Reconsideration states that the proposed rate increase is based in major part on the inclusion of a generating unit, Canal No. 2, in its Period II rate base. Montaup states further that the commercial operation of this unit has been delayed until December 1, 1975. Montaup further advises that it will move for further extension of the suspension period in the event of additional delay in the date Canal No. 2 will be placed in service. There is no assurance, however, that the unit will indeed be placed in service on or before December 1, 1975. We note that Montaup originally expected to place the unit in service on September 1, 1975, the proposed effective date of the rates filed herein. Montaup then advised, in response to the petitions to intervene filed herein, of a delay until October 1, 1975. We believe that these facts require that we grant rehearing of our order of August 25, 1975, and amend such order to provide for a five month suspension of Montaup's proposed rate increase.

The Commission finds. Except as hereinafter ordered, the applications for rehearing filed herein by Middleboro and Rhode Island and the motion filed by Montaup raise no issues of fact or law to justify rehearing or reconsideration of our order of August 25, 1975, in the instant proceeding.

The Commission orders. (A) Ordering Paragraph (B) of our order herein of August 25, 1975, is hereby amended to read as follows:

(B) Pending hearing and decision as to the justness and reasonableness of the increased rates proposed by Montaup, the revised tariff sheets, amendments and exhibits filed herein are accepted for filing and suspended for five months or until February 1, 1976, when they will be permitted to become effective subject to refund.

(B) Except as hereinabove ordered, the Applications for rehearing and motion for reconsideration are hereby denied.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30000 Filed 11-6-75;8:45 am]

[Docket No. RP76-27]

MOUNTAIN FUEL SUPPLY CO.

Proposed Changes in FPC Gas Tariff

OCTOBER 31, 1975.

Take notice that Mountain Fuel Supply Company (Mountain Fuel), on October 22, 1975, tendered for filing proposed changes in its FPC Gas Tariff Original Volume No. 1. Mountain Fuel states that the purpose of the proposed changes is to permit it to reflect the effect of the provisions of Opinion No. 742 and accompanying order issued August 28, 1975, permitting a small producer rate equal to 130 percent of the Commission-determined base ceiling rate. Mountain Fuel requests that the Commission waive its regulations so as to permit the proposed changes to become effective as of August 28, 1975.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 17, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29990 File 11-6-75;8:45 am]

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[2] Municipal Light Boards of Reading and Wakefield, Massachusetts v. F.P.C., 450 F.2d 1341 at 1351 (1971).

[Docket No. CP76-129]

MOUNTAIN FUEL SUPPLY CO.

Application

OCTOBER 31, 1975.

Take notice that on October 14, 1975, Mountain Fuel Supply Company (Applicant), P.O. Box 11363, Salt Lake City, Utah 84139, filed in Docket No. CP76-129 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued operation of facilities in interstate commerce for the transportation of natural gas and the sale of natural gas therefrom, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that during the past year a review of Applicant's operations has been undertaken, and that this review revealed the possible existence of inadequate intra-company procedures to insure that appropriate filings were made with the Commission. Applicant alleges that in failing to request for authorization of the Commission to operate the facilities requested herein, that Applicant had no intent to violate the Natural Gas Act or any rule or regulation thereunder.

Applicant requests in the instant application that it be authorized to operate transmission pipeline taps, related regulating and metering facilities, and certain designated lateral facilities used for the transportation and subsequent resale of natural gas to Applicant's customers along the routes of its transmission pipelines.

Applicant requests authorization to continue operation of 74 transmission pipeline taps which serve 8 interruptible industrial customers and 4,253 residential and commercial customers. The total amount of natural gas delivered through said taps is alleged to be 16,799,297 Mcf in 1974, 15,739,769 Mcf to the industrial customers, and 1,059, 528 Mcf to the commercial and residential customers. The sales to the residential and commercial customers are said fairly to represent future sales for the next 3 years, but it is stated that if gas supplies continue to be restricted, the interruptible customers' gas supply would decrease about 3 percent per year to provide gas to the residential and commercial customers. All of the sales are being made pursuant to regulation of either the Wyoming or Utah State Commissions, it is stated. The laterals for which Applicant requests authorization for continued operation are stated to serve the Stauffer Chemical Plant, the Allied Chemical Corporation and Church and Dwight Plants, and 2 F.M.C. Corporation Plants.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 26, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29991 Filed 11-6-75;8:45 am]

[Docket No. CP75-202]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Petition To Amend

OCTOBER 31, 1975.

Take notice that on October 15, 1975, Natural Gas Pipe Line Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP75-202 a petition to amend the order of the Commission of July 3, 1975 (54 FPC ——), issued in said docket pursuant to Section 7(c) of the Natural Gas Act to include in the certificate of public convenience and necessity authorization to exchange natural gas with Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), at an additional point of delivery, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner states that pursuant to an amendment dated March 17, 1975, to their gas exchange agreement, Petitioner and Michigan Wisconsin agreed to provide an additional delivery point for Michigan Wisconsin to deliver natural gas to Petitioner. The proposed delivery point on Petitioner's pipeline in Beaver County, Oklahoma would allow Petitioner to receive gas from Michigan Wisconsin from the Trimmell Well No. B.P.-14 in Beaver County, Oklahoma. Petitioner would redeliver equivalent volumes of natural gas to Michigan Wisconsin at an existing point of delivery in Hansford County, Texas, less 3.0 percent of the volumes of gas delivered for fuel used in transportation. Michigan Wisconsin would pay Petitioner 1.5 cents per Mcf of gas delivered for compressing and gathering the gas at the wellhead.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 25, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29992 Filed 11-6-75;8:45 am]

[Docket No. RP75-108]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Filing of Motion To Make Tariff Sheets Effective

OCTOBER 29, 1975.

Take notice that on October 16, 1975, Natural Gas Pipeline Company of America (Natural), filed with the Federal Power Commission a Motion To Make Suspended Tariff Sheets Effective. Natural moves to make effective December 1, 1975 the tariff sheets filed on May 30, 1975 in this proceeding with certain revisions all as more fully set forth in said Motion.

Natural states that it has made the following revisions to its May 30, 1975 tariff filing: (1) adjusted its transmission cost of service to reflect a credit in the amount of revenues received by Natural attributable to the sale of liquid hydrocarbons to Phillips Petroleum Company; (2) changed its Winter Service Rates (Rate Schedules WS-1 and WS-2) from a demand to a commodity basis; and (3) redesigned its rates from an unmodified Seaboard basis to the so-called "United formula". Natural has also filed alternate tariff sheets to reflect the exclusion of all costs associated with the facilities in Docket No. CP75-256 as well as the other aforestated revisions. Natural requests that the alternate tariff sheets be made effective in the event the CP75-256 facilities are not certificated, either on a temporary or permanent basis on or before December 1, 1975.

Natural further states that a copy of the present filing has been mailed to each of its jurisdictional customers, each interested state commission, and each party to this proceeding.

Any person wishing to do so may submit comments in writing concerning Natural's present filing. All such comments should be addressed to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should be submitted on or before November 17, 1975. Copies of Natural's filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29982 Filed 11-6-75;8:45 am]

NATURAL GAS PIPELINE COMPANY OF AMERICA

[Docket No. CP76-126]

Notice of Application

OCTOBER 30, 1975.

Take notice that on October 10, 1975, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP76-126 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon its 98th Street delivery point, through which it delivers gas to Northern Indiana Public Service Company (NIPSCO) all as more fully set forth in the application on file with the Commission and open to public inspeciton.

Applicant states that it was authorized to lease the 98th Street delivery point in the City of Chicago, Cook County, Illinois, from The Peoples Gas Light and Coke Company (Peoples) by orders of the Commission of February 14, 1950, in Docket No. G-980 (9 FPC 478), August 18, 1959, in Docket No. G-10214, and November 25, 1970, in Docket No. CP71-32 (44 FPC 1485). Applicant states that it made deliveries through the delivery point to NIPSCO, and that NIPSCO delivered such gas to Commonwealth Edison Company (Commonwealth). It is alleged that Commonwealth primarily uses coal in its generating plant so served, and uses natural gas on an interruptible basis only. NIPSCO has therefore not renewed its contract for sales of gas with Commonwealth, it is stated. Applicant proposes to abandon the delivery point to Peoples, which is said to intend to abandon the facilities either by removal or in place.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 12, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29962 Filed 11-6-75;8:45 am]

[Docket No. CP75-256]

NATURAL GAS PIPE LINE COMPANY OF AMERICA

Order Denying Temporary Certificate, Granting Interventions and Setting Date for the Filing of Evidence and Hearing Date

NOVEMBER 3, 1975.

On March 13, 1975, Natural Gas Pipeline Company of America (Natural) filed an application for a certificate of public convenience and necessity authorizing an increase in the storage capacity and peaking delivery capacity of six extant certificated storage reservoirs attached to its main transmission system in Iowa and Illinois. Natural estimates that the facilities needed to implement the proposed increase in storage and deliverability capacity will cost a total of $18,855,000 which will be financed as a part of a total construction program for current projects and advance payments of $135,000,000. The total program is to be financed on an interim basis with a combination of funds obtained under lines of credit entered into with several banks, short term borrowings from Peoples Gas Company, the parent of Natural, and through issuance of commercial paper. Under this composite financing package, it is difficult to discern what type of borrowing will be attributable to this proposal or its cost. We expect that this matter will be explained in greater detail in the formal record we shall order developed.

In its application, Natural indicates that an additional delivery capacity of 114 million cubic feet per day will result from approval of this proposal. In utilizing the increase, Natural plans to reserve 64 million cubic feet of daily capacity for its own use. The remaining 50 million cubic feet of daily capacity has been offered to Natural's customers under tariff schedule LS-1. This storage service is estimated to cost 39.4¢ per Mcf under schedule LS-1 and is to be available for 100 days in a period each year beginning December 1 of one year and continuing through March 31 of the following year. Natural estimates that the LS-1 service will yield an income of $1,968,000 the first year predicated upon a 15.25% return on equity.

On August 19, 1975, Natural moved for a temporary certificate pursuant to Section 7(c) of the Natural Gas Act and Section 157.17 of the Commission's Regulations thereunder authorizing construction and operation of the facilities in this docket in time for the 1975-76 winter heating season. Natural's request for a temporary certificate indicates that approximately 60 days will be required for the construction of gathering facilities and the drilling of injection-withdrawal wells—by Natural's admission an expedited work schedule without allowance for unexpected down time. Thereafter 29.5 Bcf of gas would be injected prior to November 1, 1975. Without passing on whether Natural had an emergency sufficient for issuance of a temporary certificate under Section 157.17 of the regulations, it appears that the request is clearly moot now if it was not also moot when filed[1] and should be denied.

It is our opinion that the public interest requires a formal record in support of this application. We note in passing that we have recently by order issued September 26, 1975, in Docket No. CP74-286 —— FPC —— granted a temporary certificate to Natural authorizing the injection of gas into Natural's proposed North Lansing storage field. Under the circumstances we expect that, in addition to the usual showings made in applications of this nature, Natural will explain any interrelationship of its various storage proposals and will clarify to what extent, if any, North Lansing or existing storage facilities can be utilized to provide the same service described in the present application.

Ten petitions to intervene have been filed in Docket No. CP75-256. Nine petitioners support Natural's proposal and a tenth, Mississippi River Transmission Corporation does not oppose Natural's proposal. These interveners are as follows:

Illinois Power Company.
Iowa Electric Light and Power Company.
Iowa Illinois Gas and Electric Company.
Iowa Power and Light Company.
Iowa Southern Utilities Company.
Northern Illinois Gas Company.
North Shore Gas Company.
Peoples Gas Light and Coke Company.
Mississippi River Transmission Corporation.
Peoples Natural Gas—a Divisions of Northern Natural Gas Company.

[1] Had we issued a temporary certificate on the same day the motion was received, sixty days of construction would have carried Natural until October 18, 1975. This would have left only 13 days for injection of 29.5 Bcf prior to the start of the withdrawal season on November 1, 1975.

The Commission finds: (1) Participation by each of the above-named interveners may be in the public interest.

(2) The temporary certificate requested in this docket by motion of Natural Gas Pipeline Company of America on August 19, 1975, should be denied.

(3) It is necessary and appropriate that a formal record be developed in this matter as hereinafter ordered.

The Commission orders: (A) The above-named petitioners are permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene, and *Provided, further,* that the admission of such interveners shall not be construed as recognition by the Commission that they might be aggrived because of any order or orders of the Commission entered in this proceeding.

(B) Natural Gas Pipeline Company of America and all supporting interveners shall file and serve testimony and exhibits comprising their cases in chief on or before November 20, 1975.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Natural Gas Act (particularly Sections 4, 5, 7, and 15 thereof), and the Commission's Rules of Practice and Procedure, a hearing will be held in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on December 10, 1975, at 10 a.m. (e.s.t.).

(D) The motion of Natural for an order issuing a temporary certificate is denied.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-30001 Filed 11-6-75;8:45 am]

[Docket No. ER76-198]

NEPOOL EXECUTIVE COMMITTEE

Notice of Filing of Amendment to the New England Power Pool Agreement

OCTOBER 31, 1975.

Take notice that on October 26, 1975, the NEPOOL Executive Committee filed an Agreement Amending NEPOOL Power Agreement (Amendment), dated September 1, 1975 which modifies the provisions of the New England Power Pool Agreement, dated as of September 1, 1971.

The Amendment provides for a revision of § 3.3 of the NEPOOL Agreement to extend to November 1, 1977 the continued option for certain smaller Participant systems and their wholesale suppliers to elect "composite treatment" for the purposes specified in § 3.3. Prior to the change provided in the Amendment, such "composite treatment" would terminate on November 1, 1975. The NEPOOL Participants state that substantial expenses may be avoided for the Pool by giving Participants meeting the requirements of § 3.3 of the NEPOOL Agreement and their wholesale suppliers the option to continue use of the composite treatment authorized by § 3.3 pending the installation of automated billing system for the Pool dispatch center.

The NEPOOL Executive Committee requests that the Commission waive the customary notice period and permit the Amendment to become effective as of November 1, 1975. The NEPOOL Executive Committee states that no system, whether or not a NEPOOL Participant at the present time, will be adversely affected by granting such a waiver.

Any person desiring to be heard or to make any protest with reference to the Amendment should on or before November 17, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29993 Filed 11-6-75;8:45 am]

[Docket No. E-9306]

NEVADA POWER CO.

Notice of Stipulation and Agreement for Continuation of Service

OCTOBER 31, 1975.

Take notice that on October 24, 1975, Nevada Power Company tendered for filing a Stipulation and Agreement for Continuation of Service by Nevada Power Company to California-Pacific Utilities Company at Henderson, Nevada beyond November 1, 1975, the date when the Federal Power Commission's suspension of the cancellation of service expires. The Stipulation And Agreement entered into by Nevada Power Company and California-Pacific Utilities Company includes, inter alia, a commitment by Nevada Power Company to continue to serve California-Pacific Utilities Company until May 31, 1977.

Any person desiring to be heard or to protest said Stipulation And Agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 18, 1975. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this Stipulation And Agreement are on file with the Commission and are available for public inspection.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29994 Filed 11-6-75;8:45 am]

[Docket No. ER76-158]

NEW ENGLAND POWER CO.

Order Accepting for Filing and Suspending Proposed Contract Demand Service Agreement, Setting Formal Hearing and Establishing Procedures

OCTOBER 30, 1975.

By letter dated October 1, 1975, New England Power Company (NEPCO) submitted for filing an amendment to its electric tariff providing for the inclusion of contract demand service for certain customers. During the negotiations that preceded the formalization of NEPOOL, it was recognized that a transitional period would be necessary to allow smaller systems to adapt their operations to a pool-type plan. Accordingly, the NEPOOL Agreement provides for wholesale customers of larger participants to participate in NEPOOL on a composite basis with their suppliers. NEPCO therefore included in its tariff the manner in which the tariff rate would be applied to such customers. NEPCO advises that certain of those customers have now stated their intention of becoming self-standing participants in NEPOOL as of November 1, 1975. Accordingly, the instant amendment to the electric tariff was filed.

Contract demand service is available to a customer who proposes to purchase a specified amount of electricity from NEPCO and obtain the balance of its requirements through the ownership or purchase of entitlements under the NEPOOL Agreements. The instant submittal also provides for the customer's demand to be that specified in the service agreement for the first seven years. However, the first year of the service agreement may not represent a change in the customer's greatest demand for the current year under any preceding agreement with NEPCO. The demand for any subsequent year may not increase or decrease by an amount greater than 20% of the previous year's demand. Demand for any period after the first seven years shall be determined by the customer no later than July 1, of the seventh year. NEPCO states that the seven year notice provision and constrictions on the level of use allow the company to properly plan its system and provide for an orderly change by its customers to NEPOOL membership.

In requesting an effective date of November 1, 1975, NEPCO states that any effective date subsequent thereto will create severe administrative problems and may make it impossible for certain of NEPCO's customers to take advantage of contract demand service and to attain full NEPCO membership.

Our review indicates that the proposed rates and charges for the contract demand service have not been shown to be

just and reasonable and may be in excess of the costs plus fair rate of return associated with rendition of such service. Accordingly, we shall accept the proposed contract demand service agreement for filing and suspend it for one day to November 1, 1975, when it shall be permitted to become effective as requested subject to refund. In this connection we shall construe NEPCO's proposal as a request for waiver of the applicable notice requirements to permit a proposed effective date of October 31, 1975, in order for us to exercise our suspension authority to provide for a one day suspension to November 1, 1975.

Public notice of NEPCO's filing was issued October 9, 1975, with protests, comments or petitions to intervene due on or before October 24, 1975.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the Federal Power Act, that the Commission institute a Section 205 investigation to determine the reasonableness of the proposed rates tendered by NEPCO in Docket No. ER76-158 and that such rate schedule and the contract demand service agreement be accepted for filing.

The Commision orders: (A) NEPCO's amendment to its electric tariff tendered for filing on October 1, 1975, is hereby accepted for filing and suspended for one day until November 1, 1975, when the proposed rate shall become effective subject to refund.

(B) Pursuant to the authority of the Federal Power Act, particularly Section 205 thereof, and the Commission's Rules and Regulations, a public hearing shall be held on March 23, 1976, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning the reasonableness of the proposed rates.

(C) On or before December 10, 1975, NEPCO shall serve its prepared direct testimony and exhibits. On or before February 10, 1976, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before February 24, 1976. Any rebuttal evidence by the Company shall be served on or before March 9, 1976.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29963 Filed 11-6-75;8:45 am]

[Docket No. RP75-89]

NORTHERN NATURAL GAS CO.

Order on Motion To Place Suspended Tariff Sheets Into Effect Conditionally Accepting Proposed Tariff Sheets for Filing, Amending Prior Order and Granting Waiver

OCTOBER 31, 1975.

By order issued May 16, 1975, we, inter alia, accepted for filing and suspended for five months proposed increased rates filed by Northern Natural Gas Company (Northern) in the instant docket. By Ordering Paragraph (E) of that order, we required Northern to file revised tariff sheets reflecting the elimination of the rate effect of certain interest payment agreements between Northern and Exxon, U.S.A. By Ordering Paragraph (G) of that order, we provided that Northern shall file revised tariff sheets to become effective October 27, 1975, the end of the suspension period, eliminating from rate base facilities which were not certificated and in service by October 27, 1975.

On October 3, 1975, Northern filed proposed revised tariff sheets[1] and a motion to place its suspended tariff sheets into effect.

Northern states that, pursuant to Ordering Paragraph (G) of our order of May 16, 1975, it has eliminated from rate base the facilities which had been included in rate base but which were not certificated and in service by October 27, 1975, the date Northern seeks to place its rates into effect. Northern states further that, pursuant to Ordering Paragraph (E) of our order of May 16, 1975, it has eliminated the rate effect of the interest payment agreements with Exxon. However, as a claimed offset against this reduction, Northern states that it has executed advance payment agreements in purported compliance with Order No. 499 and seeks to include the rate effect of these advances in the revised tariff sheets filed herein.

We believe that this claimed offset must be rejected. The rates herein are based on Northern's case-in-chief as filed on April 11, 1975, and based on the 12 months ended December 31, 1974, as adjusted for known and measurable changes for the 9 months ended September 30, 1975. By this claimed offset, Northern seeks to change one element of its case in chief and effectively increase its suspended rates. Such a change in suspended rates requires special permission after a showing of good cause under § 154.66 of our regulations.[2] No such showing has been made. Accordingly, we shall accept Northern's revised tariff sheets for filing, subject to the condition that within 15 days after the issuance of this order, Northern file revised tariff sheets excluding the proposed offset based on the advance payment agreements newly executed with Exxon. In this regard, we note that by notice issued September 16, 1975, in Docket Nos. R-411 and RM74-4[3], we directed that "the issues raised by the competing Alaskan gas proposals as well as all issues related to Alaskan advance payments should be discussed at the oral argument * * * " (mimeo at 7). We believe that forum provides the appropriate place to consider the appropriateness of our advance payment policies as they relate to advance payments to producers for gas to be produced in Alaska.[4]

Northern's First Revised Sheet No. 4b relates to Rate Schedule No. E-1 for proposed emergency service. By our order of May 16, 1975, Ordering Paragraph (F), we rejected this and other proposed tariff sheets.[5] By order issued July 11, 1975, we deleted Ordering Paragraph (F) of our May 16 order. Northern states that these tariff sheets thereby became effective as an Initial Rate Schedule on July 11, 1975. On further consideration, we believe that these tariff sheets were properly rejected in the first instance.[6] In this regard, Northern stated in its Petition for Rehearing of our May 16 order that these tariff sheets provide the rate schedule designed to set forth rates for emergency service pursuant to § 2.78 of our regulations and Paragraph 9.17 of Northern's Tariff. After additional consideration, we believe that the public interest requires that these initial rate schedules be subject to the Commission's certification procedures upon application under section 7 of the Natural Gas Act. Pending such certification procedure any service rendered pursuant to Paragraph 9.17 of the Tariff shall be at the applicable effective tariff rate. Accordingly, we shall amend our order of July 11, 1975, by deleting Ordering Paragraph (B) thereof.

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[1] Substitute Seventh Revised Sheet No. 4a and First Revised Sheet No. 4b to Third Revised Volume No. 1 and Substitute Seventh Revised Sheet No. 1c to Original Volume No. 2 of Northern's FPC Gas Tariff.

[2] The two decreases relating to facilities not certificated and in service and the interest payment agreements were similarly changes in suspended rates. However, these were ordered by the Commission since, in one instance, the regulations do not permit rates to be based on such uncertificated facilities and in the other, we determined as a matter of law and policy that the interest payment agreements do not conform to the policies of our advance payment orders. See: Tennessee Gas Pipeline Company, Docket No. RP75-13, order issued March 14, 1975, rejecting alternate tariff sheets based on revised sales volumes; Columbia Gas Transmission Company, et al., Docket Nos. RP74-82, et al., order issued February 11, 1975.

[3] Accounting and Rate Treatment of Advances Included in Account No. 166, Advances for Gas Exploration, Development and Production, Notice of Oral Argument, etc.

[4] Northern's proposed offset relates in part to advance payments with respect to certain Exxon interests in the offshore Gulf of Mexico.

[5] Original Sheets No. 45, 46, 47, and 48.

[6] Section 154.22 provides that no natural gas company shall file any new rate schedule for the performance of any service for which a certificate of public convenience and necessity must be obtained. Northern has no certificate authority to provide this new service.

thereby reinstating Ordering Paragraph (F) of our May 16 order and our rejection of the tariff sheets containing Rate Schedule E–1. Such rejection is without prejudice to Northern's filing for certificate authority for such emergency service.

Northern also request waiver of the 30 day notice provision to permit the revised tariff sheets to become effective October 27, 1975. We shall grant the requested waiver.

The Commission finds. Good cause exists to permit the revised tariff sheets to go into effect on October 27, 1975, subject to the condition hereinafter ordered.

The Commission orders. (A) The Revised Tariff Sheets filed by Northern on October 3, 1975, are accepted for filing and permitted to become effective October 27, 1975, subject to the condition that, within 15 days of the issuance of this order, Northern shall file revised tariff sheets eliminating the rate effect of the advance payments agreement with Exxon.

(B) Waiver of § 154.22 of the Commission's regulations is hereby granted.

(C) Our order of July 11, 1975 is hereby amended by deleting Ordering Paragraph (B) thereof.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-30007 Filed 11-6-75;8:45 a.m.]

[Docket No. RP73-48 (PGA No. 76-1a)]

NORTHERN NATURAL GAS CO.

Notice of Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

OCTOBER 30, 1975.

Take notice that Northern Natural Gas Company on October 20, 1975, tendered for filing Substitute Tenth Revised Sheet No. 3a of its F.P.C. Gas Tariff, Original Volume No. 4. Northern states that the proposed change to become effective October 1, 1975, would decrease the rate per Mcf to jurisdictional customers by 1.83¢ per Mcf. Northern states that this change results from revised rates filed by Colorado Interstate on September 26 to become effective October 1, 1975. Northern states that the revised rates of Colorado Interstate reflect the net effect of a general increase at Docket RP75-86 and a Purchased Gas Adjustment. Northern states that Colorado Interstate is the pipeline supplier to Northern for sales made under Volume No. 4.

Northern states that copies of the filing were served upon the Gas Utility Customers and Interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 10, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29964 Filed 11-6-75;8:45 am]

[Docket No. ER76-189]

OTTER TAIL POWER CO.

Notice of Request for One Year Delay for Filing Fuel Adjustment Clause Conforming With Order No. 517

OCTOBER 31, 1975.

Take notice that on October 10, 1975, Otter Tail Power Company (Otter Tail) tendered for filing a request for a one-year delay until January 1, 1977, for filing a fuel adjustment clause applicable to certain Special Municipal Electric Service Agreements that conforms to Order No. 517. Otter Tail states that it provides certain Transmission Services to municipalities under Special Municipal Electric Service Agreements. Otter Tail states that under the rate for Firm Electric Service in the Special Municipal Electric Service Agreements, it has made no sales in the past, and expects no sales for the next several years. Otter Tail states that the Bureau of Reclamation is the power supplier for these Municipalities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 12, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29995 Filed 11-6-75;8:45 am]

[Docket No. ES76-23]

PACIFIC POWER & LIGHT

Notice of Application

OCTOBER 31, 1975.

Take notice that on October 21, 1975, Pacific Power & Light Company (Applicant), a Maine corporation, qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana, and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Power Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of not exceeding 1,600,000 shares of its $_____ No Par Serial Preferred Stock, with a stated value of $25 per share, (New Preferred Stock) and exempting the sale and issuance thereof from the competitive bidding requirements of Section 34.1a of the Commission's Regulations.

The New Preferred Stock will consist of a new series of Applicant's presently authorized No Par Serial Preferred Stock, will be entitled to annual dividends, will be redeemable at such redemption prices, will be entitled to such preferences on voluntary liquidation and will have such voting rights as shall be fixed and determined by resolution of Applicant's Board of Directors at the time of establishing such series after Applicant has received from underwriters, through either competitive bids or negotiation, their proposed terms for the purchase of the New Preferred Stock.

Proceeds from the issuance and sale of the New Preferred Stock will be used to repay short-term notes prior to or as they mature.

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 19, 1975, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc. 75-29996 Filed 11-6-75; 8:45 am]

[Docket No. RP71-119, etc.]

PANHANDLE EASTERN PIPE LINE CO.

Interim Curtailment Plan

OCTOBER 31, 1975.

Now before the Commission are an initial decision issued on August 29, 1975, by Presiding Administrative Law Judge Raymond Zimmet regarding a curtailment plan of the Panhandle Eastern Pipe Line Company (Panhandle); 36 briefs on exceptions and 13 briefs opposing exceptions, which were due October 2, and October 16, 1975, respectively.

We note that this matter has been in progress since May, 1971; Presiding Law Judge Zimmet is fifth in a succession of Presiding Law Judges; and that the record below numbers some 14,000 pages.

The Commission, consistent with the recent policy of seeking to hasten the conclusion of protracted curtailment proceedings, ordered expedition of the initial decision and submission of briefs on exceptions.[1] Presiding Judge Zimmet's initial decision and the extensive briefs of many parties indicate a diligent and cooperative response. However, after an examination of the initial decision, reviewed in conjunction with the voluminous record and pleadings, and in light of the imminence of the winter heating season, the Commission concludes, the procedural history in this docket notwithstanding, that good judgment dictates that Panhandle should continue to operate under its currently effective curtailment tariff for the 1975–1976 winter season, through March 31, 1976.

Time does not allow the issuance of an immediate decision which fully considers the merits of the Presiding Law Judge's opinion and the positions and arguments of the parties. Panhandle Eastern and its customers should have notice now of what their respective positions will be for the immediate winter season.

The Commission will continue its expedited review of this record in order that a full decision may be rendered and any appropriate interim modifications may be ordered at times opportune for implementation on the Panhandle system, subsequent to March 31, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30008 Filed 11-6-75;8:45 am]

[Docket No. CI68-815]

PHILLIPS PETROLEUM CO.

Notice of Petition To Release Escrow Funds and To Terminate Proceeding

OCTOBER 30, 1975.

Take notice that on September 19, 1975, Phillips Petroleum Company (Petitioner), 5 C4 Phillips Building, Bartlesville, Oklahoma 74004, filed a petition for the release of escrow funds being held by United Gas Pipe Line Company (United) and for termination of the proceeding in Docket No. CI68-815.

Petitioner states that by letter order dated March 13, 1968, a temporary certificate was issued in Docket No. CI68-815 authorizing its sale of natural gas to United from the South Timbalier Area, Lafourche Parish, Offshore Louisiana. Said temporary certificate provided that the total initial rate for such sale would be 20.0¢ per Mcf at 15.025 psia, with the further provision that 1.5 cents of such price would be held in escrow by United, subject to adjustment should the differential between the rates determined for the Southern Louisiana taxing jurisdiction and Offshore Louisiana Federal Domain be found to be less than 1.5¢ per Mcf.

Opinion No. 598 was subsequently issued reducing this differential to 1.0¢ per Mcf and by letter order issued March 24, 1974, United was directed to release from escrow and pay to Petitioner an amount of money determined by multiplying the volumes of gas delivered prior to August 1, 1971, by the 0.5¢ per Mcf reduction in differential.

Petitioner states that while the gas involved is produced from properties in the Federal zone, it is delivered to United, at Petitioner's expense, at an onshore point. Since Ordering Paragraph (A)(h) of Opinion No. 598 provides that the applicable area rate for offshore gas will be increased by one cent where it is delivered onshore at the sole cost of the producer, Petitioner states that no differential is applicable with respect to gas delivered under Phillips' Rate Schedule No. 442 and asks that the 1.0¢ per Mcf remaining in the escrow account be released to Phillips and that the proceeding in Docket No. CI68-815 be terminated.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 20, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but with not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29965 Filed 11-6-75;8:45 am]

[Docket No. ER76-186]

PUBLIC SERVICE COMPANY OF COLORADO

Notice of Tariff Change

OCTOBER 30, 1975.

Take notice that Public Service Company of Colorado (PSCO) on October 20, 1975, tendered for filing proposed changes in its FPC Electric Service Tariff. PSCO states the proposed change is the addition of a rate schedule reflecting a power pool agreement among PSCO, Colorado-Ute Electric Association, Inc., Platte River Power Authority, Salt River Project Agricultural Improvement and Power District, Tri-State Generation and Transmission Association, Inc., and the United States of America Department of the Interior—Bureau of Reclamation, Missouri River Basin Project—Western Division and the Colorado River Storage Project.

The Agreement, known as the Inland Power Pool Agreement, provides for the interchange of Operating Reserve Capacity, Emergency Assistance, Scheduled Outage Assistance and other similar operating matters. Pursuant to Section 18.1 of the Agreement, it will become effective when all requisite approvals of the Commission have been obtained. PSCO states that because the other parties to the Agreement do not appear to be subject to the Commission's jurisdiction, this filing is made by the Company alone.

PSCO states that copies of the filing were served upon all parties to the Agreement and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before November 13, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29966 Filed 11-6-75;8:45 am]

[Docket No. ER76-149]

PUBLIC SERVICE CO. OF INDIANA, INC.

Notice of Extension of Time

OCTOBER 30, 1975.

On October 23, 1975, Public Service Company of Indiana, Inc. (PSI) filed a motion to extend the time for responding to petitioners'[1] October 3 and 14, 1975, filings that protest, seek intervention, request rejection, etc., in the above-designated proceeding.

Notice is hereby given that the time for responding to the above filings is extended to and including November 13, 1975.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29967 Filed 11-6-75;8:45 am]

[Docket Nos. RP72-91 (Phase II), etc. (AP 5/16/74)]

SOUTHERN NATURAL GAS CO.

Notice of Consolidation; Correction

OCTOBER 31, 1975.

Please add the following line to the last paragraph of the above-indicated notice:

[1] Order issued June 3, 1975, Notices issued September 3, 1975, and September 19, 1975, in this docket.

[1] Petitioners are: Indiana Municipal Electric Association, *et al.* ("IMEA"); Hoosier Cooperative Energy Division, Indiana Statewide Rural Electric Cooperative, Inc. ("Hoosier"), Wabash Valley Power Associations, Inc., *et al.* ("Wabash"); Crawfordsville Electric Light and Power, *et al.* ("Crawfordsville"); and Henry County Rural Electric Membership Corporation, *et al.* ("REMCs").

The hearing scheduled for November 4, 1975, in Docket No. RP72-91 (Phase II), *et al.*, (AP 5/16/74) is cancelled. The procedural dates set by order issued May 15, 1975, as most recently amended by notice issued August 29, 1975 in Docket No. RP 75-84 will apply to the consolidated case. These are:

Service of Staff Testimony, November 24, 1975.
Service of Intervenor Testimony, December 8, 1975.
Service of Company Rebuttal, December 22, 1975.
Hearing, January 13, 1976 (10 a.m. e.s.t.).

MARY KIDD PEAK,
Secretary.

[FR Doc.75-29997 Filed 11-6-75;8:45 am]

[Docket No. RP76-17]

TEXAS GAS TRANSMISSION CORP.

Order Accepting for Filing and Suspending Revised Tariff Sheets, Granting Interventions and Establishing Procedures

OCTOBER 31, 1975.

On September 30, 1975, Texas Gas Transmission Corporation (Texas Gas) tendered for filing revised tariff sheets to its FPC Gas Tariff [1] which would result in an increase in jurisdictional revenues of approximately $64,080,927 per year, based upon sales volumes for the twelve months ended June 30, 1975 as adjusted through March 31, 1976. Texas Gas states that the increase is mainly attributable to (1) increase in operating expenses; (2) increased costs associated with increased curtailment and further husbanding of gas; (3) increased income taxes related to liberalized depreciation; and (4) increase in rate of return.

In addition to a rate change the proposed tariff sheets would change the company's pressure base for the measurement of gas from 15.025 psia to 14.73 psia. Texas Gas requests that the proposed changes be permitted to become effective on November 1, 1975.

Notice of Texas Gas' filing was issued on October 8, 1975, with all protests, comments or petitions to intervene due on or before October 24, 1975. Several timely petitions to intervene have been filed (See Appendix A below).

Our review of Texas Gas' filing indicates that certain issues have been raised which require development in an evidentiary hearing. Those tariff sheets which reflect changes in rates, charges and conditions of service have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. We shall therefore accept those tariff sheets [2] for filing, suspend their effectiveness for five months and establish hearing procedures to determine their justness and reasonableness. With respect to those tariff sheets which change the company's pressure base for the measurement of gas [3] we shall suspend their effectiveness for five months to permit them to become effective at the same time as Texas Gas' proposed rate charge at which time they shall be made effective without condition.

With respect to the portion of the requested rate increase attributable to a higher rate of return we note that Texas Gas states that its claimed overall rate of return of 10.69 percent is occasioned by the increased costs of long-term capital resulting from continued rising inflation and the consequent increases in the embedded cost of service capital since the last general rate increase on April 1, 1975, and the increased risk associated with the continuing deteriation in the natural gas supply. Texas Gas has additionally requested a return on common equity of 14.46 percent. These requested returns are significantly higher than the return on equity of 12.10 percent and overall return of 9.53 percent that we recently approved in Docket No. RP75-19, Texas Gas' most recent rate case. Texas Gas' request for a higher rate of return is based in part upon the fact that its deliverability of gas is declining. The present gas shortage in this country, to which this Commission has often called attention, is a problem which is shared by most if not all major interstate transmission pipelines in varying degrees of magnitude. The effect upon the risk of capital invested in gas pipeline operations resulting from inadequate and declining gas supplies as well as the uncertainties and contingencies inherent in possible supplemental sources of supply are of direct and primary concern to us. It also seems clear that the gas shortage may result in situations where the useful or economic life of gas pipeline facilities may be substantially less than their physical life. Accordingly, we request that the evidence in this proceeding, including that to be filed by our Staff, give full and careful consideration to these factors in the development of recommendations on the issue of rate of return so as to enable this Commission to formulate sound regulatory policies in this area.

Evidence relevant to the issues raised by the instant filing should be submitted by all parties, including the Commission Staff. Without limiting the rights of the parties, including Staff, in presenting such further evidence as they deem relevant and material, we hereby direct the parties and our Staff to present evidence which addresses itself to the rate of return allegations of Texas Gas as well as to the following issues: (1) Texas Gas' inclusion in its cost of service of $9,457,857 representing book investment in coal rights in a gasification demonstration plant venture with the Commonwealth of Kentucky; [4] (2) Texas Gas, projected curtailment of sales volumes which it estimates to be 64 percent higher than the present curtailment level and which would reduce customers' entitlements by 233 million Mcf annually; (3) Texas Gas' adjustments to operating and maintenance expenses totalling $10,355,000, exclusive of purchased gas, to reflect increases in salaries, wages, pensions, materials and supplies; (4) Texas Gas' claim that tax depreciation for vintage properties will decline in 1976 to the point where it will have to pay higher taxes and require higher rates.

The Commission finds. (1) It is necessary and proper in the public interest and to aid in the enforcement of the provision of the Natural Gas Act that the Commission accept for filing and suspend for five months the revised tariff sheets tendered by Texas Gas and enter upon a hearing with respect to those tariff sheets reflecting changes in rates, change in conditions of service, as hereinafter provided.

(2) Good cause exists to grant intervention to those petitioners listed in Appendix A below.

The Commission orders. (A) Pending a hearing and a decision thereon, Texas Gas' proposed changes in its rates changes, or conditions of service, reflected in the tariff sheets listed in footnote 2 of this order, are accepted for filing and suspended for five months subject to refund and their use deferred until April 1, 1976.

(B) The tendered tariff sheets which propose to change Texas Gas' pressure base for the measurement of gas are hereby accepted for filing and suspended for five months to become effective April 1, 1976 without further conditions.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 5 thereof, and the Commission's rules and regulations (18 CFR Ch. I) a hearing for the purposes of determining the justness and reasonableness of Texas Gas' proposed changes in its rates, charges and conditions of service shall be

[1] First Revised Sheet Nos. 77, 81, 92-AA and 144 of Third Revised Volume No. 1; Second Revised Sheet Nos. 143, 145, 146 and 147 of Third Revised Volume No. 1; Third Revised Sheet Nos. 151 and 152 of Third Revised Volume No. 1; Fourth Revised Sheet Nos. 92-A, 102, 148, 149 and 150 of Third Revised Volume No. 1; Thirteenth Revised Sheet No. 7 of Third Revised Volume No. 1; First Revised Sheet Nos. 331, 337, 359, 360, 361, and 369 of Original Volume No. 2; Second Revised Sheet No. 328 of Original Volume No. 2; Fourth Revised Sheet No. 332 of Original Volume No. 2; Seventh Revised Sheet Nos. 362 and 365 of Original Volume No. 2; Eighth Revised Sheet Nos. 333 and 363 of Original Volume No. 2.

[2] *Third Revised Volume No. 1*—First Revised Sheet No. 92-AA, Fourth Revised Sheet Nos. 92-A, and 102 and Thirteenth Revised Sheet No. 7. *Original Volume No. 2*—Seventh Revised Sheet Nos. 362 and 365, Eighth Revised Sheet Nos. 333 and 363.

[3] *Third Revised Volume No. 1*—First Revised Sheet Nos. 77, 81 and 144; Second Revised Sheet Nos. 143, 145, 146 and 147; Third Revised Sheet Nos. 151 and 152; Fourth Revised Sheet Nos. 148, 149 and 150. *Original Volume No. 2*—First Revised Sheet Nos. 331, 337, 359, 360, 361 and 369; Second Revised Sheet No. 328; Fourth Revised Sheet No. 332.

[4] See in this regard Michigan Wisconsin Pipe Line Company, Docket No. RP73-102, order issued June 26, 1974; Southern Natural Gas Company, Docket No. RP74-93, order issued September 4, 1974 and October 30, 1974; and Colorado Interstate Gas Company, Docket No. RP73-93, order issued October 30, 1974.

held commencing on March 30, 1976, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(D) On or before February 17, 1976, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence will be filed on or before March 9, 1976. Any rebuttal evidence by Texas Gas shall be served on or before March 23, 1976.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose, (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure.

(F) The petitioners mentioned in Appendix A below are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however*, That the participation of such intervenors shall be limited to matters affecting the rights and interests specifically set forth in the respective petitions to intervene; *And provided, further*, That the admission of such intervenors shall not be construed as recognition that they or any of them might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(G) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to § 1.18 of the Commission's rules of practice and procedure.

(H) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Hoosier Gas Corporation
Mississippi Valley Gas Company
Public Service Electric and Gas Company
Western Kentucky Gas Company
Consolidated Gas Supply Corporation
Arkansas Louisiana Gas Company
Louisville Gas and Electric Company
Ohio Valley Gas Corporation, Ohio Valley Gas Inc., and Dome Gas Co., Inc.
Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., Columbia Gas of West Virginia, Inc.
Indiana Gas Co., Inc. and Ohio River Pipeline Corp.
Michigan Wisconsin Pipe Line Company
Arkansas-Missouri Power Company
Columbia Gas Transmission Corporation
United Cities Gas Company
City of Hamilton, Ohio
Public Service Commission of the State of New York

[FR Doc.75-30009 Filed 11-6-75;8:45 am]

[Docket Nos. RP73-3, RP74-48, RP75-3 (PGA No. 76-1) (AP No. 76-3)]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Accepting for Filing, Subject to Condition, and Suspending in Part Proposed Rate Adjustment; Establishing Hearing Procedures; Instituting Investigation; Consolidating Proceedings; and Granting Intervention

OCTOBER 31, 1975.

On September 16, 1975, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2,[1] proposed to become effective November 1, 1975. The revised sheets provide for (1) a 7.2¢ per Mcf PGA increase reflecting an increase of 3.8¢ per Mcf, or $27,122,616 per year, in purchased gas costs and a 3.4¢ per Mcf increase (from 5.3¢ to 8.7¢) in the surcharge to recoup the balance in the deferred account, (2) a 0.1¢ per Mcf increase tracking net additional advance payments of $4,005,613 and (3) a decrease (.02 in demand and .001 in commodity) under Rate Schedule GSS (storage service) tracking a decrease from Consolidated Gas Supply Corporation (Con Gas) under its Rate Schedule GSS proposed to be effective November 1, 1975, at RP75-91. The proposed increase reflects adjustment for the cumulative impact of a number of advance payment tracking filings previously made by Transco pursuant to tracking authority in Transco's pending settlement agreement in Docket Nos. RP 74-48 and RP75-3.[2] Those previous advance payment tracking filings [3] were rejected as being premature.[4] The advance payment adjustment contained in this filing reflects the net effect in additional advance payments above those previous advance payment filings and is filed pursuant to the tracking authority in the proposed settlement agreement, which is still pending Commission approval. However, because we have not yet taken any action on said settlement agreement, Transco, as of this date, has no authority to track the increases here in question. Accordingly, we shall require Transco to file substitute tariff sheets reflecting the elimination of any increase attributable to additional advance payments.

In addition, Transco's request to track a decreased rate under Rate Schedule GSS, tracking decreased storage service costs from Consolidated Gas Supply Corporation (Con Gas) under the latter's Rate Schedule GSS, proposed to be effective November 1, 1975, in Docket No. RP75-91, is also tendered pursuant to a tracking provision in the pending settlement agreement in Docket Nos. RP74-48 and RP75-3. If the tracking provisions in that settlement agreement were the only available authority to permit the request, we would be compelled to reject the proposal to track revised storage costs for the same reasons cited with regard to the requested advance payment tracking adjustment. However, Transco has been permitted to track revised storage costs in the past on a case by case basis.[5] Most recently, Transco was permitted by Order issued October 16, 1975, in Docket No. RP75-75, to track increased storage costs from Texas Eastern Transmission Corporation. Accordingly, that portion of the instant filing consisting of a proposed storage service decrease under Rate Schedule GSS will be approved to become effective subject to refund.

Our review of the proposed PGA rate adjustment indicates that it is based, in part, on small producer purchases in excess of the rate levels prescribed in Opinion No. 742 and 60 day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion No. 699-H; therefore, the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Accordingly, we shall accept the tariff sheets for filing and suspend them for one day until November 2, 1975, when they shall become effective, subject to refund, as hereinafter conditioned.

With regard to the issue of small producers, we shall establish hearing procedures to determine the just and reasonable rate levels of those small producer purchases to be included in Transco's filing in excess of the rate levels

[1] *First Revised Volume No. 1.* Fifteenth Revised Sheet No. 5, Eleventh Revised Sheet No. 6.
Original Volume No. 2. Sixteenth Revised Sheet No. 52, Third Revised Sheet No. 121, Twelfth Revised Sheet No. 321, Eighth Revised Sheet No. 416, Seventh Revised Sheet No. 495.

[2] "Agreement as to Rates" in Docket Nos. RP74-48 and RP75-3 was certified to the Commission on May 16, 1975.

[3] Filed in Docket Nos. RP74-48 and RP75-3 by Transco on May 16, 1975 (AP75-1), June 16, 1975, (AP75-2) July 16, 1975 (AP76-1), August 15, 1975 (AP76-2), and in Docket No. RP75-75 on September 16, 1975.

[4] By orders issued June 30, 1975, July 25, 1975, August 29, 1975, September 29, 1975, and October 16, 1975, respectively, Transco's advance payments tracking filings were rejected because we had not yet acted on the aforementioned Agreement, pursuant to which the tracking filings were made. However, those rejections were without prejudice to Transco's right to make advance payment tracking filings in the event the tracking provision is approved at a later date.

[5] See e.g. Order issued October 26, 1970, in Docket No. RP71-10 (Transco's Rate Schedule S-2); Order issued June 30, 1971, in Docket No. RP71-124 (Transco's Rate Schedule GSS); Order issued July 2, 1971, in Docket No. RP71-123 (Transco's Rate Schedule S-2); Order issued July 13, 1972, in Docket No. RP72-131 (Transco's Rate Schedule S-2); Order issued May 30, 1974, in Docket No. RP73-69 (Transco's Rate Schedule S-2); Order issued August 1, 1974, in Docket Nos. RP73-69 and RP74-48 (Transco's Rate Schedule S-2); and Order issued August 30, 1974, in Docket Nos. RP74-48 and RP75-3 (Transco's Rate Schedule GSS).

resulting from use of the "130% formula" prescribed in Opinion No. 742.[6] In this connection, we believe it appropriate to make the small producers involved respondents so that they may present evidence to show that the rates charged by them to Transco are just and reasonable. Although the small producers are not required to make refunds, we believe it appropriate to institute a section 5 investigation against the small producer involved so that the just and reasonable small producer rate determined in this proceeding can be applied prospectively.

Within 15 days of the date of this order, Transco shall file a list of the small producers making sales reflected in the instant filing in excess of the "130% formula" rates in order that they may be made respondents to this proceeding.

Cost evidence relating to the small producer sales which are the subject of the hearing ordered herein can clearly provide the basis for "just and reasonable" rate findings. "F.P.C. v. Texaco, Inc.", 417 U.S. 380 (1974). Accordingly, we shall require the small producer respondents to submit inter alia, cost evidence in order, that we may determine the justness and reasonableness of Transco's rates and make appropriate prospective adjustments, if found necessary, to the small producer rate pursuant to our authority under section 5 of the Natural Gas Act.

In addition, Transco must show that the rate paid by Transco to the small producer is appropriate by presenting evidence considering all relevant factors including, inter alia, (1) the pipeline's need for gas, (2) the availability of other gas suppliers, (3) the amount of gas dedicated under the contract, (4) the rates of other recent small producer sales previously approved for flow through and (5) comparison with appropriate market prices.[7]

Finally, the parties may submit any other evidence relevant to the Commission's determination of whether the rates paid by the pipeline with respect to the subject small producers sales are just and reasonable.

With regard to the 60-day emergency purchases from other than small producers, the Commission noted in Opinion 699-B[8] that a pipeline would be entitled to include in its purchased gas costs a rate for such purchases "which a reasonably prudent pipeline purchaser would pay for gas under the same or similar circumstances." Accordingly, we believe it appropriate to establish hearing procedures to determine the appropriate rate level of those 60-day emergency purchases included in the filing which are in excess of the rate levels prescribed in Opinion 699-H.

Our review of those claimed increased purchased gas costs contained in Transco's filing, other than those claimed increased costs associated with that portion of small producer purchases in excess of the rate levels prescribed by the "130% formula" prescribed in Opinion 742 and with that portion of the 60 day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion 699-H indicates that they should be approved as being in compliance with the standards set forth in Docket No. R-406. Accordingly, we shall permit Transco to file revised tariff sheets to become effective November 1, 1975, which reflect the costs in Transco's filing which are in conformance with Docket No. R-406, as indicated above.

Public notice of the subject filing was issued on September 26, 1975, with comments, protests and petition to intervene due on or before October 9, 1975. A timely petition for leave to intervene was filed by Sun Oil Company. Good cause appearing, said petition shall be granted as hereinafter ordered and conditioned. On October 8, 1975, the Georgia Public Service Commission filed its notice of intervention in this proceeding. In addition, on October 9, the Commission Staff filed its comments and request for hearing to determine the reasonableness and appropriateness of the advances in question, in the event the Commission should accept the advance payments tracking portion of the filing.

The Commission finds. (1) Good cause exists to grant Sun Oil Company's petition for leave to intervene in this proceeding, as hereinafter ordered and conditioned.

(2) It is necessary and appropriate to aid in the enforcement of the Natural Gas Act that hearing procedures be established, as hereinafter ordered and conditioned, and that Transco's tariff sheets listed in footnote 1 of this order be accepted for filing, as hereinafter conditioned, and suspended for one day until November 2, 1975 when they shall become effective, subject to refund.

The Commission orders. (A) Sun Oil Company and the Georgia Public Service Commission are hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14, and 16 thereof, a pubic hearing shall be held on February 10, 1976, at 10 a.m., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, to determine the lawfuness of Transco's proposed rates filed on September 16, 1975, insofar as those proposed rates reflect (1) small producer purchases in excess of the "130% formula" prescribed in Opinion 742 and (2) 60 day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion 699-H.

(C) Within 15 days of the date of this order, Transco shall file with the Commission a list, including addresses, of the parties from whom Transco is purchasing or has purchased gas involved in the small producer and 60 day emergency sales set for hearing above. Following receipt of this list, we shall make the small producer sellers parties respondents to this investigation for the purposes discussed in the body of this order.

(D) Pursuant to section 5 of the Natural Gas Act, we hereby institute an investigation into the just and reasonable rates to be charged by the small producers making sales to Transco in excess of the rates resulting from the "130% formula" prescribed in Opinion 742 and consolidate this investigation with the hearing ordered in Ordering Paragraph (B) above for purposes of hearing and decision. These consolidated proceedings shall be docketed as Docket No. RP73-3 (PGA 76-1).

(E) Transco shall file its direct testimony and evidence on or before December 2, 1975. The parties from whom Transco makes the subject small producer purchases, shall file their direct testimony on or before December 2, 1975. Any evidence by the Commission Staff or any intervenor shall be filed on or before January 6, 1976. Any rebuttal evidence shall be filed on or before January 20, 1976.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(G) Transco's tariff sheets listed in footnote 1 of this order are hereby accepted for filing and suspended for one day, until November 2, 1975, when they shall become effective, subject to refund and also subject to the elimination of all costs related to advance payments tracking filings made pursuant to the pending settlement in Docket No. RP74-48 and RP75-3.

(H) Within 15 days of the date of issuance of this order, Transco may file revised tariff sheets to become effective November 1, 1975, which reflect those claimed increased purchased gas costs contained in Transco's PGA adjustment other than those claimed increased costs associated with that portion of small producer purchases in excess of the rate of levels resulting from the "130% formula" prescribed by Opinion 742 and that portion of the 60-day emergency purchases from other than small producers in excess of the rate levels prescribed in Opinion 699-H and which also reflect the elimination of all costs related to advance payments tracking filings made pursuant to the pending settlement in Docket Nos. RP74-48 and RP75-3.

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[6] —— FPC —— issued August 28, 1975, in Docket No. R-393.

[7] Opinion No. 742 (mimeo, p. 13, paragraph (1)).

[8] ——FPC—— issued September 9, 1974, in Docket No. R-389-B.

(I) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-30010 Filed 11-6-75;8:45 am]

[Docket No. CP76-127]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

OCTOBER 31, 1975.

Take notice that on October 10, 1975, Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP76-127 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon facilities used to take gas supplies into Applicant's system, all as more fully set forth in the application on file with the Commission and open to public inspection.

The facilities Applicant proposes to abandon are as follows:

(1) The Chevron-E. M. Henry No. 2 purchase facilities consisting of approximately 5,441 feet of 4-inch transmission purchase line, 554 feet of 3-inch field gathering line, and one metering and regulator station and related facilities, McMullen County, Texas.

(2) The Mobil Block 64, E-1 purchase facilities consisting of approximately 12,869 feet of 8-inch transmission purchase line and one metering and regulator station and related facilities, Ship Shoal Area, offshore Louisiana.

(3) The Coastal States-South Delcambre purchase facilities consisting of approximately 11,397 feet of 8-inch transmission purchase line and one metering and regulator station and related facilities, Vermilion Parish, Louisiana.

(4) The Gibson Field gathering and transmission purchase facilities consisting of approximately 4,135 feet of 12-inch Gibson transmission purchase line, 10,011 feet of 12-inch and 6,651 feet of 4-inch Shell-Kuntz No. 13 gathering line, 1,854 feet of 8-inch Shell-Kuntz No. 3 gathering line, 3,009 feet of 6-inch Shell-Gilbert Gibson gathering line, 3,882 feet of 6-inch Shell-Hebert Gibson gathering line, 511 feet of 6-inch Quintana Southdown No. 3 gathering line, 799 feet of 6-inch Gibson No. 2 gathering line, 4,225 feet of 6-inch Quintana-Kleinschmidt No. 1 gathering line, 2,227 feet of 6-inch Shell-Kuntz No. 1 gathering line, 2,724 feet of 6-inch C. L. & F. No. 1 gathering line, 3,199 feet of 6-inch C. L. & F. B1 gathering line, and four metering and regulator stations, the Quintana Gibson Field Metering and Regulator Station, the Shell-Gilbert Gibson Field Metering and Regulator Station, the Shell-Hebert-Humphries Field Metering and Regulator Station, the Shell-Gibson-Antill Field Metering and Regulator Station and related facilities, Terrebonne Parish, Louisiana.

(5) The Owens-Southeast Rayne purchase facilities consisting of approximately 4,772 feet of 4-inch transmission purchase line and one metering and regulator station and related facilities, Lafayette Parish, Louisiana.

(6) The South Bourg purchase facilities consisting of approximately 17,424 feet of 4-inch transmission purchase line and one metering and regulator station and related facilities, Terrebonne Parish, Louisiana.

(7) The Tennessee Gas No. 1, Block 77 purchase facilities consisting of approximately 2,060 feet of 10-inch transmission purchase line and one metering and regulator station and related facilities, Vermilion Area, offshore Louisiana.

(8) The Buttes-Andrus Cove purchase facilities consisting of approximately 9,200 feet of 6-inch transmission purchase line and one metering and regulator station and related facilities, Jefferson Davis and Acadia Parishes, Louisiana.

(9) The Humble-Fire Island purchase facilities consisting of approximately 4,368 feet of 10-inch transmission purchase line and one metering and regulator station and related facilities, Vermilion Parish, Louisiana.

(10) The Mobil-Block 54 purchase facilities consisting of approximately 37,758 feet of 8-inch transmission purchase line and one metering and regulator station and related facilities, Vermilion Area, offshore Louisiana.

The facilities proposed to be abandoned are said to have served to take into Applican't system natural gas purchased from various producers, but that deliveries are no longer being made through the forementioned facilities. The reason for the cessation of deliveries is stated by Applicant to be the exhaustion of reserves from which gas was produced for Applicant pursuant to various contracts. All of the lines would be abandoned in place by Applicant, and all of the metering and regulator stations and appurtenant facilities would be abandoned by reclaim, with the exceptions of the Chevron-E. M. Henry No. 2 and the Buttes-Andrus Cove facilities. Applicant would at the two stated facilities abandon by salvage the pipeline in addition to the other listed facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 25, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.75-29999 Filed 11-6-75;8:45 am]

[Docket Nos. RP74-48 and RP75-3; AP76-4]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Tariff Filing

OCTOBER 30, 1975.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on October 16, 1975, tendered for filing seven revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2.

Transco states that such filing is made in accordance with the provisions of Section 6 of Article III of its Agreement as to Rates in the above dockets to track a net increase in advance payment amounts not previously reflected in rates of $6,454,241. The proposed effective date of the filing is December 1, 1975, subject to Commission approval of the Agreement.

Transco states further that the revised tariff sheets included in the filing reflect an increase of 0.1¢ per Mcf in the commodity rate or delivery charge of the Company's CD, G, OG, E, PS, ACQ, S-2, X-11, X-20, X-42, X-52 and X-56 rate schedules.

The Company states that copies of the filing have been mailed to each of the Company's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C., 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (L8 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 12, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this

filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29968 Filed 11-6-75;8:45 am]

[Docket No. ER76-181]

VERMONT ELECTRIC POWER COMPANY, INC.

Notice of Filing of Notice of Cancellation

OCTOBER 30, 1975.

Take notice that on October 16, 1975, Vermont Electric Power Company, Inc. (VELCO) tendered for filing Notices of Cancellation of its F.P.C. Rate Schedules Nos. 106, 107, 109, 110, 113 and 115. VELCO requests that the Notices of Cancellation be permitted to become effective on October 1, 1975.

The filings state that notice of the proposed cancellations has been served upon the customers affected thereby.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 (18 CFR 1.8, 1.10) of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before November 10, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29969 Filed 11-6-75;8:45 am]

[Docket No. CI76-212]

W. B. McCARTER, JR., INC.

Application

OCTOBER 31, 1975.

Take notice that on October 9, 1975, W. B. McCarter, Jr., Inc. (Applicant), 708 Southwest Tower Building, Houston, Texas 77002, filed in Docket No. CI76-212 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas for resale in interstate commerce to Michigan Wisconsin Pipeline Company (Michigan Wisconsin) from the W. Chenier Purdue Field, Cameron Parish, Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application indicates that Applicant proposes to sell gas to Michigan Wisconsin until July 1, 1976, pursuant to a gas sales contract dated August 25, 1975, subject to the authorization requested in the instant application within the contemplation of Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell up to approximately 30,000 Mcf of natural gas per month at $1.25 per Mcf at 15.025 psia, subject to Btu and other adjustments.

Applicant states that the gas proposed to be sold pursuant to the requested authorization is only available for a limited-term because it has contracted for the sale of such gas to a nonjurisdictional purchaser at an initial rate of $1.40; however, the facilities of such purchaser will not be operational until July 1, 1976. The sales proposed are said to be at a rate less than the intrastate price.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 19, 1975, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30011 Filed 11-6-75;8:45 am]

[Docket No. ER76-193]

THE WASHINGTON WATER POWER CO.

Notice of Rate Schedule

OCTOBER 31, 1975.

Take notice that on October 28, 1975, The Washington Water Power Company (Washington) tendered for filing copies of a "Letter Agreement" between Washington and San Diego Gas & Electric Company (San Diego), which applies to the sale of energy to San Diego which they will use to replace energy deliveries to Washington.

Washington states that the performance under this agreement depends on the operation of the Hanford NPR Project and agreement by the Bonneville Power Administration to predeliver such energy. The time period for these deliveries is from September 15, 1975, through January 31, 1976. Washington further states that these energy deliveries shall not require San Diego to make substitutions pursuant to Article III-C and will provide energy under Article IV-E of the Power Sales and Exchange Agreement (FPC No. 64).

Washington requests that the requirements of prior notice be waived and that the Rate Schedule be given a retroactive effective date of September 15, 1975. Washington indicates this does not affect purchasers under other rate schedules.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 19, 1975. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-29998 Filed 11-6-75;8:45 am]

[Docket No. E-8224]

SIERRA PACIFIC POWER CO.

Filing of Revised Tariff Sheets

NOVEMBER 5, 1975.

Take notice that on October 16, 1975 the Sierra Pacific Power Company tendered for filing revised tariff sheets intended to conform with Opinion No. 730-B and the Commission's letter of July 11, 1975 in this proceeding.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 14, 1975. Protests will be considered by the Commission 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 must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30223 Filed 11-6-75;9:24 am]

[Docket No. RP75-75]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Rate Design Conference; Change in Date

NOVEMBER 5, 1975.

At the preliminary settlement conference held on November 4, 1975, in the above-referenced proceeding, all parties agreed to convene a further conference on Thursday, November 13, 1975, to discuss the issue of rate design. Due to the unavailability of a conference room on that date, however, the conference must be rescheduled. Accordingly, take notice that such rate design conference will be held at 10 a.m., e.s.t., on Friday, November 14, 1975, in Room 5200 at the Federal Power Commission, 825 North Capitol Street, NE. Washington, D.C. 20426.

All parties, customers of Transco, interested State Commissions and other parties in interest are invited to attend. However, attendance at this conference of persons not previously permitted to intervene by order of the Commission will not be deemed to authorize intervention as a party in this proceeding. A petition to intervene filed in accordance with § 1.8 of the Commission's rules of practice and procedure is required for that purpose.

KENNETH F. PLUMB,
Secretary.

[FR Doc.75-30224 Filed 11-6-75;9:24 am]

FEDERAL TRADE COMMISSION

STATEMENT OF ORGANIZATION

Regional Office Reorganization

Correction

In FR Doc. 75-26829, appearing on page 46361 in the issue of Tuesday, October 7, 1975, the FR page number in the last line of the second paragraph reading "23355" should read "2355".

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

LONG BRANCH COAL CO.

Applications for Renewal Permits Electric Face Equipment Standard; Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Electric Face Equipment Standard prescribed by the Federal Coal Mine Health and Safety Act of 1969 have been received for items of equipment in underground coal mines as follows:

ICP Docket No. 4079-000, Long Branch Coal Company, Mine No. 2, Mine ID No. 15 02805 0, Partridge, Kentucky, ICP Permit No. 4079-001—R-2 (Davis Drag Cable Shuttle Car, I.D. No. 1), ICP Permit No. 4079-002—R-2 (Davis Drag Cable Shuttle Car, I.D. No. 2).

In accordance with the provisions of § 504.7(b) of Title 30, Code of Federal Regulations, notice is hereby given that requests for public hearing as to an application for a renewal permit may be filed on or before November 24, 1975. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel upon request.

A copy of each application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006.

NOVEMBER 3, 1975.

GEORGE A. HORNBECK,
Chairman, Interim Compliance Panel.

[FR Doc.75-29919 Filed 11-6-75;8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 75-89]

NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL (RTAC) PANEL ON AERONAUTICAL OPERATING SYSTEMS

Establishment of Subcommittee; Notice of Determination

Pursuant to Section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), and after consultation with the Office of Management and Budget, the NASA Administrator has determined that the establishment of a Subcommittee on Aviation Safety Reporting System, as a subcommittee of the RTAC Panel on Aeronautical Operating Systems, is in the public interest in connection with the performance of duties imposed upon NASA by law.

The functions of this subcommittee will include the review of the overall objectives, approach, content and structure of the Aviation Safety Reporting System (ASRS) relative to aviation safety needs. The subcommittee will review and evaluate critical elements of the ASRS before initial operation and the progress of the operational system after implementation, recommending changes to the system as necessary. The subcommittee will also be responsible for providing advice with respect to the maintenance of the anonymity of persons submitting safety reports or persons named therein.

WILLIAM W. SNAVELY,
Assistant Administrator for DoD and Interagency Affairs National Aeronautics and Space Administration.

NOVEMBER 4, 1975.

[FR Doc.75-30053 Filed 11-6-75;8:45 am]

[Notice (75-90)]

NASA SPACE PROGRAM ADVISORY COUNCIL

Meeting

The NASA Space Program Advisory Council will meet on December 4 and 5, 1975, in Room 7002, Federal Office Building 6, 400 Maryland Avenue, SW., Washington, D.C. The meeting, to be held from 9 a.m. to 4:30 p.m. on December 4, 1975 and from 9 a.m. to noon on December 5, 1975, is open to the public. The seating capacity of the room is about 40 persons, including Council members and other participants. Visitors will be requested to sign a visitor's register.

The NASA Space Program Advisory Council was established as an interdisciplinary group to advise NASA senior management with respect to the plans for, the work in progress on, and the accomplishments of NASA's space programs. The Council is concerned with the disciplines appropriate to Physical Sciences, Life Sciences, Space Applications, and Space Systems, as they bear on space programs. The Chairman of the Council is Dr. Frederick Seitz. There are currently sixteen members on the Council and additional members on four standing committees which report to the Council. The following list sets forth the approved agenda and schedule for the meeting. For further information contact the Executive Secretary, Mr. Nathaniel B. Cohen, Area Code 202, 755-8433.

Item and Time	*Topic*
DECEMBER 4, 1975	
1. 9 a.m.	*Opening Remarks.*—This time is provided for the Chairman's introductory remarks and for the Executive Secretary to cover administrative matters.
2. 9:15 a.m.	*FY 1977 Budget Issues.*—The Council will take up the draft recommendations on the FY 1977 budget issues discussed at the previous meeting. These recommendations will be presented for final approval. Approaches to the consideration by SPAC of upcoming program and budget issues will be discussed.
3. 10:30 a.m.	*Early Space Shuttle Experiments.*—Experimental payloads being considered for the first six developmental flights and for early operational missions of the Space Shuttle will be described for the Council. SPAC will be asked to comment on these prospective payloads and to suggest additional possibilities.
Noon	*Lunch.*
4. 1:30 p.m.	*The Assess Program.*—The Airborne Science/Shuttle Experiment System Simulation (ASSESS) Program will be described for the Council, and possible lessons for Space Shuttle experimental operations will be discussed.
5. 2:30 pm.	*Multimission Spacecraft.*—The Council will be briefed on the Multimission Spacecraft concept and its utilization to provide lower cost space systems.
6. 3:30 p.m.	*Program Update.*—The status and progress of important ongoing programs will be described for the Council.

DECEMBER 5, 1975

7. 9 a.m. — *Data and Information Flow in Applications Programs.*—The Landsat and Nimbus G programs will be discussed as case studies in the acquisition, processing, dissemination, and utilization of data in Space Applications Programs.

8. 10 a.m. — *Comittee Reports* This time is provided for reports of the four standing committees on matters they have considered in the period since the last SPAC meeting.

Noon — *Adjourn*

WILLIAM W. SNAVELY,
Assistant Administrator for DOD and Interagency Affairs, National Aeronautics and Space Administration.

NOVEMBER 4, 1975.

[FR Doc.75-30054 Filed 11-6-75;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-496 and 50-497]

NORTHEAST NUCLEAR ENERGY CO.

Availability of Draft Environmental Statement for Montague Nuclear Power Station, Units 1 and 2

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed construction of Montague Nuclear Power Station, Units 1 and 2, by Northeast Nuclear Energy Company, located in Franklin County, Massachusetts, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. and in the Carnegie Library, Avenue A, Turners Falls, Massachusetts. The Draft Statement (NUREG-75/109) is also being made available at the Office of State Planning and Management, Leverett Saltonstall Building, 100 Cambridge Street, Room 909, Boston, Massachusetts, and at the Franklin County Planning Department, 425 Main Street, Greenfield, Massachusetts. Requests for copies of the Draft Environmental Statement should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Director, Division of Reactor Licensing.

The Applicant's Environmental Report, as supplemented, submitted by Northeast Nuclear Energy Company is also available for public inspection at the above-designated locations. Notice of availability of the Applicant's Environmental Report was published in the FEDERAL REGISTER on August 27, 1974 (39 FR 30963).

Pursuant to 10 CFR Part 51, interested persons may submit comments on the Applicant's Environmental Report, as supplemented, and the Draft Environmental Statement for the Commission's consideration. Federal and State agencies are being provided with copies of the Applicant's Environmental Report and the Draft Environmental Statement (local agencies may obtain these documents upon request). Comments are due by December 29, 1975. Comments by Federal, State, and local officials, or other persons received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and the Carnegie Library, Avenue A, Turners Falls, Massachusetts. Upon consideration of comments submitted with respect to the draft environmental statement, the Commission's staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Comments on the Draft Environmental Statement from interested persons of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Licensing.

Dated at Rockville, Maryland, this 3rd day of November 1975.

For the Nuclear Regulatory Commission.

WM. H. REGAN, Jr.,
Chief, Environmental Projects Branch 4, Division of Reactor Licensing.

[FR Doc.75-30092 Filed 11-6-75;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Public Meeting

Pursuant to Pub.L. 92-463, notice is hereby given of a meeting of the Business Advisory Council on Federal Reports to be held in Room 2010, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C., on December 4, 1975, at 9:30 a.m.

The purpose of the meeting is to conduct Council business such as the Treasurer's Report, Council budget, and reports of various Committees; to hear remarks from the Deputy Associate Director for Statistical Policy; and to receive reports of recent actions by the Office of Management and Budget which affect the reporting of business firms to Federal agencies. The meeting will be open to public observation and participation.

Anyone wishing to participate should contact the Deputy Associate Director for Statistical Policy, Room 10202, New Executive Office Building, Washington, D.C. 20503, Telephone (202) 395-3730.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc.75-30021 Filed 11-6-75;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[811-1724]

SHAMROCK FUND

Notice of Proposal To Terminate Registration Pursuant to Section 8(f) of the Act

NOVEMBER 3, 1975.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order upon its own motion that Shamrock Fund ("Shamrock") 3812 Sepulveda Boulevard Suite 310 Torrance, California 90503, registered under the Act as an open-end, diversified management investment company, has ceased to be an investment company as defined in the Act.

Shamrock was organized as a California corporation on January 24, 1968, and filed a Notification of Registration under the Act on Form N-8A on August 26, 1968. On March 20, 1972, as a result of an action filed by the Commission against Shamrock, the United States District Court for the Central District of California appointed Harry L. Nelson, Jr., receiver for all assets of Shamrock.

Material in the Commission's files indicates that Shamrock's tangible assets consist of approximately $385,000 in U.S. Treasury Bills, a promissory note in the sum of $20,000, and miscellaneous securities; that it is the intention of Shamrock's receiver that upon maturity of such Treasury Bills and the collection of such note, the proceeds of each will not be reinvested but will be placed in bank savings or checking accounts; that Shamrock neither is primarily engaged in the business of investing, reinvesting, or trading in securities, nor does it hold itself out as being so engaged; and that Shamrock's receiver has negotiated a proposal to merge National Technical Services, Inc. ("N.T.S."), a California corporation, with and into Shamrock, which will be the surviving company and which will carry on the businesses presently engaged in by N.T.S.

Material in the Commission's files indicates that N.T.S. is not an investment company as defined in the Act, but rather is primarily engaged, through wholly-owned subsidiaries, in the business of testing, certifying and inspecting unfabricated materials, manufactured products and components thereof.

The receiver for Shamrock has advised the Commission's staff that the United States District Court for the Central District of California will, on November 10, 1975, consider whether to order that the proposed merger be consummated; that, if such an order does issue, the merger is scheduled to be consummated not later than December 1, 1975; and that it is anticipated, upon the effectiveness of the merger, that the receivership of Shamrock will be terminated.

Section 8(f) of the Act provides, in part, that when the Commission on its own motion finds that a registered investment company has ceased to be an investment company, it shall so declare

by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

An order disposing of this matter might be issued upon advice that the merger has been consummated, unless a hearing should be requested or ordered as described below.

Notice is further given that any interested person may, not later than November 26, 1975, at 5:30 p.m., submit to the Commission in writing a request for a hearing on this matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Shamrock at the address set forth above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.75-30047 Filed 11-6-75;8:45 am]

[Release No. 34-11788; File No. SR-NYSE-75-7]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 22, 1975, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule changes would (1) redefine a block, for purposes of Exchange Rule 127, to include any block of 10,000 shares or more even though its total value may be less than the $200,000 standard presently specified; (2) eliminate the current reequirement under Rule 127 that a transaction take place at the current bid (offer) price before the trade or trades to clean-up the block; (3) provide for the appropriate printing of block transactions in those instances where a block trades at a clean-up price with no previous trade at the current bid (offer) price; and (4) remove certain supplementary material regarding block positions from Rule 127 and add it, more appropriately, to Exchange Rule 97. The new supplementary material to Rule 97 would include a separate block definition which conforms to the current definition under Rule 127. The text of the proposed rule change is attached as Exhibit 1.

STATEMENT OF BASIS AND PURPOSE

The New York Stock Exchange states that the basis and purpose of the foregoing proposed rule change is as follows:

Purpose of Proposed Rule Change.—In light of the general decline in stock prices since Rule 127 was adopted, proposed changes to Rule 127 would have the effect of redefining a block, for purposes of the Rule, to include any block of 10,000 shares or more even though its total value may be less than $200,000. With this change, more public orders will be eligible to receive discounts or premiums when blocks of stock are crossed outside the current quotation.

Rules 127 currently provides that a transaction must take place at the current bid (offer) price in a stock before the trade or trades to clean-up a block are effected. The Rule also provides that if the current bid (offer) is on behalf of a public order (that is, not for the account of a member or member organization) the specialist must substitute his bid (offer) as a dealer for one unit of trading and allow the public order to participate at a more advantageous price. However, comments by institutional clients of member organizations indicate that institutional customers placing block size orders would most often prefer to receive only one execution price on their orders.

Accordingly, under the proposed changes to Rule 127, no transaction will take place at the current bid (offer) price before the trade or trades to clean-up a block except where the clean-up price is one-eighth of point outside the current quotation and the member is holding only agency orders on both sides of the market. In such a case the member may elect to trade with the exposed bid (offer). This exception is not now stated in Rule 127, but it is and has been the policy of the Exchange. Consequently it is incorporated in the proposed revised form of Rule 127.

All other proposed changes to Rule 127 and all proposed changes to Rule 97 are housekeeping in nature. The Supplementary Material presently contained in Rule 127 which defines a block positioner and imposes registration, capital and reporting requirements would be deleted from Rule 127 and added, more appropriately, to Rule 97 since Rule 97 relates solely to block positioning activities. The new Supplementary Material to Rule 97 would include a separate block definition which conforms to the current definition under Rule 127. In addition, the provisions of Rule 127 which relate to the printing of block transactions would be amended so that the trade to clean-up a block would be printed on the tape accompanied by the last sale price in the Exchange's regular way market prior to the clean-up. The public and the block customers will thus have an indication of what has transpired in the market.

Basis under the Act for Proposed Rule Change.—The proposed changes in Rules 97 and 127 are based on Section 6(b)(5) of the Securities Exchange Act of 1934 which section becomes effective 180 days subsequent to June 4, 1975. The proposed rule changes are in the public interest in that they will allow an increased number of public orders to obtain the advantage of price discounts or premiums when large blocks of stock are traded away from the current market price. Therefore, the proposed changes are in keeping with the letter and spirit of that part of Section 6(b)(5) which requires an exchange to have rules designed to protect the public interest."

Comments Received From Members, Participants or Others on Proposed Rule Change.—The Exchange has not formally solicited comments regarding the proposed rule changes, nor has the Exchange received any unsolicited written comments from members or other interested persons. Comments will not be solicited by the Exchange since Section 19(b)(1) of the Act requires the Commission to publish notice of the proposed rule changes and to give interested persons an opportunity to submit written data, views, and arguments concerning the proposed changes.

Burden on Competition.—The proposed rule changes will not impose any burden on competition.

Within 35 days of the date of publication of this notice in the FEDERAL REGISTER, or within such longer notice in the Federal Register, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions

should refer to the file number referenced in the caption above and should be submitted on or before December 8, 1975.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 3, 1975.

[FR Doc.75-30048 Filed 11-6-75;8:45 am]

VETERANS ADMINISTRATION

PRIVACY ACT OF 1974

Proposed Amendment of Notice of Systems of Records

Notice is hereby given that the Veterans Administration is considering adding certain new statements and amending others in the descriptions of certain systems of records set forth on pages 38095–38127 of the FEDERAL REGISTER of August 26, 1975 and adopted by notice published on page 47980 of the FEDERAL REGISTER of October 10, 1975. The proposed statements, which follow, all of which involve the routine uses of records in systems maintained by the Veterans Administration, including categories of users and the purposes of such uses, will avoid the need for the written consent of the individual in every case which would involve a disclosure of information pertaining to that individual.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All relevant material received before December 8, 1975, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the comments are available for inspection only in Central Office and furnished the address and the above room number.

Notice is given that it is proposed to make this description effective September 27, 1975, the effective date of section 3, Pub. L. 93-579. Approved: November 3, 1975.

By direction of the Administrator.

[SEAL] ODELL W. VAUGHN,
Deputy Administrator.

NOTICE OF SYSTEMS OF RECORDS

1. In the system, "Patient Medical Records—VA", appearing at 40 FR 38105, the following routine uses are added to read as follows:

System Name: Patient Medical Records—VA

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

* * * * *

Disclosure of conditions of named patients by appropriate professional staff members of Health Care Facilities to families and friends of those named patients.

Disclosure by Health Care Facilities Information Desks of "on the rolls" status of named individuals in response to inquiries and/or for visitation purposes.

Relevant information from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, in matters of inquests, commitments, or release to probation officers.

* * * * *

2. In the system, "Patient Treatment File—VA", appearing at 40 FR 38106, the following routine use is added to read as follows:

System Name: Patient Treatment File—VA

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

* * * * *

Relevant information from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, in matters of inquests, commitments, or release to probation officers.

* * * * *

3. In the system, "Veterans and Armed Forces Personnel U.S. Government In-Force Life Insurance Records—VA", appearing at 40 FR 38111, the following routine uses are added to read as follows:

System Name: Veterans and Armed Forces Personnel U.S. Government In-Force Life Insurance Records—VA.

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

* * * * *

To provide miscellaneous data to the Office of Servicemen's Group Life Insurance, 212 Washington Street, Newark N.J. 07102, in order to issue and maintain insurance policies to veterans and retired reservists participating in the Veterans Group Life Insurance Program, and to pay death claims on these policies.

To provide miscellaneous data to Department of Defense elements for use in establishing and maintaining allotments from active and retired service pay for insurance premiums and loan repayments.

To provide miscellaneous data to the Department of Transportation (Coast Guard) for use in establishing and maintaining allotments from active and retired service pay for insurance premiums and loan repayments.

To provide miscellaneous data to the Department of Commerce, NOAA (National Oceanic and Atmospheric Administration), Commissioned Officer Corps, for use in establishing and maintaining allotments from active and retired service pay for insurance premiums and loan repayments.

To provide miscellaneous data to the Department of Health, Education, and Welfare, PHS (Public Health Service), Commissioner Corps, for use in establishing and maintaining allotments from active and retired service pay for insurance premiums and loan repayments.

* * * * *

4. In the system, "Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Records—VA", appearing at 40 FR 38118, the eighth and ninth routine uses are amended and five additional uses are added to that the amended and added routine uses read as follows:

System Name: Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Records—VA

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

* * * * *

Delete the present routine use, "Transfer of information regarding the dismissal * * * for any further training", and insert" "Tranfer of information regarding the induction, reentrance and dismissal of a disabled veteran from the vocational rehabilitation program to inform the training establishment of the actions taken."

Delete the present routine use, "Oral disclosure to * * * disclosure is practiced", and insert: "Written and oral disclosure to VA approved Vocational Rehabilitation Training Establishments regarding the extent and nature of a claimant's disabilities with respect to any limitations to be imposed on the vocational program to insure that the trainee receives the maximum benefit from training. A vast amount of discretion with respect to each disclosure is practiced."

* * * * *

The transfer of payment information to officials of schools and training establishments having VA beneficiaries when it can be determined that such a request is part of a legitimate attempt to assist the veteran or other eligible person to ascertain that correct amounts were paid. However, such information will not be provided as a routine use to school officials when the request is clearly an attempt to seek assistance in collection attempts against the veteran or eligible person.

Transfer to schools and other training establishments of VA education forms for completion by school and subsequent submission to the VA for processing of education and vocational rehabilitation training claims.

Transfer of VA education letters and form letters to schools and other training establishments which may, by necessity, contain identifying data about a veteran or eligible person in order to obtain further information from the school necessary to discharge VA responsibilities toward the veteran or eligible person.

Transfer of identifying information, such as name, file number, and address to a school or training establishment official in order to obtain information necessary to pay the veteran or eligible person correct amounts in an expedited manner. (An example of the above is a telephone call to an OJT establishment to find out the number of hours worked.)

Transfer of necessary information concerning veterans and other eligible persons to State and local agencies and prospective employers for employment and/or training.

* * * * *

5. In the system, "Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA", appearing at 40 FR 38117, the following routine uses are added to read as follows:

System Name: Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA

* * * * *

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

* * * * *

A record from this system of records may be disclosed to any department or other agency of the Federal Government, in response to its request, to the extent that the information is relevant and necessary to the requesting agency's specified official purpose.

A record containing medical history, diagnoses, findings, or treatment may be released from this system of records in response to a request from the superintendent of a State hospital for psychotic patients, a commissioner or head of State department of mental hygiene, or head of a State, county or city health department, or any fee basis physician or institution in connection with authorized treatment as a VA beneficiary, provided that the information will be treated as confidential, as is customary in civilian professional medical practice.

A record from this system of records may be disclosed to a State unemployment compensation agency, in response to its request, to the extent required to determine eligibility for their benefit.

A record from this system of records may be disclosed to the following agencies relative to military or naval service and as to both current and historical benefit payments made by the VA: Departments of the Army, Navy and Air Force; Marine Corps; Department of Transportation (Coast Guard); Department of Health, Education and Welfare, PHS (Public Health Service), Commissioned Corps; Department of Commerce, NOAA (National Oceanic and Atmospheric Administration), Commissioned Officer Corps.

A record form this system of records may be disclosed to a 3rd party to the extent necessary in the development of a potential beneficiaries' claim for VA benefits (i.e., individual identifiers and other similar identifying information).

A record containing the names and addresses of present or former personnel of the Armed Forces and/or dependents may be released from this system of records, upon request to a non-profit organization but only if the purposes are directly connected with the utilization of benefits and the conduct of programs under Title 38, United States Code, provided further that the list will not be used for any other purpose as stated in the application and that the organization is aware of the penalty provision of 38 U.S.C. 3301(9).

The amount of pension, compensation, or dependency and indemnity compensation of any beneficiary may be released from this system of records to any person who applies for such information.

* * * * *

[FR Doc.75-29889 Filed 11-6-75;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 909]

ASSIGNMENT OF HEARINGS

NOVEMBER 4, 1975.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 61592 Sub 336, Jenkins Truck Line, Inc., now assigned November 6, 1975 at Chicago, Illinois, is cancelled and application dismissed.

MC 48501 Sub 18, Indiana Motor Bus Company, now assigned November 11, 1975 at South Bend, Indiana; will be held in the Royal Inn, 316 South St. Joseph St., Riverbend Plaza.

MC 116763 Sub 313, Carl Subler Trucking, Inc., now assigned November 14, 1975 at Chicago, Illinois; will be held in Room 1614, Court of Claims, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC-F-12416, Kain's Motor Service Corp.—Purchase—Apache Air Freight, Inc. and MC 67111 Sub 23, Kain's Motor Service Corp.; now assigned November 17, 1975 at Chicago, Illinois; will be held in Room 1614, Court of Claims, Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. 36106, Dixie-: and Iron and Metal Co., Inc. vs. The Southern Railway Company, now assigned November 12, 1975, at Atlanta, Georgia, is postponed indefinitely.

MC 113855 Sub 303, International Transport, Inc., now assigned November 6, 1975 at Atlanta, Georgia, is canceled and the application is dismissed.

No. 36234, Erco Industries Limited vs. Seaboard Coast Line Railroad Company, Et Al, now being assigned February 9, 1976, at Tampa, Florida, in a hearing room to be later designated.

No. 36247, Petroleum Tank Barge Towage Rates, Waterways Freight Bureau, now being assigned December 16, 1975 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-12371, Witte Transportation Company—Purchase—North St. Paul Transfer; MC-C-8408, Witte Transportation Company—Investigation and Revocation of Certificates and MC 8964 Sub 28, Witte Transportation Company, now assigned November 17, 1975 at *St. Paul, Minnesota*, is canceled and reassigned November 17, 1975 (1 week), at *Minneapolis, Minnesota;* in the Sheraton-Ritz Hotel, Room 423-24, 315 Nicollet Avenue.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-30076 Filed 11-6-75;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

NOVEMBER 4, 1975.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43069—*Returned Shipments of Lime from and to Points in Southern and Southwestern Territories.* Filed by Southwestern Freight Bureau, Agent, (No. B-567), for interested rail carriers. Rates on returned shipments of lime, in carloads, as described in the application, from points in southern territory, to points in Arkansas, Louisiana, Missouri, Oklahoma and Texas.

Grounds for relief—Carrier competition.

Tariff—Supplement 29 to Southwestern Freight Bureau, Agent, tariff SW/S 231-F, I.C.C. No. 4997, Rates are published to become effective on December 4, 1975.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.75-30077 Filed 11-6-75;8:45 am]

[Notice No. 111]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

NOVEMBER 7, 1975.

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to Sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before November 28, 1975. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-76021. By order of November 3, 1975, the Motor Carrier Board on reconsideration approved the transfer to Rutgers Express, Inc., New Brunswick, N.J., of the operating rights in Certificate No. MC-2301 issued July 7, 1966, to M & G Transportation, a corporation, Hopelawn, N.J., authorizing the transportation of general commodities, with usual exceptions, between New York, N.Y., and Toms River, N.J., serving all intermediate points, and between Perth Amboy, N.J., and Hightstown, N.J., serving all intermediate points, and meats, packing-house products, and commodities used by packing-houses, except in bulk, in tank vehicles, from Perth Amboy, N.J., to Berkeley Heights, Fanwood, Bound Brook, East Millstone, Finderne, Manville, Raritan, Somerville, Califon, Clinton, High Bridge, Whitehouse, Dunellen, Middlesex, Princeton, and Stirling, N.J. Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048 Registered Practitioner for applicants.

No. MC-FC-76078. By order of November 4, 1975, the Motor Carrier Board approved the transfer to Electronics Transport, Inc., Birmingham, Alabama, of the operating rights in certificate No. MC-136269 Sub-No. 2 issued June 6, 1973, to Electronic Moving And Storage Company, Inc., Atlanta, Georgia, authorizing the transportation of duplicating and reproducing machines and parts and supplies used in the installation of such commodities, between the plant site and storage facilities of Xerox Corporation, at Charlotte, N.C., on the one hand, and, on the other, points in South Carolina. Vaughan S. Winborne, 1108 Capital Club Bldg., Raleigh, N.C. 27601 Attorney for applicants.

No. MC-FC-76083. By order of November 3, 1975, the Motor Carrier Board approved the transfer to Berks Moving, Hauling and Storage Company, Inc., Norristown, Pa., of the operating rights in Certificate No. MC-31094 issued March 26, 1963, to Maurice Berkowitz, doing business as Berk's, Philadelphia, Pa., authorizing the transportation of household goods between Philadelphia, Pa., on the one hand, and, on the other, points in New Jersey within 50 miles of the City Hall, Philadelphia, Pa. Kingsley A. Jarvis, One Montgomery Plaza, Suite 707, Swede & Airy Streets, Norristown, Pa. 19401 Attorney for applicants.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.75-30078 Filed 11-6-75;8:45 am]

[Exemption No. 56; Amdt. No. 10]

PENN CENTRAL TRANSPORTATION CO.

Exemption Under Provision of the Mandatory Car Service Rules

Upon further consideration of Exemption No. 56 issued October 31, 1973.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 56 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire December 31, 1975.

This amendment shall become effective October 31, 1975.

Issued at Washington, D.C., October 23, 1975.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.75-30073 Filed 11-6-75;8:45 am]

[Amdt. No. 8; I.C.C. Order No. 88; Revised SO No. 994]

PENN CENTRAL TRANSPORTATION CO.

Rerouting and Diversion Traffic

It is ordered, That:

I.C.C. Order No. 88 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 29, 1976, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., October 31, 1975, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., October 24, 1975.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.75-30075 Filed 11-6-75;8:45 am]

[Exemption No. 103-A]

UNION PACIFIC RAILROAD CO.

Exemption Under Provision of the Mandatory Car Service Rules

Upon further consideration of Exemption No. 103, issued September 23, 1975, and good cause appearing therefor:

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 103 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby, vacated and set aside.

Effective 11:59 p.m., October 24, 1975.

Issued at Washington, D.C., October 24, 1975.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.75-30069 Filed 11-6-75;8:45 am]

[I.C.C. Modification No. 2-A TO; Revised SO No. 1171]

UNION PACIFIC RAILROAD CO.

Upon further consideration of I.C.C. Modification No. 2, issued September 23, 1975, and good cause appearing therefor:

It is ordered, That, pursuant to the authority vested in me by Section (b) of Revised Service Order No. 1171, I.C.C. Modification No. 2 to Revised Service Order No. 1171, be, and it is hereby, vacated and set aside.

Effective 11:59 p.m., October 24, 1975.

Issued at Washington, D.C., October 24, 1974.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
Agent.

[FR Doc.75-30074 Filed 11-6-75;8:45 am]

federal register

FRIDAY, NOVEMBER 7, 1975



PART II:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

DRAINED WEIGHTS FOR PROCESSED FRUITS AND VEGETABLES

Standards of Fill of Container and Label Statement

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 1, 10, 27, 51, and 53]

[Docket No. 75P-0166]

DRAINED WEIGHTS FOR PROCESSED FRUITS AND VEGETABLES

Standards of Fill of Container and Label Statement

The Food and Drug Administration (FDA) is proposing to require label declarations of the drained weight of canned fruit and vegetable products. In addition, minimum average drained weight requirements are being proposed for most canned fruit and vegetable products. The intended effect is to minimize consumer confusion and to help the consumer make value comparisons among various brands and thus save money when shopping. Interested persons have until February 5, 1976 to submit comments.

SUMMARY OF PROPOSAL

A notice published in the FEDERAL REGISTER of December 5, 1973 (38 FR 33512), disclosed that Consumers Union of United States, Inc., Washington Office, 1714 Massachusetts Ave., NW., Washington, DC 20036, had filed a petition proposing establishment of regulations, or the amendment of existing regulations, in 21 CFR Part 1, to require that all processed fruits and vegetables packed with sugar or other sirup, water, brine, or their own juice, bear on their labels a statement of the drained weight of the solid food content of the container. In that notice, the Commissioner of Food and Drugs invited all interested persons, including Federal, State and local agencies, manufacturers and their associations, universities, and private citizens, to submit relevant information, requesting that all such information submitted be supported by factual data including, where appropriate, statistical and cost-benefit analyses.

In support of its proposal, Consumers Union stated that whether or not the consumer intends to use the packing medium he should be able to determine how much of the net contents of his purchase is fruit or vegetable, and how much is liquid. The petitioner noted that data produced during the Packaging and Labeling Hearings (Hearing before a Subcommittee on the Committee on Government Operations House of Representatives, 91st Congress, June 3, 4, and 5, 1969), and by Consumers Union's own 1972 study of the problem, support the need for drained weight labeling. Containers of the same product, marked with the same net weight, were found to vary considerably in drained weight from packer to packer. Furthermore, many private label as well as brand name products are obtained from contract canners who may vary the fill of fruit or vegetable as commodity prices rise. Hence, petitioner contended, the lack of drained weight labeling totally frustrates the consumer's attempt to obtain the most fruit or vegetable for his money.

Consumers Union was of the opinion that the value of providing drained weight labeling would far exceed the costs such a regulation would entail. In addition, the technical and economic capability that exists to comply with a drained weight regulation was said to be evidenced by packer compliance with minimum drained weight requirements in existing fill-of-container standards (e.g., 21 CFR 27.42 for canned fruit cocktail and 21 CFR 51.503 for canned mushrooms), and by packer ability to meet Federal purchasing program specifications for drained weight. Consumers Union added that it is noteworthy that the Defense Supply Agency pays no more for its purchases under drained weight specification than do commercial buyers of the same size containers. In sum, petitioner contends that drained weight labeling is essential to avoid confusion to consumers and to enable value comparison at the consumer level.

The Commissioner notes that under current good manufacturing practice the relationship between the fill-in weight of the fresh fruit or vegetable (solid food components less the liquid packing medium before processing) and the drained weight of the food (solid food components less the liquid packing medium after processing) may vary depending on the type of food, the type of packing medium, and the processing conditions used. (NOTE: The net weight which includes both solid food and packing liquid is constant for an individual container before and after processing.) Many consumers want to know the drained weight of particular products, but this information is not currently available in most labeling, which states only the net weight. Some fill-of-container standards do specify minimums for drained weight but have not required label declaration of that fact.

As pointed out in the petition published in the FEDERAL REGISTER of December 5, 1973 (38 FR 33512), it has been the policy of the FDA to regard the packing medium as properly part of the declared net weight, if the packing medium is generally consumed as part of the food. Where solid foods are packed in a salt brine or other medium which is considered inedible and almost always discarded before serving, declaration of drained weight of the food, instead of the net weight, has been recommended. Examples of foods that are traditionally labeled with the drained weight are green olives, canned mushrooms, canned artichokes, canned clams, and canned wet pack shrimp.

It is clear that the Commissioner has authority under the Federal Food, Drug, and Cosmetic Act to require a declaration of drained weight for all foods in a packing medium. Section 403(e) of the act provides that the label shall bear "an accurate statement of the quantity of the contents in terms of weight * * *." Where a food is sold in a packing medium, whether or not commonly consumed with the food, the "quantity of the contents" may be defined as the quantity of the fruit or vegetable as well as the quantity of the fruit or vegetable plus packing medium. In addition, sections 403(a) and 201(n) of the act permit the Commissioner to require the disclosure of material facts in labeling. The portion of net weight that the more valuable fruit or vegetable comprises is obviously a material fact, which may be required to be disclosed.

The Commissioner is therefore proposing to require a declaration of drained weight on the labels of certain foods. The proposal would implement, insofar as is considered economically sound and practicable, the Consumers Union petition.

An important modification of the petition is the limitation of this proposal to canned fruit and vegetable products. Whereas the Consumers Union petition seeks a requirement for drained weights on all processed fruits and vegetables, including frozen fruits and vegetables, the Commissioner is of the opinion that this proposal should be limited to those foods for which sufficient information and data on drained weights are available to permit establishment of effective compliance criteria. Such data are not available for frozen fruits and vegetables, to the knowledge of the Commissioner.

In addition, this proposal would also amend existing standards of fill of container and establish new standards of fill of container for most canned fruits and vegetables for which the declaration of drained weight is applicable. Section 401 of the Federal Food, Drug, and Cosmetic Act authorizes the establishment of reasonable standards of fill of container. Such regulations designate the quantity of food that should be packed in the container in terms of the solid or liquid food components or both. The existing fill-of-container standards for canned fruits and vegetables may be grouped as follows: (1) those that simply state that the fill of container is the maximum quantity of the solid food component that can be sealed in the container and processed by heat without crushing or breaking such component (limited to certain canned fruits); (2) those that specify a minimum quantity of the solid food component which shall be present in the container after processing. This quantity is commonly expressed either as a minimum drained weight for a given container size or as a percentage of the water capacity of the container; (3) those that specify that the food present in the container, including both the solid food component and any liquid packing medium, shall occupy not less than 90 percent of the total capacity of the container; (4) those that specify both a minimum drained weight requirement and the 90 percent minimum fill requirement; and (5) those that are based on a minimum volume of the solid component irrespective of the quantity of the liquid (canned peas).

The proposal set forth below provides fill of container standards requiring that the solid food component and liquid packing medium fill at least 90 percent of the container or in some cases, that the container be as full as practicable, as well as specifying the minimum average drained weight of the solid food component (in terms of ounces for specific can

sizes). The proposed minimum average drained weight requirements are based primarily on the U.S. Department of Agriculture (USDA) standards for grades for canned fruits and vegetables. These USDA standards are recognized by packers, have been used by the food industry for some years, and have been issued as USDA regulations in 7 CFR Part 52 through public rule making procedures. In the case of canned tomatoes, green beans, grapefruit and pineapple, the minimum average drained weight requirements proposed below are not completely consistent with those of USDA but are based on other information and data available to the Commissioner as discussed elsewhere in this preamble.

In addition to recommending drained weights (determined after processing), the USDA standards also provide a recommended fill-in weight of the unprocessed food for a number of canned fruits and vegetables. Neither the existing nor the proposed FDA fill-of-container standards set forth below include requirements for fill-in weight for the reasons discussed elsewhere in this preamble.

The international standards of the Codex Alimentarius Commission also include recommendations for minimum average drained weight. It is the Commissioner's opinion that these international minimums should be adopted, whenever practicable, pursuant to section 401 of the act. The minimum drained weight requirements in the Codex standards and the USDA recommended minimum drained weight requirements are the same in most cases. However, the minimum drained weight requirements proposed below for canned green beans and canned pineapple are not completely consistent with the Codex requirements but rather are based on other information and data available to the Commissioner as discussed elsewhere in this preamble.

This proposal would require that the label declare the minimum average drained weight established in the fill-of-container standard for a food where such a standard exists. Alternatively, under the proposal a manufacturer could declare a higher drained weight if the average drained weight of the product in fact exceeded the minimum. This provision in the proposal, permitting a manufacturer to declare the minimum allowable average drained weight even though his product exceeds that minimum, eliminates the need to predict or ascertain the precise average drained weight that he is packing. In the case of a food for which no minimum average drained weight requirement is established in a fill-of-container standard, it is proposed that such foods be labeled with a drained weight declaration that does not exceed the average drained weight of the lot.

The declarations of drained weight are based on the average drained weight of a lot, since the drained weight of individual containers varies unavoidably under good manufacturing practice. The Commissioner believes, however, that large variations should not be permitted. The drained weight declaration would not be sufficiently informative to consumers if individual containers are far below the labeled drained weight, even though the labeled weight might accurately state the average. Consequently, this proposal establishes a lower limit for permitted variation from the declared drained weight. For a number of products, sufficient data are available from studies of packing operations to determine what variation is likely to occur under good manufacturing practice. Where such data are available, the USDA recommended standards in 7 CFR Part 52 have adopted them, and this proposal adopts them as mandatory requirements. Where such data are not available, and in those cases where no standard of fill of container is being established, drained weight variations of individual containers must be within good manufacturing practice.

The proposal also specifies methods for determining compliance with the fill-of-container standards. A plan for sampling a lot of canned fruit or vegetables is set forth. In addition, compliance criteria are established, based on the USDA criteria in 7 CFR Part 52. Where no standard of fill of container is established, the criteria for determining compliance are the same as those criteria established by USDA where data on the range of variability are insufficient to establish a permissible lower limit of drained weight for individual containers. In such cases, a lot will be considered in compliance when (1) the average drained weight of the units in a sample is greater than, or equal to, the labeled drained weight, and, (2) the drained weights of at least 50 percent of the units sampled are greater than, or equal to, the labeled drained weight, and, (3) the drained weights of units less than the labeled drained weight are within limits of good manufacturing practice.

This proposal is structured, for the most part, as one for standards of fill of container. The Commissioner notes, however, that all the provisions of this proposal could be issued as final regulations without establishing standards, except for the minimum permissible average drained weights. The Commissioner specifically invites comment as to whether minimum average drained weights should be established. Should the Commissioner conclude not to establish minimums, a requirement for declaration of drained weight and the compliance criteria applicable to foods for which no minimum drained weight requirements have been established may be issued under authority of sections 201(n) and 403 of the act.

Accordingly, the Commissioner intends to implement the intent of the Consumers Union petition by proposing:

a. To amend 21 CFR 1.8b to require that the statement of drained weight be declared on the label in conjunction with the net quantity of contents declaration and to require that foods packed in a medium that is ordinarily discarded bear a declaration of drained weight only.

b. To establish a new § 1.8e to require that a statement of the drained weight of the solid food contents of canned fruits and vegetables appear on the label of the container.

c. To amend § 10.7(b) to provide a general statement of substandard fill for use when the food in the container is substandard for fill because the drained weight requirement of the fill-of-container standard has not been met.

d. To establish a new § 10.9 to set out methods for determining drained weight, sampling plans and compliance procedures.

e. To delete the drained weight procedure in § 27.1(n) and the sampling and acceptance procedures in § 27.1(p), as these procedures are being incorporated in § 10.9 (c) and (d), respectively; § 10.9 in turn, is cross-referenced by § 27.1. Also, to delete the compliance definition in § 27.1(o) and incorporate it in new § 27.1(n).

f. To establish or amend fill-of-container standards in selected sections of 21 CFR Parts 27, 51 and 53 to incorporate therein fill-of-container and drained weight requirements, as appropriate.

The following table lists the foods for which minimum average drained weights are involved and, in each case, whether an amendment is being proposed to an existing standard of fill of container, or if the establishment of a new standard of fill of container is being proposed:

Section	Food	New	Amended
27.4	Peaches		×
27.12	Apricots		×
27.17	Prunes	×	
27.22	Pears		×
27.27	Grapes	×	
27.32	Cherries		×
27.37	Berries	×	
27.42	Fruit Cocktail		×
27.47	Plums		×
27.52	Pineapple		×
27.74	Figs	×	
27.92	Grapefruit		×
51.12	Green Beans	×	
51.22	Corn		×
51.503	Mushrooms		×
51.513	Asparagus	×	
51.523	Lima Beans	×	
51.533	Beets	×	
51.543	Carrots	×	
51.553	Leafy Greens	×	
51.563	Okra	×	
51.573	Field Peas and Black-Eye Peas	×	
51.583	Pimientos	×	
51.593	Onions	×	
51.603	Sweet Potatoes	×	
51.613	White Potatoes	×	
53.42	Tomatoes	×	

NOTE: Existing drained weight requirement found in § 53.41 is being transferred to fill-of-container standard § 53.42.

The proposed requirement for minimum average drained weights for canned pineapple set out in this proposal is not consistent with that of the Codex Alimentarius Commission. Neither is it completely in accordance with the USDA Standards for Grades. It was arrived at through consideration of data gathered by industry and government, and by consultation with members of the industry. The Commissioner requests comments, with data and information in support thereof, on the applicability of these drained weight requirements to current commercial practice.

The compliance criteria established for canned tomatoes are different from those

established for the other canned fruits and vegetables. The compliance criteria for canned tomatoes are based on a study conducted by the FDA, whereas the criteria for the other foods are based on USDA data. Since compliance criteria are properly based on empirical data, use of different methods where the data bases were compiled differently is appropriate.

The Commissioner recognizes that the International (metric) System is used throughout the world and in the United States for technical analyses and may eventually be adopted by this country as the common usage for measurements. He therefore encourages use of a parenthetical declaration of metric equivalents immediately following the declaration in the U.S. customary terms now required for quantity of contents statements and the proposed drained weight declaration if it is adopted.

SUMMARY OF COMMENTS ON PETITION

In response to the notice of the filing of the petition, 1,650 letters, each containing one or more comments, were received. Some letters bore more than one signature, resulting in a total of 1,971 responses. One letter from a municipal government agency contained a petition signed by 86 city employees. Since only one person signed the letter of transmittal, the communication is being treated as one response. A letter from a consumer association referred to a poll in which more than 200 people had been surveyed. Since the letter was signed by only one person, it was counted as only one response. This account of the number of responses is provided for information only. As is the case in all rule making, comments are evaluated for their substantive merit, and no weight is given simply to the number received. All letters and supporting documents received are on file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Of the 1,971 responses, 1,942 (of which 1,906 were from individual consumers and 36 were from organizations, local governments, dieticians, teachers, home economists, etc.) favored label declaration of drained weight. Some of these acknowledged that problems could be involved with such a requirement. Some of those who favored declaration of drained weight offered suggestions for additional requirements, such as declaration of number of pieces, number and size of servings, minimum standards for drained weights, etc. Two comments called for such requirements to be alternatives to drained weight instead of supplements to it.

Twenty-seven responses opposed the proposal. Six of these were from individual consumers. Of the six, three felt that there should be less government interference in food marketing; two felt that declaring drained weight would be a waste of time; one, who felt drained weight declaration was unnecessary, stated that information on the food's processing conditions and its safety would better serve the consumer.

Another comment referred to the previously mentioned poll of more than 200 consumers conducted in a two-county survey. One of the questions asked of the consumers was "Would you be willing to pay additional cost on a product for this information to be added to the label?" (It should be noted that the question neither defined, nor attempted to quantify, "additional cost.") The commenter reported that 128 responders, a majority of those polled, would not be willing to pay such costs. In addition 42 answered "yes" and 32 answered "maybe."

Other comments in opposition to the Consumers Union proposal were received from five trade associations, eight processors of fruits and vegetables, one food distributor, one state government, and five foreign governments.

Most of the opposing comments centered around the 12 factors on which the Commissioner had invited further information. Most of these offered alternatives to the proposal. The data and other information received concerning each of these 12 factors are summarized below, together with the petitioner's subsequent comments on each of the factors. Where appropriate, the summary includes the general conclusion of the Commissioner.

The information submitted and arguments made are summarized here so as to permit comments on this proposal to address their validity and relevance. Data and information submitted in response to the notice of the filing of the petition need not be submitted again, but comments should state whether the proposal should be modified, based on the contentions and information summarized here, and if so, in what manner. Additional information may also be submitted.

1. Information on how variations in unit size, shape and form, maturity, character (whether firm or soft), variety, packing medium density, climatic conditions (rainfall, temperature), irrigation practices, cultural practices, and geographic regions affect the drained weight of processed fruits and vegetables.

Thirteen comments opposed drained weight labeling of processed fruits and vegetables because of the inability to determine accurately a figure for the drained weight of the processed food prior to processing and storage. This inability to predetermine a value for the drained weight of the food was reported to result from differences in maturity of the food, differences in variety, variations within a particular variety resulting from growth conditions, differences due to seasonal changes, grade, and shape and size of the individual pieces. Five of these comments provided exhibits intended to support their statements.

One comment stated that drained weight labeling might confuse the consumer since the product with the higher drained weight may not always be the best buy on the basis of quality. For example, the comment stated that when equal fill-in weights (weight of the food prior to canning and processing) of "mature" and "immature" vegetables such as peas, lima beans, or corn are processed, the more mature products have the higher drained weights, while the immature products, which have the lower drained weights, usually have better quality and are preferred by most consumers. The comment added that the converse is often true for processed fruits and that, frequently, fill-in weights of fruit of optimum ripeness will have lower drained weights than their less ripe counterparts.

For purposes of elaboration, the same comment stated that drained weights of canned fruits vary with grade; for example, fancy grade fruits have lower drained weights than do choice grades, and choice grades have lower drained weights than do standard grades. The comment was accompanied by exhibits illustrating the effect of grade for royal anne cherries, midsummer peaches, phillips peaches, and bartlett pears. Similar statements were made in two other comments concerning cherries on the grounds that consumers usually prefer the larger (more decorative) maraschino cherries, although the smaller cherries yield the higher drained weight.

Some comments stated that the methods used to size units may affect drained weights. They indicated that large units, e.g., potatoes and cucumbers, usually sorted by diameter, may yield wide variations in drained weights due to differences in length, and that packers of such large units may have to do more size sorting than they presently do in order to conform to drained weight declaration, resulting in poorer quality of product because of bruising during mechanical sorting. They stated that, although hand sorting causes less damage, it is very costly.

Three comments stated that climatic conditions affect the rate of maturation of the food, which in turn affects the texture, quality, and density of tissue, resulting in variations in drained weights. Examples such as spinach, cucumber, and tomatoes were cited.

Five comments reported that the packing medium affects drained weights because some foods absorb water and additional substances from the medium while others lose water and nutrients to the medium. The comments stated that the extent and rate at which the exchange takes place are dependent on the properties of the solid food and the packing medium. They said that some foods, e.g., peach halves in heavy sirup, may require as long as 6 months to reach equilibrium while certain others, e.g., pears in heavy sirup, require only 1 month, and that vegetables in brine require shorter equilibration periods and exhibit less variance in drained weights than do fruits in sirups.

The petitioner commented that "Petitioner recognizes that there exist many variations among fruits and vegetables, variations based on unit size, shape, form, maturity, climatic conditions, and so forth. However, packers are currently meeting the minimum drained weights specified in the USDA grade standards for many products notwithstanding these many variables. The technological capacity to pack to minimum drained

weights in compliance with USDA grading requirements should be taken into account when product variations are relied upon as an excuse for avoiding a drained weight labeling requirement. It should also be recognized that these product variations are equally relevant to net weight labeling, because the processor, notwithstanding variables, must meet the net weight declaration."

The Commissioner agrees that unavoidable variations in drained weight may exist in canned fruit and vegetable products due to differences in the foods' physical properties and processing conditions; he is of the opinion, however, that these variations should not be unreasonably large. This proposal is consistent with the assumption that such variations exist and provides for variations that may occur under good manufacturing practice.

2. Data to illustrate drained weight variations from container to container and lot to lot.

One association submitted drained weight data for clingstone peaches and tomatoes from cutting reports for a 10-year period (1963–1972). The comment stated that the data showed substantial variability within a season's pack for these products (14 percent variability in drained weights for tomatoes, 9 percent for large and medium peaches, and 8 percent for peach slices in 1972) and that the variability for these products in 1965 was somewhat lower (8 percent for tomatoes, 5 percent for large and medium peaches, and 6 percent for peach slices).

Additional information supplied by the association for the 6-year period (1968–1973) for seven other commodities (sliced peaches, sliced pears, pear halves, sliced pineapple, green beans, sauerkraut, and spinach) showed variations within each year and from year to year, but the data showed 31 of the 35 yearly averages exceeding the USDA minimum average drained weights for these foods. It was reported that the data for each commodity came from a single company. Data were available for only 2 years for sliced pineapple, 4 years for sauerkraut, 5 years for spinach, and 6 years for the others.

According to the data submitted, the range in yearly variation in drained weights, after storage of 1 month, for sliced peaches in No. 2½ cans, adjusted to a 19 ounce fill-in weight (F.W.), was from 5.1 to 5.8 ounces; for sliced pears (No. 2½ cans, adjusted to 19 ounce F.W.), from 4.3 to 5.3 ounces; and for sliced green beans (No. 303 cans adjusted to 19 ounce F.W.), from 1.9 to 2.5 ounces.

Another comment stated that different lots within a planting season may yield significantly different drained weights due to changes in water content because of climatic conditions. Such variations, assuming 90 percent fill of container, were reported to be as large as 1.5 ounces per 10 ounces drained weight for spinach.

Pickle packers reported that they have little control over their raw material. They said that pickles are sorted, processed, machine filled, and inspected, and that when possible, additional pickles are added by hand to prevent slack-filled jars. They contended that data submitted show substantial variations in drained weights from container to container and lot to lot. They said that whole cucumber pickles show the greatest variation in drained weights (up to 40 percent) and that relish shows the least. Similar variations were shown to occur in other types of pickled products, such as finger peppers and cherry peppers.

The petitioner commented that "Currently available data on variations from can to can should be considered in light of the fact that processors currently lack the incentive to pack to a uniform drained weight—as long as required minima are met. Perhaps such data should be obtained from cans packed for government purchasers whose specifications required drained weight minima. Contract packers have a financial incentive to meet the minimum but to exceed it by as little as possible, and successful packers are likely to be those who have found the technology to accomplish that objective."

The Commissioner notes that the proposal takes into account the possibility of variation from container to container and lot to lot by establishing a required minimum average drained weight as a standard of fill of container for most products and permitting the declaration of that minimum average drained weight, even though the actual average drained weight may be higher. However, the proposal offers an incentive to pack to a uniform drained weight above the minimum required since that higher drained weight could be declared on the label.

3. Information on the best way for drained weight to be declared; including whether it should be the actual drained weight found in each can or an average for all cans in a lot and, if an average, what deviations should be permitted therefrom. Data resulting from any relevant studies should be supplied.

Two comments expressed the opinion that it would be impossible to declare drained weight in terms of actual drained weight on each can, since such a figure could only be determined after the food is packed. They said that labels and lithographed containers are ordered well in advance of the canning season and that any practice that would require testing of cans after processing and prior to labeling would lead to chaos in the established procedures for shipping and marketing canned goods.

Various comments pointed out that, although a statement of average drained weight would present fewer problems for manufacturers, it would be, at best, only an estimate of what is likely to be found on examining a large number of containers of product of similar grade, maturity, and other factors that affect the relationship between fill-in and drained weight. They indicated that it would not be expected to represent precisely the drained weight; hence, to be practical for compliance, any regulation would have to provide for proper and reasonable allowance for normal and unavoidable variations. A comment suggested that with the use of average levels and maximum individual can variations of the USDA grade standards, any number of schemes of label declaration could be postulated. It was further stated that any figure so derived that would be low enough to bear rigid application would be too low to be useful to the consumer.

The petitioner commented that "The petition filed suggests a compliance method based upon lot average plus acceptance number of individual units falling below the minimum."

The Commissioner notes that the proposal adopts compliance criteria based on average drained weights and specifying an acceptable number of individual units falling outside the ordinarily permissible variation.

4. Information on whether a minimum drained weight should be established and required for label declaration for each form of each food for each size of container. Data should be presented to show how this would assist the consumer in making value comparisons.

With reference to the establishment of a minimum drained weight for each food for each size container, one comment, which opposed such a requirement, said that it might lead to slack filling. The comment cited a Fill-Drained Weight Collaborative Study, conducted in 1938 by the FDA and the National Canners Association. This study led to a reversal of the policy reflected in a regulation issued under authority of the 1930 McNary-Mapes Amendment to the 1906 Food and Drug Act in which the fill of container for peaches had been standardized to 60 percent of the water capacity of the container. Instead of the 60 percent fill-of-container standard, the regulation was changed to require that the container be filled with "the maximum quantity of optional ingredients (solid peach pieces) that can be sealed in the container and processed by heat to prevent spoilage without crushing or breaking such ingredient."

Two other comments expressed the opinion that a minimum drained weight figure would be of little value since the actual drained weight figure would always be higher.

Another comment from a food distributor stated that a minimum drained weight should be established by package size. In his opinion, such an approach would hopefully discourage the trend to process lower quality products, e.g., more mature vegetables, simply to show higher drained weights.

Two manufacturers expressed the opinion that drained weights should be based on the USDA's recommended minimum standards since these were established on a sound statistical basis. However, one of them said that the compliance standards are too high (86 percent must meet or exceed the recommended minimum drained weight) and that this criterion should be deleted.

Another comment stated that since the processor has no control over the size of his raw fruit, a minimum drained weight, if set too high, might lead to

crushing, and if set too low, might lead to slack filling.

Two comments, one from a packer and one from a person who works for a food company, but commenting as a consumer knowledgeable in the canning of food, advocated separate drained weight regulations for individual foods where there is evidence that excess packing media are being used by canners.

Two alternatives to minimum drained weights were suggested by comments opposed to the petition. One trade association recommended the declaration of fill-in weight of the solid food since the fill of container for most foods sold by net weight is an established quantity and filling equipment has been routinely adjusted to achieve target amounts. Comments from two foreign governments recommended the use of fill-in weights.

Another industry representative stated that, in his opinion, the consumer would best be served by a statement of net weight plus the number and size of servings.

The petitioner commented that "Petitioner believes it is unnecessary, if drained weight labeling is required, for the government to interject itself any further into the determination of minimum drained weights. The marketplace would function to provide competition among packers for higher drained weights (although all containers should be filled only to safe packing levels, leaving sufficient headspace).

"The value comparison in the marketplace will result from price/weight comparison, accomplished primarily through the unit pricing of processed fruits and vegetables on a drained weight basis. The many consumer comments received by FDA on this proposal demonstrate that consumers will utilize this information."

The Commissioner notes that the proposal contains requirements for minimum drained weight. As discussed above, this aspect of the proposal is consistent with the current recommendations of the Codex Alimentarius Commission.

The Commissioner has considered the possibility of requiring the declaration of fill-in weight, i.e., the weight of the fruit or vegetable prior to the time it is packed and cooked, but has concluded that this proposal be issued as one requiring the declaration of drained weight. While the Commissioner remains open to the presentation of data that would indicate the superiority of a declaration of fill-in weight as compared to a declaration of drained weight, he does recognize at least two problems with a requirement for the declaration of fill-in weight. The first is the potential confusion to consumers who might weigh the contents of a can of food and compare the weighing to the labeled declaration. Since fill-in weight ordinarily exceeds drained weight, a consumer weighing the product at home would determine a weight less than any weight appearing on the label. It is the Commissioner's preliminary belief that this result would be confusing to consumers and that knowledgeable consumers would thus regard fill-in weight as insufficiently informative. The second problem is the availability of an enforcement mechanism. Since the relationship between drained weight and fill-in weight is dependent on many variables, the FDA would not be able to determine compliance with declared fill-in weights except by examination of company records. Under current statutory authority, such examination of records cannot be compelled.

In anticipation that comments favoring a declaration of fill-in weight rather than a declaration of drained weight will be submitted, the Commissioner requests that such comments show in what manner a fill-in weight declaration would be more meaningful and more in the interest of the consumer than a declaration of the drained weight. All such comments should be accompanied by supporting data.

5. Data to illustrate the effect on packing speed when a manufacturer attempts to pack to higher drained weight.

Four comments, two from trade associations, one from a packing company, and one from a food distributor, were not in agreement regarding the effect on packing speed when a manufacturer attempts to pack to higher drained weights. One comment from a trade association stated that there is some speculation that somewhat faster filling line speeds might be realized with newer equipment at current drained weight levels and that there should be no detrimental effect on packing speed. It said that most manufacturers optimize fill weights for quality factors and proper thermal processing, as well as for adequate fill. It added that the potential, if any, for increasing drained weights will depend on the characteristics of the individual foods.

The comment from the other trade association stated that unless automated weighing and sorting equipment is used, packing to precise fill-in weights would require increased hand labor and individual weighing of cans resulting in about a 25 percent decrease in present production line speeds.

The comment from the packing company stated that packing to higher drained weights would result in slower line speeds because the time required at each filler station would be increased by 10 to 20 percent.

The comment from the food distributor said that packing speeds would be substantially lowered because of the increased controls that must be applied and the label changes needed to cover changes in drained weight.

The petitioner commented that "Packing speed is not relevant to the determination before the Commissioner. Petitioner seeks neither changes in processing methods nor packing to higher drained weights. There should be no effects on packing speed unless a packer decided to change the amount of fill, which is done by processors from time to time regardless of the proposed regulations."

6. A number of processed foods have fill-of-container standards. These require the maximum quantity of solid food ingredient that can be sealed in the container and processed by heat to prevent spoilage without crushing such ingredient. In addition, some set out a minimum drained weight for the solid food ingredient but do not require such weight to be declared on the label. The Commissioner seeks comments, and data in support thereof, as to what would be the consequences, from a thermal processing standpoint, if the container is filled as full as possible with the solid food ingredient.

Five comments pertained to the effect on thermal processing when the container is filled as full as possible with solid food ingredients. The comments agreed that for a given thermal process the sterlizing value is decreased with increased solid-to-liquid ratios. Several examples were given, illustrating the need for adequate amounts of liquid medium, e.g., more mature starchy foods absorb more liquid and consequently a processor is required to use less of the more mature product to obtain the same sterilizing effect as would be obtained from a less mature product of the same variety. It was also mentioned that cans with increased fill-in weights could be processed at higher temperatures with longer holding times, but that this would result in overcooking the product nearest the can's surface.

One comment included a research paper by R. J. Monroe, et al., published in "Food Technology" (1969) on the influence of various acidities and pasteurizing temperatures on the keeping quality of fresh pack dill pickles. This study concluded that the tightness of pack significantly affects the heating rate and the resultant texture and chemical composition of the pickles. It said that tight packs (such as 75 percent pickles by volume) result in underheating with respect to internal product temperatures, causing subsequent spoilage of the product.

The petitioner commented that "This question also is entirely without relevance to the adoption of the petition. Petitioner recognizes that standards of fill have been adopted which take into account the need for proper thermal processing and the desire to prevent crushing of the packed solid food ingredient, as well as the elimination of nonfunctional slack fill. All that this petition seeks is the labeling of the product alone which is contained in the package; adoption of the regulation should not result in filling containers as 'full as possible'; processors which desire to increase their fill of container in order to label a higher drained weight would be expected to do so without jeopardizing compliance with good manufacturing practices concerning maximum fill amounts for proper processing."

7. Data relating to the need for "headspace" in canned foods.

Four comments discussed the need for headspace in cans. One supplied data as requested by the Commissioner. The data represented headspace as serving two purposes, as follows: (1) It provides an "area" in which a vacuum can be created,

and (2) it allows the product movement, which is essential for "rotary" retorting. The vacuum provides for expansion of the product during retort processing and for the development of sufficient vacuum after cooling to prevent can end distortion should the can be subjected to changes in atmospheric pressure or temperature. The headspace also provides a bubble when the cans are agitated during processing. This bubble promotes rapid heat penetration throughout the container by means of "mechanically induced" convection currents, permitting the use of higher temperatures and shorter cooking times that produce superior products. The advantage of this high-temperature short-time (HTST) process over the still-retort process was demonstrated in cream style corn in 303 x 406 cans with a minimum headspace of ¼ inch. The HTST process required 19 minutes at 270° F while the equivalent process by still retort would require 42 minutes at 270° F. In addition, the latter product would be completely unacceptable due to scorching.

The petitioner commented that "This question also is irrelevant to the petition. Petitioner of course recognizes the need for 'headspace' in canned foods for proper heat treatment. What headspace has to do with the mere labeling of the contained drained weight is a mystery."

8. Survey evidence indicating whether consumers do or do not consume the packing media of certain processed foods.

Survey evidence indicating whether consumers use the packing medium was not submitted by representatives of the food industry. However, two trade associations indicated that packing media from their products were used as ingredients in preparation of other foods. One of these submitted 37 published recipes for the use of pickle liquids in foods.

A survey of consumers, conducted by a consumer protection association, showed that 38 persons use the packing liquid of processed fruits and vegetables, 53 do not, and 118 use such liquids sometimes.

The petitioner commented that "Petitioner has no survey data concerning the consumer's use of packing media of processed foods. However, the large number of consumer comments sent the FDA on this basically mundane, and hardly well-publicized, issue suggests strongly that consumers either do not utilize the majority of the packing media and/or do not want to pay fruit and vegetable prices for those liquids. Consumers, according to their comments, wish to know which of several competing brands contains more solid product, and they will decide for themselves whether the greater quantity is the variable (rather than, for instance, tenderness is a less mature product, a factor that can be determined by gustatory testing) which will govern their repeat purchases."

9. Data illustrating the purpose and function of a packing medium in processed fruits and vegetables.

Although no data were submitted, four comments briefly described, as follows, the function of the packing medium: Brine is added to vegetables and sirup to fruits to accomplish three purposes: (1) to improve flavor; (2) to fill the spaces between the pieces, thus preventing oxidation and browning, and serving as a cushion against tearing and breaking of the pieces of food; and (3) to aid in convection and heat transfer during thermal processing, as previously discussed.

The petitioner commented that "Again, the data sought are irrelevant. No one is challenging the purposes or functions of packing media. Fluid is recognized as necessary in many canned foods, not just for heat treatment, but also to cushion the product against damage. This question, and others noted above, seems to be based upon a misinterpretation of Consumers Union's petition, seemingly assuming that petitioner seeks to have all packages squeezed full of fruit or vegetable without any packing medium. Nothing could be further from the content of the petition, which seeks the revelation to the public of the amount of fruit or vegetable actually contained in the package—and nothing more."

10. Information on whether there is a clear relationship between the "put-in" weight of a canned fruit or vegetable and the resulting drained weight.

Regarding the relationship of put-in (fill-in) weights to drained weights, eight comments referred to the complex of variables that affect drained weights of processed fruits and vegetables (maturity, grade, climatic conditions during growth of the raw materials, processing variables, etc.), suggesting that any workable formula for a mandatory drained weight declaration would have to consider all factors. They further stated that this formula should be based on a very large body of representative data obtained under good manufacturing practices and that presently such data are unavailable.

One comment simply stated that there is no clear-cut relationship between the put-in weight of a can of fruit or vegetable and the equilibrium drained weight some weeks or months later.

The petitioner commented that "USDA grade standards for some fruits and vegetables specify both recommended minimum fill weights and recommended minimum drained weights (see, e.g., 7 CFR 52.2568–69, canned clingstone peaches). USDA probably has data to corroborate that there is a relationship between 'put-in' and drained weights."

"Insofar as a particular processor is unsure of its own ability to maintain a certain drained weight from a certain fill weight that processor would simply be required, under the drained weight labeling proposal to choose a lower value as the labeled drained weight to assure compliance. There would of course be economic incentive to gauge the drained weights of one's products as accurately as possible. The marketplace similarly rewards processors with greater ability to fill to a standard net weight. The more efficient producer, in the marketplace, is the one who can meet the requirements of the law with the need for the least overpacking. A drained weight rule will thus pose the same choice to all processors—to label as drained weight an amount which each package is certain to meet or to choose a higher value and risk noncompliance. The processor will naturally weigh the costs of choosing one or the other course of compliance against the expected marketplace performance of his products. No processor will be at any disadvantage just because of the rule; the processor best able to control its processing equipment will be able to turn the rule into an advantage."

11. Information on what procedure should be employed to declare an accurate statement of drained weight on lithographed containers that are labeled before they are filled.

Four commenters said that they know of no such procedure other than to maintain a vast inventory of cans which are prelabeled with various drained weights so that the proper ones may be selected for use based on existing conditions.

The petitioner commented that "It is noted that net weight labels are prepared in advance of fill yet variations among lots of produce undoubtedly affect those determinations just as they would affect drained weight. A processor could choose to print labels in advance with the expected average drained weight just as net weight labels are printed. A processor which decides that it is worth overprinting and labeling a more accurate, and higher, drained weight, based upon post-canning weighing, will be able to make that choice."

12. A cost benefit analysis of the different factors involved in drained weight declaration, e.g., data illustrating costs involved in holding unlabeled containers until the drained weight can be determined. Views on whether the information thus provided will be worth the added cost of providing the drained weight label declaration.

Comments were received from manufacturers and two trade associations regarding the added costs of drained weight declaration. All indicated that there would be cost increases and that, in most cases, the increases would be passed on to the consumer.

One processor provided a list of estimated minimum costs for affixing labels after a 30-day storage period, from which he concluded that cost increases would approach 2 cents per unit currently costing 15 to 20 cents.

One trade association reported that one member company estimated cost increases of 3 percent to 10 percent, while another estimated an increase of ¼ cent per can, which would be passed on to the consumer. However, this association said that in the latter estimate, many aspects relating to costs incurred by drained weight labeling had not been considered and that the total costs could be considerably more, resulting in increases of at least 1 cent per can. The association said that the cost-benefit ratio is difficult to assess because a minimum drained weight figure practicable for compliance could have only limited value for com-

parative buying purposes, since most actual drained weights would substantially exceed the declaration. The association also expressed the opinion that an average drained weight declaration might provide a more representative basis for comparison if workable compliance formulas could be developed.

The petitioner commented that "As noted in 11. above there is nothing in the proposed rule which would require the holding of cans for drained weight determination and labeling."

The Commissioner recognizes that the determination and labeling of drained weight may increase costs to the manufacturer and that all or part of any such increased costs may well be passed on to the consumer. He also notes that the limited consumer poll, referred to earlier in this preamble, suggests understandable reservations of consumers about paying increased prices for label declaration of drained weight on processed foods, even though they seemed to want the information (at no increased food cost). The Commissioner concludes, however, that the contentions regarding the additional costs of drained weight declaration have not been sufficiently documented and that there is no evidence that consumers generally believe that the information provided by label declaration of drained weight is not of sufficient worth to justify some additional costs.

The following additional comments, which do not speak specifically to any of the 12 factors in the notice, were received:

One comment speaking for processors of fruits who package in bulk and institutional size cans only, requested exemption from any regulation requiring a declaration of drained weight since their products are not sold directly to consumers. It said that manufacturers and institutional users buy on the basis of their own specifications, which assures them that they are receiving the quality and quantity ordered.

The Commissioner agrees with the comment and is proposing that the fill-of-container regulations be limited to No. 10 cans or equivalent or smaller.

Four comments, two from the pickle industry and two from the maraschino cherry industry, opposed drained weight labeling because their products are packed in glass containers. They maintained that the consumer can visually judge the quality and quantity of food in the container and, accordingly, there is no need for the drained weight declaration. Further, they stated that these products are not usually served on a weight basis but rather by count. A pickle packer association said that it would be "unfair" for the FDA to change its 1970 regulation (21 CFR 1.8b(r)) requiring the declaration of the net quantity of contents of pickles in terms of the U.S. gallon or subdivision thereof.

The Commissioner believes that the regulation requiring the declaration of quantity of contents of pickles in terms of volume should be retained because of difficulties of controlling drained weight that appear to be unique to pickles. However, he proposes that maraschino cherries, as well as all other fruits and vegetables packed in readily drained liquids, shall be subject to drained weight labeling.

Three comments that generally opposed the petition did remark, however, that the idea of labeled drained weights has merit. One of these comments stated that the compliance procedures in the petition are too stringent and should be deleted. Another, while opposing the petition as submitted, said that it might be possible to amend it so as to provide for average levels and maximum can variations, thus making compliance more practicable. Another said that packers will not be able to meet the strict compliance criteria proposed and suggested that if the drained weight must be declared, a 70–70 tolerance could be used, i.e., "70 percent of the samples give a certain minimum drained weight 70 percent of the time." The comment further said that the drained weight, if declared, should be in terms of minimum drained weight established for each form of food in each size of container.

Comments from five foreign governments said they have no regulation requiring label declaration of drained weights of all fruits and vegetables. Comments from two of these governments, the Netherlands and Australia, said that they have standards for minimum drained weights for fruits and vegetables but that the drained weights need not be declared on the labels. The comments added that it is impossible to disclose in advance without tolerances a correct weight to be found some months later for the solid portion. The comments from these countries further cited the Codex Alimentarius Commission policy of establishing standards for minimum drained weights but not requiring label declaration of such drained weights for processed fruits and vegetables. The comment from the Netherlands stated that for the United States to adopt such a policy would be inconsistent with the draft proposals the United States has submitted to the committee.

Comments from two other countries, Germany and Yugoslavia, suggested the use of a fill-in weight declaration as required by the European Common Market. A letter from the Federal Ministry for Youth, Family Affairs, and Health in Germany, submitted through the petitioner, stated that that country had advocated declaration of drained weight in developing the Codex International Standards. However, a comment sent directly to the Hearing Clerk from the German Embassy stated that the request filed by Consumers Union is neither useful nor practical since an individual declaration of drained weight, taking into account varying conditions of the raw materials, would be extremely difficult as to technical practicability and would involve considerable expense without providing valuable information to the consumer.

A comment from the fifth country, Poland, said that Poland requires drained weight declaration for canned fruits and vegetables intended for domestic consumption when packed in brine, acid solution, etc., which are not commonly consumed with the food, but it requires only net weight declaration when such foods are intended for export.

Comments from three additional foreign governments reported that they have promulgated, or are in the process of promulgating, regulations requiring drained weight declaration for all goods packed in liquids or jellies. A comment from Sweden said that country requires label declaration of average drained weight of solid content. One from Argentina said that country requires declaration of minimum drained weights for peas, corn, peaches and strawberries. One from Norway said Norway was establishing regulations to require label declaration of drained weights for all packaged processed fruits and vegetables, the regulations to become effective on January 1, 1975.

A trade association that had previously submitted extensive comments filed an additional comment emphasizing opposition to label declaration of drained weight as proposed in the Consumers Union petition. The comment stated that although some canners do pack under USDA inspection, such canners use the drained weight values in the USDA grade standards only as guidelines and not as absolute working bases.

This comment also stated that the fill of fruits and vegetables is by volume and that canners merely use fill or put-in weight with extensive nondestructive sampling as the control for the quantity of food in the container and do not try to relate this weight to the drained weight of the finished product because of the variability of the fill weight to drained weight relationship due to variety, maturity, unit size, etc. It stated that, in view of these variations, the canners feel they cannot routinely comply with the USDA drained weight requirements but they do feel confident that containers are adequately filled because of their nondestructive fill-weight testing and they are complying with existing FDA fill-of-container standards.

The comment further stated that, to the individual not trained in food manufacturing, the logical answer would be to increase the fill-in weight so all containers would comply with the drained weight requirements. The comment stated that the answer is not so simple because product safety must be considered. Cited as examples were instances where serious underprocessing in certain types of vegetable products resulted from containers being filled to the point where adequate heat penetration could not occur. The comment said that the potential for overfilling with the associated health hazard would be a far greater disservice to the consumers than not to have drained weight on the labels.

The comment stated "If drained weight declaration were to become a requirement, the only possible protection against the serious potential health hazards from overfilling that comes to mind

immediately would be to establish an absolute maximum drained weight with the suggestion that all packers use a uniform declaration for each commodity low enough to cover all possible inherent variations in weight. If this were done, we can't see that the practice of declaring drained weight, with its added cost, would provide any helpful information to the consumer because all cans of each product or variety of product would carry the same declaration and, in most containers, the declaration would be considerably less than the actual drained weight in order to allow for the variability which occurs."

Additional comments from the petitioner stressed that consumers, as well as large volume buyers, have a right to know the weight of the solid portion of the food in the container. The petitioner stated that food processors must pack to drained weight specifications for contract purchasers and must also meet drained weight requirements for exported products when required by the respective receiving country. The comment further stated that the FDA minimum drained weight requirement in its whole kernel corn standard indicates the belief of the agency that processors are able to pack to minimum drained weights. The comment stated that, by the same token, processors should be able to declare a drained weight on the label of the product. The petitioner added that whatever is done to maintain compliance with the percentage of fill can also be done to meet the label declaration.

Other Regulations Affected by Proposal

This proposal affects a number of existing standards of fill of container and a number of standards which have been proposed but not yet made final. In the following portion of this preamble, the changes in existing standards are explained. In addition, a summary of the comments received to the proposed standards for fill of container, and the Commissioner's comments in response, are included. The statement here of the Commissioner's response to these comments will eliminate the need to submit the same comments again.

Canned Grapefruit. Regulations published in the Federal Register of May 29, 1974 (39 FR 18643), amended the canned grapefruit standards of identity (§ 27.90), quality (§ 27.91), and fill of container (§ 27.92) in consideration of the "Recommended International Standard for Canned Grapefruit." The Commissioner is herein proposing further amendment of the drained weight requirements of § 27.92 to require label declaration of the drained weight for processed fruits and vegetables. Also, whereas § 27.92 establishes requirements for drained weight in terms of percentage of container capacity, the instant proposal specifies the drained weights in ounces. The value designated as "$\bar{X}_d$" is the average drained weight of all sample units in the sample and is consistent with the drained weight requirement in § 27.92 in its present form. The Commissioner proposes a lower drained weight limit for individual containers, designated as "*LL*". Compliance with the lower limit is based on the sampling and acceptance procedure set forth in the proposed new § 10.9.

Canned sweet corn. Regulations published in the Federal Register of February 15, 1974 (39 FR 5760), amended the standards of identity (§ 51.20), quality (§ 51.21), and fill of container (§ 51.22) for canned sweet corn in consideration of the "Recommended International Standard for Canned Sweet Corn." The Commissioner is now proposing further amendment of the drained weight requirement of § 51.22 to require label declaration of the drained weight. Also, whereas § 51.22 establishes requirements for drained weight in terms of percentage of container capacity, the instant proposal specifies the drained weight in ounces. The Commissioner is proposing that, in addition to the requirement that the average drained weight of the samples meet the drained weight requirements: (1) One-half or more of the individual containers meet the drained weight requirement, and (2) the drained weight of the containers that do not meet the established drained weight requirements be within the variability of good manufacturing practice.

Canned plums. Regulations published in the Federal Register of February 7, 1975 (40 FR 5772), amended the standard of identity (§ 27.45) and established standards of quality (§ 27.46) and fill of container (§ 27.47) for canned plums, in consideration of the "Recommended International Standard for Canned Plums." The Commissioner is now proposing amendment of the drained weight requirements of § 27.47 to require label declaration of the drained weight. Also, whereas § 27.47 establishes requirements for drained weight in terms of percentage of container capacity, the instant proposal specifies the drained weight in ounces. The value designated as "$\bar{X}_d$" is the average drained weight of all sample units in the sample and is consistent with the drained weight requirement in § 27.47 in its present form. The Commissioner proposes a drained weight lower limit for individual containers, designated as "LL". The Commissioner proposes that compliance with the lower limit be based on the sampling and acceptance procedure set forth in the proposed new § 10.9.

Canned green beans and wax beans. A proposal was published in the Federal Register of January 28, 1974 (39 FR 3560) to amend the standards of identity (§§ 51.10, 51.15) and quality (§§ 51.11, 51.16) and to establish a standard of fill of container (§ 51.12) for canned green beans and canned wax beans in consideration of the "Recommended International Standard for Canned Green Beans and Canned Wax Beans." The Commissioner, in consideration of the comments received on this proposed fill-of-container standard, and to be consistent with the other proposed standards contained in this notice, is proposing a revised fill-of-container standard. Standards of identity and quality for canned green beans and canned wax beans will be issued at a later date.

Seven responses were received to the proposal published on January 28, 1974. They were from a consumer, three processors of green beans and wax beans, an ingredient manufacturer, a trade association and the USDA. The consumer was opposed in general to any standards for these foods. The comments received regarding only the proposed fill-of-container standard and the Commissioner's responses are as follows:

1. A comment from the USDA suggested that the word "approximately" precede the 17–20° angle of inclination for the sieve in the procedure for determining drained weight that was included as part of the fill-of-container standard for canned green beans and wax beans.

The Commissioner does not agree with this comment. Within the range proposed there is sufficient flexibility to provide for some variation without significantly affecting the determination of drained weight values.

2. One comment from a processor expressed opposition to the use of the proposed sampling plan for determining compliance with the standard. It was suggested that the "old average concept" be continued for its ease of interpretation and that "it would not mean another insidious tightening or raising of the standard without changing the actual value or limits of that standard." The comment stated that it would be more difficult for processors to meet the minimum drained weight requirement based on an accept-reject basis.

The Commissioner advises that the proposed sampling and acceptance procedure for determining compliance with the drained weight requirement for canned green beans and canned wax beans is based on the average drained weight of all units in the sample examined. The Commissioner notes that the accept-reject based compliance criteria in the proposed standard for canned green beans and wax beans is applicable only to the quality factors and the 90 percent fill-of-container requirement and not to the drained weight requirement.

3. One comment from the trade association suggested that the requirement in the fill-of-container standard that the bean ingredient and packing medium be not less than 90 percent of the total capacity of the container should be based on the average of a lot, as is proposed for the drain weight requirement.

The Commissioner does not agree. He is of the opinion that packers using good manufacturing practices can meet the proposed 90 percent fill requirement. No suggestion was made in the comment that the 90 percent level could not be attained. Further, the comment provided no data in support of the suggested change. Accordingly, the procedure previously proposed is included in this proposal.

4. Three comments, from a processor, a trade association, and the USDA, expressed concern that the proposed drained weight, based on the water capacity of the containers, be not less than

55 percent of the water capacity of the container, will be extremely difficult, if not impossible, to meet for cuts 1½ inch and longer, for small sieve size beans, and for certain size cans. It was suggested that weather conditions, growing areas, and varietal factors seem to cause drained weights to vary considerably. It was also stated that in order to attain the proposed fill weight, one or more or all of the following will happen: (1) There will be considerable waste of raw stock during the filling and closing operation, (2) the beans will have to be blanched so severely that they become "slimy" and deteriorate in quality, (3) there will be damage to the product from the physical crushing of the product when the head space plunger goes down and the can lid is applied, (4) beans will be left on the flanges of the can, adversely affecting the integrity of the top double seam.

The trade association suggested that the drained weight should be established at not less than 52 percent of the water capacity of the container, except for beans in whole or sliced-lengthwise style, for which it should not be less than 50 percent. For those containers of one-fourth kilogram (8.82 ounces) or less, the percentage should be 47 percent of the water capacity of the container. The processor suggested that cut beans 1½ inch and longer should be placed in the same category as whole and French style beans with a minimum drained weight requirement of 50 percent of the water capacity of the container.

A processor and the USDA submitted data to demonstrate that it is not feasible to meet the 50 percent drained weight requirement for whole green beans packed in No. 303 glass jars. The data indicated that the 50 percent drained weight requirement can be met if the water capacity of the container is calculated on the basis of the sealed container rather than the overflow capacity.

The Commissioner has considered these comments and believes they have merit for certain containers and styles of pack. The previously proposed drained weight requirements have been revised accordingly in this new proposal.

Canned tomatoes. A proposal was published in the FEDERAL REGISTER of April 29, 1974 (39 FR 14971), to amend the standards of identity (§ 53.40), quality (§ 53.41), and fill of container (§ 53.42) for canned tomatoes in consideration of the "Recommended International Standard for Canned Tomatoes." The Commissioner, in consideration of the comments received to the proposed fill-of-container standard and to be consistent with the other proposed standards contained in this notice, is proposing a revised fill-of-container standard as part of this document. Standards of identity and quality for canned tomatoes will be issued at a later date.

Seven responses were received to the proposal published April 29, 1974. They were from a consumer organization, four trade associations, a processor of tomatoes and the USDA. The comments received regarding only the proposed fill-of-container standard for canned tomatoes and the Commissioner's responses are as follows:

1. The consumer organization commented that as long as there is a requirement for minimum drained weights for canned tomatoes, drained weight labeling should also be required.

The Commissioner is of the opinion that the comment has merit. Accordingly, this proposal provides for the label declaration of drained weight.

2. The USDA suggested that the drained weight of stewed tomatoes be determined on a "4-mesh sieve." It further suggested that for all canned tomatoes the drained weight average of 50 percent of the water capacity of the container is too low.

The Commissioner is of the opinion that the requirements for a No. 4 rather than a No. 2 mesh sieve and for a drained weight higher than 50 percent of the water capacity of the container should be based on supporting data. In the absence of such data, the Commissioner is making no change in the proposed drained weight requirement for canned tomatoes.

3. The consumer organization commented that incorporation of the sampling plans in the standard poses a rather complex problem that should not be resolved solely upon the comments of those relatively few persons interested in canned tomatoes. It suggested that the publication of a separate notice headed "Sampling Plans" in the FEDERAL REGISTER would likely elicit significantly more comments than a proposal on canned tomatoes.

The Commissioner agrees that the problem of sampling plans is complex and that it should not be resolved solely upon the comments of a few persons interested in only canned tomatoes. However, the sampling plans set out in the proposed new § 10.9 for canned fruit and vegetables are the result of years of study by many individuals and groups and the plans' applicability is well established and accepted. Nevertheless, sampling plans are now considered essential to a proper determination of compliance with the requirements of a fill-of-container standard and are therefore again being proposed.

4. The consumer organization expressed the opinion that each container must contain the amount required in the regulation. It also stated that the sampling plans should be eliminated in favor of 100 percent compliance with the drained weight requirement. It recognized that this requirement would mean higher retail prices but stated the obvious advantage is enforcement. The comment stated that "spot checks" could be made where every container must be in compliance, whereas the proposal involves sampling the entire lot.

The Commissioner does not agree with this comment. The sample average represents the most reasonable means for determining compliance considering the inherent container-to-container variation in drained weights as discussed elsewhere in this notice.

5. A processor and a trade association expressed the opinion that the sample sizes are extremely large and in excess of the sample sizes taken under the USDA grading program.

The lot sample size proposed in § 10.9 is consistent with the sampling plans established by the Codex Alimentarius Commission for inspection level II. The plan for inspection level II was designed for use in the case of controversy or disputes and provides for a higher sample-size-to-lot-size ratio than does the Codex plan for inspection level I or the USDA sampling plan. In addition, it should be noted that USDA samples larger lots at the producing establishment while the FDA normally will be sampling smaller lots in the distribution channels. The Commissioner is of the opinion that the higher sampling ratio should be used for compliance with the drained weight labeling since it will reduce the consumers' risk of accepting defective lots. It will also provide a greater level of confidence for undertaking legal action.

A number of the tables contained in the proposed fill-of-container standards have been incorporated as previously published in other documents and, as a result, are not always consistent in the manner of presentation of the data. For instance, in the description of the overall dimensions of the container, some tables include a description of the diameter and height in terms of inches and fractional parts thereof, e.g., a No. 303 can is 3$\frac{3}{16}$ inches wide by 4$\frac{1}{16}$ inches high. Other tables may describe a No. 303 can as 303 x 406 or 303 inches by 406 inches (where the first figure of the 3 digit number is inches and the remaining figures are sixteenths of an inch). This latter designation is the one more commonly used in the canning industry.

PROPOSAL

Assuming that final regulations will require label declarations of drained weight on canned fruits and vegetables, the Commissioner invites comments on a reasonable effective date for the final regulations. Such comments should be supported by data or other pertinent information. It is the Commissioner's opinion that the effective date should be established as 1 year after the date of publication of the final regulations.

The Commissioner believes the wisdom of a proposal to require drained weight labeling ultimately depends on the dollar value to the consumer of any benefit of knowing drained weight, when buying food, in relation to any increase in the product cost resulting from manufacturers' costs being passed on to the consumer. In publishing the Consumers Union petition for comment, the Commissioner asked particularly for information about 12 specific subject areas important to any decision as to what, if any, regulation should be proposed. The information submitted, particularly economic data, was less definitive than desired. Nonetheless, the information was sufficient to permit the Commissioner to propose a method of drained weight labeling that would achieve most

of the objectives of the Consumers Union petition in a less costly manner, as explained in the "Inflation Impact Assessment of the Proposed Drained Weight Regulation" on file with the Hearing Clerk. However, the economic information was inadequate to allow the Commissioner to decide whether or not the economic benefits to consumers of his proposal would outweigh any increases in product cost. Any final decision about a drained weight labeling regulation will depend primarily on an analysis of the economic information ultimately available to the Commissioner.

The Commissioner's proposal has been analyzed for inflation impact as required by Executive Order 11821, OMB Circular A-107, and guidelines issued April 1, 1975 by the Department of Health, Education, and Welfare. The Commissioner has concluded that the proposal would not cause a major inflation impact as described in those documents. As noted above, a copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

However, because of the role economic analysis will play in determining the Agency's final actions regarding any drained weight labeling requirement, the inflation impact assessment and the discussion which follows have been expanded to include a consideration of the costs of implementing two alternatives. The first of these is the Consumers Union petition which asked for drained weight labeling for all processed fruits and vegetables based on lot sampling. The second, called "label disclosure," would have the effect of limiting the major provisions in the Consumers Union petition to canned fruits and vegetables. The Commissioner's proposal represents a third approach which would permit a processor to label cans based on fill of container standards where they exist. The following discussion only considers the cost, and not the benefits, of implementing the Commissioner's proposal and the alternatives to it. It is hoped that additional information pertaining to costs and benefits will be forthcoming during the comment period.

The cost impact of three approaches to a drained weight requirement have been assessed. These are: (1) The Commissioner's proposal which, it is estimated, would cost about $16 million annually to implement; (2) the Consumers Union petition, estimated at $92 million to effect; and (3) the "label disclosure" option, which would cost an estimated $74 million to put into practice. All sources of cost of information are documented and further explained in the inflation impact assessment.

The Consumers Union Petition. The Consumers Union petition called for drained weight labeling of all processed, i.e., frozen and canned, fruits and vegetables. Ascertaining drained weight levels was to be done through lot testing.

Using the National Canners Association (NCA) estimate of 1 cent per unit to comply with the drained weight requirement proposed by Consumers Union results in an estimated cost impact of $92 million. This figure should be viewed only as an approximation. The NCA response may not be representative for the canning industry as a whole, and was limited to canned, not frozen, products. The estimate was computed as follows:

	Million units
Volume canned products covered by a drained weight requirement	7,368
Plus:	
Volume frozen products covered by a drained weight requirement	1,833
Total	9,201
Times 1 c per unit (0.01)	92.01
Estimated cost impact	$92,000,000

The "Label Disclosure" Approach. One option for instituting a drained weight requirement would be to apply the provisions of the Consumers Union petition only to canned fruits and vegetables. This would avoid the problem of ascertaining drained weight for frozen foods, where appropriate testing techniques would have to be developed.

The cost estimate for industry compliance under this second option is $74 million, calculated by multiplying the annual volume of canned products covered by a drained weight requirement by $0.01 per unit.

The Commissioner's proposal. The key difference between the Commissioner's proposal and the other two is that it would permit a processor to label cans based on fill-of-container standards, where they exist. Where such a standard does not exist, a processor would have to undertake lot testing and label drained weight based on lot average. Where fill-of-container standards exist, a processor would have the option of labeling cans based on the standard, or undertaking lot testing and labeling with the lot average.

In the aggregate, the reduction in anticipated cost impact from permitting the use of a fill-of-container standard should be substantial. Fill-of-container standards specifying minimum average drained weights are being proposed for 78 percent of the total production of all products for which drained weight labeling would be required. Consequently, the cost impact from complying with the Commissioner's proposal should only be applied to the 22 percent of canned fruits and vegetables amenable to a drained weight requirement but for which there would be no fill-of-container standard. This cost would amount to about $16 million, derived by multiplying 7.4 billion (annual production of canned goods with drained weight required) by $0.01 (cost per unit) by .22 (percent with no fill-of-container standard). The estimated annual cost would be reduced further if more fill-of-container standards were developed and used.

The Commissioner seeks concrete and specific information concerning the following:

a. What would be the per unit cost of declaring drained weight on a lot-by-lot basis as proposed in the Consumers Union petition? Responses should analyze the additional costs, if any, of (1) quality control and testing for the determination of the drained weight, (2) storage of unlabeled cans prior to such determination, and (3) the development and maintenance of an inventory of labels carrying different drained weight declarations.

b. What would be the benefits, including the dollar value, to consumers of declaring drained weight on a lot-by-lot basis as proposed in the Consumers Union petition? Consideration should be given both to the incidence of use by the public at large, as well as the value of the information to those who would use it in making purchasing decisions.

c. What would be the per unit cost of declaring the drained weight in the fill-of-container standards set out below as proposed by the Commissioner? Again, consideration should be given to the additional costs, if any, associated with the factors enumerated in paragraph a. above.

d. What would be the benefits, including the dollar value, to consumers of declaring the drained weights as proposed by the Commissioner? Consideration should be given both to the incidence of use by the public at large, as well as the value of the information to those who would use it in making purchasing decisions.

Further, the Commissioner welcomes the submission of comments and information not only on the proposed rules below but also on the following:

a. Survey data, representative of the population at large, which quantify the additional costs consumers would be willing to pay for label declaration of drained weights in the manner proposed by Consumers Union, or the Commissioner, or both.

b. Support or rebuttal of the comments already received concerning the Consumers Union petition, published in the FEDERAL REGISTER of December 5, 1973 (38 FR 33512).

c. Drained weight data available for frozen fruits and vegetables.

d. Whether the regulations should require label declaration of whatever drained weight the packer is packing without establishing a fill-of-container standard that contains drained weight requirements.

e. Whether the drained weights set out for canned pineapple are reflective of current good commercial practice.

f. Whether a label declaration of fill-in weight rather than drained weight would be more or less meaningful and in the interest of the consumer.

g. Any other information relevant to the question of declaration of drained weights on the labels of canned fruits and vegetables.

h. What effective date would be appropriate for each of the proposed regulations.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in 21 CFR 6.1(d)(4) that food standards are not major agency actions significantly affecting the quality of the

human environment. Because some of the proposed provisions affect regulations in addition to food standards, however, he has also considered the environmental effects of the proposed regulations and has determined that the proposed action would not significantly affect the quality of the human environment. Therefore, the Commissioner concludes that an environmental impact statement is not required by this proposal.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 401, 403, 701, 52 Stat. 1041, 1046–1048, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(n), 341, 343, 371)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes that 21 CFR Parts 1, 10, 27, 51, and 53 be amended to read as follows:

PART 1—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. In § 1.8b by revising paragraph (f) and adding new paragraph (t) as follows:

§ 1.8b Food labeling; declaration of net quantity of contents; when exempt.

* * * * *

(f) The declaration shall appear as a distinct item on the principal display panel, shall be separated (by at least a space equal to the height of the lettering used in the declaration) from other printed label information appearing above or below the declaration and (by at least a space equal to twice the width of the letter "N" of the style of type used in the quantity of contents statement) from other printed label information appearing to the left or right of the declaration except that when the label of a container also bears a statement of drained weight pursuant to § 1.8e of this part, such statement shall appear directly to the right of or below the declaration required by this section, without intervening written, printed or graphic matter. The declaration shall not include any term qualifying a unit of weight, measure, or count (such as "jumbo quart" and "full gallon") that tends to exaggerate the amount of the food in the container. It shall be placed on the principal display panel within the bottom 30 percent of the area of the label panel in lines generally parallel to the base on which the package rests as it is designed to be displayed: *Provided*, That on packages having a principal display panel of 5 square inches or less, the requirement for placement within the bottom 30 percent of the area of the label panel shall not apply when the declaration of net quantity of contents meets the other requirements of this part.

* * * * *

(t) For the purposes of this section, the term "net quantity of contents" of foods, such as ripe olives, green olives, canned artichokes, and canned mushrooms that are packed in liquid that is ordinarily discarded, means the drained weight of the solid food that is determined in accordance with § 10.9(c) of this chapter and that complies with § 10.9(f)(2) of this chapter. This paragraph does not apply to pickles, the net quantity of contents of which shall be declared in accordance with paragraph (r) of this section.

2. By adding new § 1.8e as follows:

§ 1.8e Food labeling; label statement of the drained weight of the solid food contents of canned fruits and vegetables.

(a) The canned fruits and vegetables listed in paragraph (c) of this section, when packed in containers whose capacity is equal to or less than a No. 10 can (109 oz), shall bear on their labels a statement of the drained weight of the solid food contents of the container in the manner prescribed in paragraph (d) of this section. The statement of drained weight shall consist of the words "drained weight ———", the blank to be filled in with the minimum average drained weight specified in the appropriate fill-of-container standard established in Subchapter B of this chapter. Alternatively, the blank in the statement may be filled in with a weight that is greater than the minimum average drained weight specified in the appropriate fill-of-container standard if such greater weight accurately states the drained weight of the solid food contents of the container as determined by the procedure established in § 10.9(c) of this chapter and complies with § 10.9(f) of this chapter.

(b) The label of a canned fruit or vegetable not listed in pargraph (c) of this section that is packed in a container whose capacity is equal to or less than that of a No. 10 can (109 oz) in a readily drained liquid that is not ordinarily discarded, shall bear a statement of the drained weight of the solid food contents of the container in the manner prescribed in paragraph (d) of this section. The statement of drained weight shall consist of the words "drained weight———", the blank to be filled in with the drained weight of the solid food contents of the container, as determined by the procedure established in § 10.9(c) of this chapter, and which shall comply with § 10.9(f)(2) of this chapter.

(c) The canned fruits and vegetables referred to in paragraph (a) of this section are those for which minimum average drained weight requirements have been established in fill-of-container standards in Parts 27, 51 and 53 of this chapter and are as follows:

Apricots (§ 27.12).
Asparagus (§ 51.513).
Beans, green and waxed (§ 51.12).
Beans, lima (§ 51.523).
Beets (§ 51.533).
Blackberries (§ 27.37).
Blueberries (§ 27.37).
Carrots (§ 51.543).
Cherries, red tart pitted (§ 27.32).
Cherries, sweet (§ 27.32).
Collards (§ 51.553).
Corn, whole kernel (§ 51.22).
Figs (§ 27.74).
Fruit cocktail (§ 27.42).
Grapes (§ 27.27).
Grapefruit (§ 27.92).
Kale (§ 51.553).
Mushrooms (§ 51.503).
Okra (§ 51.563).
Onions (§ 51.593).
Peaches, clingstone (§ 27.4).
Peaches, freestone (§ 27.4).
Pears (§ 27.22).
Peas, field and black-eye (§ 51.573).
Pimientos (§ 51.583).
Pineapple (§ 27.52).
Plums (§ 27.47).
Potatoes, white (§ 51.613).
Prunes, canned dried (§ 27.17).
Raspberries (§ 27.37).
Spinach (§ 51.553).
Sweetpotatoes (§ 51.603).
Tomatoes (§ 53.42).
Turnips greens (§51.553).

(d) The statement of drained weight shall be a part of the declaration of net quantity of contents required by § 1.8b of this part and shall meet the same requirements prescribed in § 1.8b (b)(1), (e), (f), (h), (i), (j), (k), (m), and (n) for the declaration of net quantity of contents. The statement may contain common or decimal fractions. A common fraction shall be in terms of halves, quarters, or eighths. A common fraction shall be reduced to its lowest terms; a decimal fraction shall not be carried out to more than two places nor to less than one tenth of an ounce.

(e) No provision of this section shall be construed as in any way affecting the concurrent applicability of other labeling regulations set out in this chapter.

(f) The list of foods in paragraph (c) of this section represents those foods for which sufficient data are available to support incorporation of a minimum average drained weight requirement in fill-of-container standards for these foods. The Commissioner of Food and Drugs, on his own initiative, or on behalf of any interested person who has submitted a petition, may publish a proposal to add other foods to this list and, concurrently, to establish fill-of-container standards that specify drained weight requirements for these foods. Any such petition shall include an adequate factual basis to support the petition in the form set forth in Part 2 of this chapter and will be published for comment if it contains reasonable grounds for the proposal.

PART 10—DEFINITIONS AND STANDARDS FOR FOOD

3. In § 10.7 by revising paragraph (b) as follows:

§ 10.7 General statements of substandard quality and substandard fill of container.

* * * * *

(b) The term "general statement of substandard fill" means the statement "Below Standard in Fill", or "Below Standard in Drained Weight", or "Below Standards in Fill and Drained Weight", as appropriate, printed in Cheltenham bold condensed caps. If the quantity of the contents of the container is less than 1 pound, the statement is in 12-point type; if such quantity is 1 pound or more,

the statement is in 14-point type. Such statement is enclosed within lines, not less than 6 points in width, forming a rectangle; but if the statement specified in paragraph (a) of this section is used, the statements (one following the other) may be enclosed within the same rectangle. Such statement or statements, with enclosing lines, are on a strongly contrasting, uniform background, and are so placed as to be easily seen when the name of the food or any pictorial representation thereof is viewed, wherever such name or representation appears so conspicuously as to be easily seen under customary conditions of purchase.

4. By adding new § 10.9 as follows:

§ 10.9 Compliance with the fill-of-container standards for canned fruits or vegetables.

(a) *Minimum fill.* In the case of those fill-of-container standards in this Subchapter B that specify a 90 percent fill, a container that falls below the minimum fill prescribed in the fill-of-container standard is considered a "defective" unit. A lot of canned fruit or vegetable is in compliance with the requirement that the fruit or vegetable occupy not less than 90 percent of the total capacity of the container when the number of "defective" units in a sample analyzed according to the sampling plans in paragraph (d) of this section does not exceed the applicable "acceptance number" designated as "c" in the sampling plans in paragraph (d) of this section.

(b) *Minimum drained weight.* In the case of those fill-of-container standards in this Subchapter B that specify a minimum drained weight requirement, a lot of canned fruit or vegetable is in compliance with such drained weight requirement if it meets the provisions of the compliance procedure specified in the standard and described below:

(1) Compliance procedure No. 1. (i) The average drained weight of all sample units in the sample, analyzed according to the sampling plans provided in paragraph (d) of this section is equal to or greater than the average drained weight (designated as "average" or $\bar{X}_d$ in the table in the standard) requirement of the fill-of-container standard: and

(ii) The number of "defective" units, i.e., sample units that are less than the lower limit drained weight requirement for individual containers (designated as "individuals" or "LL" in the table), does not exceed the applicable "acceptance number" designated as "c" in the sampling plan in paragraph (d) of this section. The lower limit ("minimum") drained weight requirement for individual containers set forth in the table in § 53.42(a)(2) of this chapter shall apply to canned tomatoes regardless of sample size. In the case of all other foods, the lower limits for individual containers in the tables shall apply when the sample consists of 13 sample units. When the sample consists of more than 13 sample units, the lower limit is calculated using the equation given in paragraph (f) of this section, where LL_A is the lower limit for the larger sample size, X_A equals $\bar{X}_d$ given in the table in the fill-of-container standard, and M is the value selected (from the table in paragraph (d) of this section) according to the sample size (n) used.

(2) Compliance procedure No. 2. (i) The average drained weight of all sample units in the sample analyzed according to the sampling plans provided in paragraph (d) of this section is equal to or greater than the drained weight requirements in the applicable fill-of-container standard; and

(ii) The drained weight of one-half or more of the individual containers is equal to or greater than the minimum average drained weight required by the standard; and

(iii) The drained weights from the containers which are less than the minimum average drained weight required by the standard are within the variability of good manufacturing practice.

(c) *Determination of drained weight.* (1) Except as otherwise provided in the applicable fill-of-container standard, the procedure for determining drained weight in canned fruits or vegetables is as follows: Tilt the opened container so as to distribute the contents evenly over the meshes of a circular sieve that has been previously weighed. The diameter of the sieve is 8 inches if the quantity of contents of the container is less than 3 pounds and 12 inches if such quantity is 3 pounds or more. The bottom of the sieve is woven-wire cloth that complies with the specifications for the No. 8 sieve set forth in the "Definitions of Terms and Explanatory Notes" p. xvi, of the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th ed., 1975.[1] Carefully invert by hand all fruits having cups or cavities if they fall on the sieve with cups or cavities up. Cups or cavities in soft products may be drained by tilting sieve. Without further shifting the material on the sieve, incline the sieve at an angle of 17° to 20° to facilitate drainage. Two minutes after the drainage begins, weigh the sieve and drained food. The weight so found, less the weight of the sieve, shall be considered to be the weight of the drained food.

(2) Testing for compliance with drained weight requirements shall be performed no sooner than 30 days after the food has been canned.

(d) *Sampling and acceptance procedure.* A lot is to be considered acceptable when the number of "defectives" does not exceed the "acceptance number" in the sampling plans given in paragraph (d)(2) of this section.

(1) Definitions of terms to be used in the sampling plans in paragraph (d)(2) of this section are as follows:

(i) *Lot.* A collection of primary containers or units of the same size, type, and style manufactured or packed under similar conditions and handled as a single unit of trade.

(ii) *Lot size.* The number of primary containers or units in the lot.

(iii) *Sample size (n).* The total number of sample units drawn for examination from a lot.

(iv) *Sample unit.* A container, the entire contents of a container, a portion of the contents of a container, or a composite mixture of product from small containers that is sufficient for the examination or testing as a single unit.

(v) *Defective.* Any sample unit shall be regarded as defective when any of the defects or conditions specified in the quality and fill of container standards are present in excess of the stated tolerances.

(vi) *Acceptance number (c).* The maximum number of defective sample units permitted in the sample in order to consider the lot as meeting the specified requirements.

(vii) *Acceptable quality level (AQL).* The maximum percent of defective sample units permitted in a lot that will be accepted approximately 95 percent of the time.

(2) Sampling plans and acceptance procedure:

Acceptable Quality Level 6.5

Lot size (primary container)	Size of container	
	n	c
	Net weight equal to or less than 1 kg (2.2 lb)	
4,800 or less	13	2
4,801 to 24,000	21	3
24,001 to 48,000	29	4
48,001 to 84,000	48	6
84,001 to 144,000	84	9
144,001 to 240,000	126	13
Over 240,000	200	19
	Net weight greater than 1 kg (2.2 lb) but not more than 4.5 kg (10 lb)	
2,400 or less	13	2
2,401 to 15,000	21	3
15,001 to 24,000	29	4
24,001 to 42,000	48	6
42,001 to 72,000	84	9
72,001 to 120,000	126	13
Over 120,000	200	19
	Net weight greater than 4.5 kg (10 lb)	
600 or less	13	2
601 to 2,000	21	3
2,001 to 7,200	29	4
7,201 to 15,000	48	6
15,001 to 24,000	84	9
24,001 to 42,000	126	13
Over 42,000	200	19

n=number of primary containers in sample.
c=acceptance number.

(e) *Interpolation.* When a fill-of-container standard requires a minimum average drained weight but does not specify the requirement for the particular container size and style of pack used, the following procedure shall be used to determine the required drained weight: Select as a reference container from the table of drained weights specified in the standard, the container for the particular food in the same packing medium that is nearest in size, first on the basis of diameter and next on the basis of height. Convert the number of drained ounces for the reference container to an equivalent percentage of the weight of water

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044.

capacity of the container in accordance with the method prescribed in § 10.6 of this part. Determine the water capacity of the unknown container in accordance with § 10.6. Multiply the percentage obtained for the reference container by the water capacity of the unknown container, for which the standard-of-fill is being calculated. The result will be the required drained weight.

(f) Compliance with drained weight declarations for containers that declare on the label a drained weight that exceeds the drained weight requirement in the fill-of-container standard and for containers for which no drained weight requirement has been established but that are required to bear a statement of drained weight in accordance with paragraph (c) of this section is determined as follows:

(1) In the case of foods for which the fill-of-container standard specifies, in addition to a minimum average drained weight, a lower limit of drained weight variation for individual containers, a lot is considered as meeting the drained weight requirement if it meets the following criteria:

(i) The average of the drained weights from all the sample units in a sample analyzed according to the sampling plans in paragraph (d) of this section is equal to or greater than the drained weight declared on the label; and

(ii) The number of sample units for which the drained weights are less than the lower limit of drained weight variation for individual containers calculated for the higher declared drained weight does not exceed the applicable acceptance number designated as "c" in the sampling plan in paragraph (d) of this section. The lower limit of drained weight variation for individual containers is determined as follows:

(*a*) In the case of canned tomatoes, by multiplying the higher declared drained weight by the factor 0.9.

(*b*) In the case of all other foods for which the fill-of-container standard includes a lower limit of drained weight variation, the lower limit of drained weight variation for the higher declared drained weight is calculated as follows:

$$LL_A = X_A - M\left[\frac{(\bar{X}_{d(s)} - LL_{(s)})}{1.1}\right]$$

where LL_A is the lower limit of drained weight variation for the higher declared drained weight X_A and $\bar{X}_{d(s)}$ is the minimum average drained weight of the food in the appropriate style of pack and container size designated in the standard. $LL_{(s)}$ is the corresponding lower limit of drained weight variation in the standard, and M is a constant for a given sample size. M is derived from the normal distribution theory and allows 6.5 percent of the individual sample units in the lot to fall below the lower limit of drained weight variation. Values of M for sample sizes (n) given in the sampling plan are as follows:

n =	13	21	29	48	84	126	200
M =	1.1	1.2	1.2	1.3	1.3	1.4	1.4

(2) In cases where no lower limit values for drained weight have been established in fill-of-container standards and in the case of foods for which no drained weight requirement has been established in a fill-of-container standard, a lot is considered in compliance with the label declaration of drained weight if it meets the following criteria:

(i) The average drained weight of all the sample units in a sample analyzed according to the sampling plans in paragraph (d) of this section is equal to or greater than the drained weight declared on the label; and

(ii) The drained weight of one-half or more of the individual containers is equal to or greater than the drained weight declared on the label; and

(iii) The drained weights of the containers which are less than the drained weight declared on the label are within the variability of good manufacturing practice.

PART 27—CANNED FRUITS AND FRUIT JUICES

5. In § 27.1 by revoking paragraphs (o) and (p) and revising paragraph (n) to read as follows:

§ 27.1 Definitions.

* * * * *

(n) *Compliance means the following:* Unless otherwise provided in a standard, a lot of canned fruits shall be deemed in compliance for the following factors, to be determined by the sampling and acceptance procedure as provided in § 10.9 of this chapter, namely: (1) *Packing medium density.* A lot shall be deemed to be in compliance for packing medium density based on the average sucrose value for all samples analyzed according to the sampling plans, but no container may have a sucrose value lower than that of the next lower category or 2 percent by weight sucrose (degrees Brix) lower if no lower category exists.

(2) *Quality.* The quality of a lot shall be considered acceptable when the number of defectives does not exceed the acceptance number in the sampling plans as set forth in § 10.9 of this chapter.

6. By revising § 27.4 to read as follows:

§ 27.4 Canned peaches; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned peaches is:

(1) For peaches in liquid packing medium, the maximum practicable quantity of peaches that can be sealed in the container without impairment of quality.

(2) For solid pack peaches, as defined in § 27.1(l), the maximum practicable quantity of peaches that can be sealed in the container without impairment of quality and that occupies not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(3) A drained weight of peaches not less than the average drained weight (designated as $\bar{X}_d$) prescribed in Tables 1 and 2 of this paragraph (a)(3) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the tables are determined by interpolation as specified in § 10.9(e) of this chapter.

TABLE 1A.—*Drained weights for canned Freestone peaches*

Container designation	Container size (overall dimensions)		Overflow capacity (fluid ounces)	Halves			
				In extra heavy sirup (ounces)		In any other liquid medium (ounces)	
	Diameter (inches)	Height (inches)		LL[1]	$\bar{X}_d$[2]	LL	$\bar{X}_d$
8 Z tall	211	304		4.1	4.8	4.3	5.0
No. 300	300	407		7.8	8.6	8.0	8.8
No. 303	303	406		8.6	9.5	8.9	9.8
No. 303 glass			17.0	8.6	9.5	8.9	9.8
No. 2	307	409		10.4	11.5	10.8	11.9
No. 2½ glass			28.35	14.7	16.1	15.2	16.6
No. 2½, 7 count or more	401	411		15.2	16.6	15.7	17.1
No. 2½, 6 count or less	401	411		14.8	16.2	15.3	16.7
No. 10, 24 count or more	603	700		58.5	61.0	60.0	62.5
No. 10, 23 count or less	603	700		57.5	60.0	59.0	61.5

[1] LL is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

TABLE 1B.—*Drained weights for canned Freestone peaches*

Container size	Quarters, mixed pieces of irregular sizes and shapes				Sliced			
	In extra heavy sirup (ounces)		In any other liquid medium (ounces)		In extra heavy sirup (ounces)		In any other liquid medium (ounces)	
	LL[1]	$\bar{X}_d$[2]	LL	$\bar{X}_d$	LL	$\bar{X}_d$	LL	$\bar{X}_d$
8 Z tall	4.2	4.9	4.4	5.1	4.1	4.7	4.3	4.9
No. 300	8.0	8.8	8.2	9.0	7.8	8.5	8.0	8.7
No. 303 glass	8.8	9.7	9.1	10.0	8.6	9.4	8.9	9.7
No. 303	8.8	9.7	9.1	10.0	8.6	9.4	8.9	9.7
No. 2	10.6	11.7	11.0	12.1	10.4	11.3	10.8	11.7
No. 2½ glass	15.0	16.4	15.5	16.9	14.7	15.8	15.2	16.3
No. 2½	15.5	16.9	16.0	17.4	15.2	16.3	15.7	16.8
No. 10	60.5	63.0	62.0	64.5	58.0	60.0	59.0	61.0

[1] LL is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

TABLE 1C.—*Drained weights for canned Freestone peaches*

Container size	Heavy pack (all styles) (ounces)		Solid-pack unsweetened (all styles) (ounces)	
	LL[1]	$\bar{X}_d$[2]	*LL*	$\bar{X}_d$
No. 2½			22.6	24.6
No. 10	67.5	70.0	87.5	90.0

[1] *LL* is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

TABLE 2A.—*Drained weights for canned Clingstone peaches*

Container designation	Container size (overall dimensions)		Overflow capacity (fluid ounces)	Sliced						Diced in any liquid medium (ounces)	
				In extra heavy sirup (ounces)		In heavy sirup (ounces)		In any other liquid medium (ounces)			
	Diameter (inches)	Height (inches)		*LL*[1]	$\bar{X}_d$[2]	*LL*	$\bar{X}_d$	*LL*	$\bar{X}_d$	*LL*	$\bar{X}_d$
5 Z	211	200		2.2	2.8	2.4	3.0	2.5	3.1	2.6	2.9
5 Z	211	202		2.4	3.0	2.6	3.2	2.7	3.3	2.9	3.2
6 Z	300	200		2.8	3.4	3.0	3.6	3.1	3.7	3.4	3.7
7 Z	211	212		3.4	4.0	3.6	4.2	3.7	4.3	4.0	4.3
8 Z tall	211	304		4.3	4.9	4.5	5.1	4.6	5.2	4.7	5.2
No. 300	300	407		8.2	8.9	8.4	9.1	8.6	9.3	8.9	9.5
No. 303	303	406		9.1	9.9	9.3	10.1	9.5	10.3	9.8	10.5
No. 303 glass			17.0	9.1	9.9	9.3	10.1	9.5	10.3	9.8	10.5
No. 2	307	409		11.1	12.0	11.4	12.3	11.7	12.6	11.9	12.7
No. 2½	401	411		16.3	17.4	16.7	17.8	17.1	18.2	17.5	18.5
No. 2½ glass			28.35	15.8	16.9	16.2	17.3	16.6	17.7	17.0	18.0
No. 10	603	700		62.5	64.5	64.5	66.5	66.5	68.5	68.2	70.0

[1] *LL* is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

TABLE 2B.—*Drained weights for canned Clingstone peaches*

Container designation	Heavy pack—any style in any liquid medium (ounces)		Solid pack—all applicable styles (unsweetened only) (ounces)	
	LL[1]	$\bar{X}_d$[2]	*LL*	$\bar{X}_d$
No. 2½	18.6	20.0	24.1	25.5
No. 10	73.5	76.0	89.5	92.0

[1] *LL* is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

TABLE 2C.—*Drained weights for canned Clingstone peaches*

Container designation	Halves						Quarters; and mixed pieces of irregular sizes and shapes					
	In extra heavy sirup (ounces)		In heavy sirup (ounces)		In any other liquid medium (ounces)		In extra heavy sirup (ounces)		In heavy sirup (ounces)		In any other liquid medium (ounces)	
	LL[1]	$\bar{X}_d$[2]	*LL*	$\bar{X}_d$	*LL*	$\bar{X}_d$	*LL*	$\bar{X}_d$	*LL*	$\bar{X}_d$	*LL*	$\bar{X}_d$
8 Z tall	4.3	5.0	4.5	5.2	4.6	5.3	4.3	5.0	4.5	5.2	4.6	5.3
No. 300	8.2	9.0	8.4	9.2	8.6	9.4	8.2	9.0	8.4	9.2	8.6	9.4
No. 303	9.1	10.0	9.3	10.2	9.5	10.4	9.1	10.0	9.3	10.2	9.5	10.4
No. 303 glass	9.1	10.0	9.3	10.2	9.5	10.4	9.1	10.0	9.3	10.2	9.5	10.4
No. 2	11.0	12.1	11.3	12.4	11.6	12.7	11.0	12.1	11.3	12.4	11.6	12.7
No. 2½ glass	15.7	17.1	16.1	17.5	16.5	17.9	15.7	17.1	16.1	17.5	16.5	17.9
No. 2½							16.2	17.6	16.6	18.0	17.0	18.4
No. 2½, 7 count or more	16.2	17.6	16.6	18.0	17.0	18.4						
No. 2½, 6 count or less	15.6	17.0	16.0	17.4	16.4	17.8						
No. 10							62.0	64.5	64.0	66.5	66.0	68.5
No. 10, 24 count or more	62.0	64.5	64.0	66.5	66.0	68.5						
No. 10, 23 count or less	60.5	63.0	62.5	65.0	64.5	67.0						

[1] *LL* is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(3) of this section shall be determined as set forth in § 10.9(b)(1) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

7. By revising § 27.12 to read as follows:

§ 27.12 Canned apricots; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned apricots is:

(1) For apricots in liquid packing medium the maximum practicable quantity of apricots that can be sealed in the container without impairment of quality.

(2) For solid pack apricots, as defined in § 27.1(l), the maximum practicable quantity of apricots that can be sealed in the container without impairment of quality and that occupies not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(3) A drained weight of apricots not less than the average drained weight (designated as $\bar{X}_d$) prescribed in the table in this paragraph (a)(3) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights for canned apricots

Container size		Unpeeled or peeled halves; slices; mixed pieces of irregular sizes and shapes (ounces)		Whole unpeeled (ounces)		Whole peeled (ounces)	
Designation	Dimensions (inches)	LL[1]	$\bar{X}_d$[2]	LL	$\bar{X}_d$	LL	$\bar{X}_d$
In extra heavy and heavy slurps							
5Z	211 by 200	2.1	2.7				
5Z	211 by 202	2.4	3.0				
7Z	211 by 212	3.4	4.0				
8Z tall	211 by 304	4.2	4.8	3.7	4.3	3.8	4.5
No. 300	300 by 407	7.9	8.6	6.8	7.6	7.2	8.0
No. 303 glass		8.7	9.5	7.6	8.5	8.0	8.9
No. 303	303 by 406	8.7	9.5	7.6	8.5	8.0	8.9
No. 2	307 by 409	10.6	11.5	9.6	10.5	9.8	10.8
No. 2½ glass		15.2	16.3	13.6	14.9	13.9	15.2
No. 2½	401 by 411	15.5	16.7	13.8	15.9	14.4	15.7
No. 10	603 by 700	59.7	62.0	57.5	60.0	57.9	60.4
In any other liquid medium							
5 Z	211 by 200	2.2	2.8				
5 Z	211 by 202	2.5	3.1				
7 Z	211 by 212	3.5	4.1				
8 Z tall	211 by 304	4.3	4.9	3.8	4.4	3.9	4.6
No. 300	300 by 407	8.1	8.8	7.0	7.8	7.4	8.2
No. 303 glass		8.9	9.7	7.8	8.7	8.2	9.1
No. 303	303 by 406	8.9	9.7	7.8	8.7	8.2	9.1
No. 2	307 by 409	10.9	11.8	9.7	10.7	10.1	11.1
No. 2½ glass		15.7	16.8	14.0	15.3	14.3	15.6
No. 2½	401 by 411	16.0	17.2	14.2	15.5	14.8	16.1
No. 10	603 by 700	61.7	64.0	59.0	61.5	59.5	62.0
Solid pack (without liquid medium)							
No. 10	603 by 700	89.5	92.0				

[1] LL is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(3) of this section shall be determined as set forth in § 10.9(b)(1) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

8. By adding new § 27.17 to provide for fill-of-container standards for canned prunes as follows:

§ 27.17 Canned prunes; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned prunes is:

(1) The maximum practicable quantity of prunes that can be sealed in the container without impairment of quality and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of prunes not less than the average drained weight prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights for canned prunes

Container size or name	Metal containers		Glass containers
	Regular pack (ounces)	Heavy pack (ounces)	Regular pack (ounces)
8 oz	5½		
No. 1 tall	10¾		
No. 2	13		
No. 2½	19	22	18
No. 10	70	110	

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

9. By revising § 27.22 to read as follows:

§ 27.22 Canned pears; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned pears is:

(1) The maximum practicable quantity of pears that can be sealed in the container without impairment of quality.

(2) A drained weight of pears not less than the average drained weight (designated as $\bar{X}_d$) prescribed in Tables 1, 2 and 3 of this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the tables are determined by interpolation as specified in § 10.9(e) of this chapter.

TABLE 1.—*Drained weights for canned pears*

[Styles of quarters; slices; mixed pieces of irregular sizes and shapes]

Container designation	Container size (overall dimensions)		Overflow capacity (fluid ounces)	In any sirup or other liquid medium (ounces)	
	Diameter (inches)	Height (inches)		LL[1]	$\bar{X}_d$[2]
5 Z	211	200		2.6	3.0
5 Z	211	202		2.9	3.3
6 Z	300	300		3.3	3.7
7 Z	211	212		3.8	4.2
8 Z glass			8.2	4.4	4.8
8 Z tall	211	304		4.5	4.9
No. 300	300	407		8.3	8.9
No. 303 glass			17.0	8.8	9.4
No. 303	303	406		9.0	9.6
No. 2	307	409		11.1	11.8
No. 2½ glass			28.35	16.1	16.9
No. 2½	401	411		16.4	17.2
No. 10	603	700		64.9	65.5

[1] LL is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

TABLE 2.—*Drained weights for canned pears*

Halves style

Container designation	In any sirup or other liquid medium (ounces)	
	LL[1]	$\bar{X}_d$[2]
8 Z glass	4.1	4.7
8 Z tall	4.2	4.8
No. 300:		
7 count or less	7.7	8.4
8 count or more	8.0	8.7
No. 303 glass:		
7 count or less	8.2	9.0
8 count or more	8.5	9.3
No. 303:		
7 count or less	8.5	9.3
8 count or more	8.8	9.6
No. 2:		
7 count or less	10.5	11.4
8 count or more	10.8	11.7
No. 2½ glass:		
8 count or less	14.9	16.0
9 count or more	15.4	16.5
No. 2½:		
8 count or less	15.3	16.4
9 count or more	15.3	16.9
No. 10:		
25 count or less	60.8	62.7
26 count or more	62.2	64.1

[1] LL is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

TABLE 3.—*Drained weights for canned pears*

Diced style

Container designation	In any sirup or other liquid medium (ounces)	
	LL[1]	$\bar{X}_d$[2]
5 Z	2.8	3.1
5 Z	3.0	3.3
6 Z	3.5	3.8
7 Z	4.3	4.6
8 Z glass	5.3	5.6
8 Z tall	5.3	5.6
No. 300	9.3	9.7
No. 303 glass	10.1	10.6
No. 303	10.2	10.7
No. 2	12.4	13.0
No. 2½ glass	18.2	18.8
No. 2½	18.4	19.0
No. 10	65.7	67.0

[1] LL is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

(b) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(1) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

10. By adding new § 27.27 to provide for fill-of-container standards for canned grapes as follows:

§ 27.27 Canned grapes; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned grapes is:

(1) The maximum practicable quantity of grapes that can be sealed in the container without impairment of quality and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of grapes not less than the average drained weight (designated as $\bar{X}_d$) prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights for canned grapes

Container designation	Container size—overall dimensions		Overflow capacity (fluid ounces)	In any liquid medium (ounces)	
	Diameter (inches)	Height (inches)		LL[1]	$\bar{X}_d$[2]
8 Z tall	211	304		4.7	5
8 oz glass			8.2	4.7	5
No. 300	300	407		8.6	9
No. 1 tall	301	411		9.4	10
No. 303	303	406		9.4	10
No. 303 glass			17.0	9.4	10
No. 2	307	409		11.4	12
No. 2½	401	411		16.1	17
No. 2½ glass			28.35	16.1	17
No. 10	603	700		60.3	62

[1] LL is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(1) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

11. By revising § 27.32 to read as follows:

§ 27.32 Canned cherries; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned cherries is:

(1) The maximum practicable quantity of cherries that can be sealed in the container without impairment of quality.

(2) A drained weight of cherries not less than the average drained weight (designated as $\bar{X}_d$) prescribed in Tables 1 and 2 of this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the tables are determined by interpolation as specified in § 10.9(e) of this chapter.

TABLE 1.—*Drained weights for canned red tart pitted cherries*

Container designations	Container size—overall dimensions		Packed in water or cherry juice (ounces)		Packed in any syrup or slightly sweetened water (ounces)	
	Diameter (inches)	Height (inches)	LL[1]	$\bar{X}_d$[2]	LL	$\bar{X}_d$
No. 303	303	406	10.7	11.0	9.9	10.2
No. 303 cylinder	303	509	14.0	14.4	12.7	13.1
No. 2	307	409	13.1	13.5	12.3	12.7
No. 10	603	700	71.2	72.0	69.4	70.2

[1] LL is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

TABLE 2.—*Drained weights for pitted and unpitted canned sweet cherries*

Container designations	Container size—overall dimensions		Overflow capacity (fluid ounces)	In extra heavy syrups and in declared "dietetic packs" whether or not packed in water (ounces)		In heavy syrups (ounces)		In light syrup and in slightly sweetened water or juice (ounces)		In water (ounces)	
	Diameter (inches)	Height (inches)		LL[1]	$\bar{X}_d$[2]	LL	$\bar{X}_d$	LL	$\bar{X}_d$	LL	$\bar{X}_d$
8 Z tall	211	304		4.3	4.7	4.6	5.0	4.8	5.2	4.8	5.2
No. 300	300	407		8.4	8.9	8.7	9.2	8.2	8.7	8.2	8.7
No. 1 tall	301	411		9.0	9.7	9.3	10.0	9.5	10.2	9.5	10.2
No. 303	303	406		9.0	9.7	9.3	10.0	9.5	10.2	9.5	10.2
No. 303 glass			17.0	9.0	9.7	9.3	10.0	9.5	10.2	9.5	10.2
No. 2	307	409		11.3	12.0	11.8	12.5	12.0	12.7	12.0	12.7
No. 2½	401	411		16.6	17.5	17.1	18.0	17.6	18.5	17.6	18.5
No. 2½ glass			28.35	16.3	17.2	16.8	17.7	17.3	18.2	17.3	18.2
No. 10	603	700		61.7	64.5	63.7	66.5	68.2	70.0	68.2	70.0

[1] *LL* is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight for all sample units in the sample.

(b) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(1) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

12. By adding new § 27.37 to provide fill-of-container standards for canned berries as follows:

§ 27.37 Canned berries; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned berries, either raspberries, blueberries, blackberries or other similar berries is:

(1) The maximum practicable quantity of berries that can be sealed in the container without impairment of quality and occupies (including packing medium) not less than 90 percent of the total capacity of the container as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of berries not less than the average drained weight prescribed in Tables 1, 2, and 3 in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the tables are determined by interpolation as specified in § 10.9(e) of this chapter.

TABLE 1.—*Drained weights for canned raspberries*

Container designation	Container size, overall dimensions		Drained weights in syrup; artificially sweetened packing media; water	
	Width (inches)	Height (inches)	Red and purple (ounces)	Black (ounces)
8 oz tall	2 13/16	3 5/16	4	5
No. 300	3	4 3/16	7	7
No 1 tall	3 3/16	4 13/16	8	8
No. 303	3 5/16	4 5/16	8	8
No. 2	3 5/16	4 9/16	10	10
No. 2½	4 1/16	4 13/16	14 1/4	14 1/4
No. 10	6 9/16	7	53	55

TABLE 2.—*Drained weights for canned blueberries*

Container designation	Container size, overall dimensions		Drained weights in syrup; artificially sweetened packing media; water; (ounces)
	Width (inches)	Height (inches)	
300 by 407	3	4 5/16	7.5
No. 2	3 7/16	4 9/16	10.0
No. 10	6 9/16	7	55.0

TABLE 3.—*Drained weights for canned blackberries and other similar berries*

Container designation	Container size—overall dimensions		Maximum capacity in water at 68° F (ounces)	Drained weights blackberries		Drained weights other berries	
	Diameter (inches)	Height (inches)		Extra heavy and heavy syrup (ounces)	Light syrup and water (ounces)	Extra heavy and heavy syrup (ounces)	Light syrup and water (ounces)
8 oz	2 13/16	3 1/16	8.65	4 1/2	4 3/4	4 1/4	4 1/4
No. 303	3 1/16	4 5/16	16.85	8 1/2	9 1/4	7 3/4	8 1/4
No. 2	3 7/16	4 9/16	20.50	11	12	9 1/2	10
No. 10	6 9/16	7	109.45	62	66	55	60
No. 10 (heavy pack)[1]	6 9/16	7	109.45	.....	74	.....	70

[1] Canned berries in No. 10 containers (in water) may be certified with the additional statement "heavy pack", provided they meet the drained weight requirement specified.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

13. By revising § 27.42 to read as follows:

§ 27.42 Canned fruit cocktail, canned cocktail fruits, canned fruit for cocktail; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned fruit cocktail is:

(1) The maximum practicable quantity of fruit cocktail that can be sealed in the container without impairment of quality and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of fruit cocktail not less than the average drained weight (designated as $\bar{X}_d$) prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights for canned fruit cocktail

Container designation	Container size		Capacity weight H_2O at 68° F (avoirdupois ounces)	Drained weight (65 percent capacity) (ounces)	
	Overall dimensions (inches)	Overflow capacity (fluid ounces)		*LL*[1]	$\bar{X}_d$[2]
5 oz	211 by 200		4.90	2.8	3.18
5 oz	211 by 302		5.25	3.0	3.41
6 oz	300 by 200			3.6	3.97
7 oz	211 by 212		7.15	4.2	4.64
8 Z tall	211 by 304		8.65	5.1	5.63
8 oz glass		8.2	8.50	5.0	5.53
No. 300	300 by 407		15.20	9.3	9.88
No. 1 tall	301 by 411		16.60	10.1	10.79
No. 303	303 by 406		16.85	10.3	10.96
303 glass		17.0	17.70	10.8	11.51
No. 2	307 by 409		20.50	12.5	13.33
No. 2½	401 by 411		29.75	18.3	19.34
No. 2½ glass		28.35	29.50	18.2	19.18
No. 3 cylinder	404 by 700			32.3	33.57
No. 10	603 by 700		100.45	69.4	71.15

[1] *LL* is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(1) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

14. By revising § 27.47 to read as follows:

§ 27.47 Canned plums; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned plums is:

(1) The maximum practicable quantity of plums that can be sealed in the container without impairment of quality and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of plums not less than the average drained weight (designated as $\bar{X}_d$) prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights for canned plums

Container designation	Water capacity of container (ounces)	In any liquid medium			
		Whole plums drained weight (ounces)		Halves drained weight (ounces)	
		LL^1	$\bar{X}_d^2$	LL^1	$\bar{X}_d^2$
8 Z tall	8.65	3.7	4.3	4.2	4.8
8 oz glass	8.2	3.5	4.1	3.9	4.5
No. 1 tall	16.60	7.5	8.3	8.3	9.1
No. 303	16.85	7.6	8.4	8.5	9.3
No. 303 glass	17.0	7.7	8.5	8.5	9.3
No. 2	20.5	9.4	10.3	10.4	11.3
No. 2½	29.75	13.7	14.9	15.2	16.4
No. 2½ glass	29.50	13.6	14.8	15.0	16.2
No. 10	109.45	52.5	54.7	58.0	60.2

[1] LL is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight for all sample units in the sample.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(1) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and forms specified therein.

15. By revising § 27.52 to read as follows:

§ 27.52 Canned pineapple; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned pineapple is:

(1) The maximum practicable quantity of pineapple that can be sealed in the container without impairment of quality and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of pineapple not less than the average drained weight prescribed in Tables 1 and 2 of this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the tables are determined by interpolation as specified in § 10.9(e) of this chapter.

TABLE 1.—*Drained weights for canned pineapple in styles other than crushed and chip styles*

Container designation	Dimensions (inches)	Water capacity (ounces)	Other styles			
			Juice and sirup packs (ounces)		Water packs (ounces)	
			$\bar{X}_d^1$	LL^2	$\bar{X}_d$	LL
	300 by 207	7.00	4.06	3.86	3.85	3.65
1 flat	307 by 201.25	8.49	4.92	4.70	4.67	4.44
1 flat	307 by 208	8.94	5.19	4.96	4.92	4.69
8 Z	211 by 304	8.65	5.02	4.79	4.76	4.53
211 cyl	211 by 414	13.55	7.86	7.54	7.45	7.13
1¼	401 by 207	14.47	8.68	8.34	8.25	7.91
1½	307 by 300	15.64	9.38	9.02	8.91	8.54
2	307 by 409	20.50	12.30	11.90	11.68	11.28
2½	401 by 411	29.50	17.70	17.14	16.81	16.25
10	603 by 700	109.45	68.95	67.26	65.67	63.98
10 (slices)	603 by 700	109.45	65.67	63.98	62.39	60.70

[1] $\bar{X}_d$ is the average drained weight of all sample units in the sample.
[2] LL is the lower limit drained weight for individual containers.

TABLE 2.—*Drained weights for canned crushed pineapple*

Container designation	Dimensions (inches)	Water capacity (ounces)	Crushed and chips styles		
			Regular pack (ounces) $\bar{X}_d^1$	"Heavy pack" (ounces) $\bar{X}_d$	"Solid pack" (ounces) $\bar{X}_d$
	300 by 207	7.00	4.41	5.11	5.46
1 flat	307 by 201.25	8.49	5.35	6.20	6.62
1 flat	307 by 208	8.94	5.63	6.52	6.97
8 Z	211 by 304	8.65	5.45	6.31	6.75
211 cylinder	211 by 414	13.55	8.54	9.89	10.57
1¼	401 by 207	14.47	9.11	10.56	11.29
1½	307 by 300	15.64	9.85	11.42	12.20
2	307 by 409	20.50	12.91	14.97	15.99
2½	401 by 411	29.50	18.59	21.54	23.01
10	603 by 700	109.45	68.96	79.90	85.37

[1] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of Tables 1 and 2 in paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b) (1) and (2), respectively, of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

16. By adding new § 27.74 to provide fill-of-container standards for canned figs as follows:

§ 27.74 Canned figs; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned figs is:

(1) The maximum practicable quantity of figs that can be sealed in the container without impairment of quality and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of figs not less than the average drained weight (designated as $\bar{X}_d$) prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights for canned figs

Container designation	Container size, overall dimensions		Overflow capacity (fluid ounce)	All styles (including canned dietetic figs) (ounces)	
	Width (inches)	Height (inches)		LL[1]	$\bar{X}_d$[2]
8 Z tall	211	304		4.2	5.0
8 oz glass			8.2	4.2	5.0
No. 300	300	407		8.1	9.0
No. 1 tall	301	411		9.0	10.0
No. 303	303	406		9.0	10.0
No. 303 glass			17.0	8.7	9.7
No. 2	307	409		11.5	12.5
No. 2½	401	411		16.6	18.0
No. 2½ glass			28.35	15.8	17.2
No. 10 (70 whole figs, or portions equivalent thereto, and less)	603	700		60.5	63.0
No. 10 (71 whole figs, or portions equivalent thereto, and more)				63.5	66.0

[1] LL is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(1) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

17. By revising § 27.92 to read as follows:

§ 27.92 Canned grapefruit; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned grapefruit is:

(1) The maximum practicable quantity of grapefruit that can be sealed in the container without impairment of quality and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of grapefruit not less than the average drained weight (designated as $\bar{X}_d$) prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights for canned grapefruit

Container size or designation	Dimensions (inches)	Water capacity (ounces)	LL[1] (ounces)	$\bar{X}_d$[2] (ounces)
8 Z tall	211 by 304	8.65	3.95	4.30
No. 303	303 by 406	16.85	7.95	8.40
No. 3 cylinder	404 by 700	51.70	24.75	25.85

[1] LL is the lower drained weight limit for individual cans.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(1) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

PART 51—CANNED VEGETABLES

18. By adding new § 51.12 to provide fill-of-container standards for green beans and wax beans as follows:

§ 51.12 Canned green beans and canned wax beans; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned green beans and canned wax beans is:

(1) The maximum practicable quantity of green beans or wax beans that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of green beans or wax beans not less than the average drained weight prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights for canned green beans and wax beans

Container size or designation	Water capacity (ounces)	Whole and sliced lengthwise or French style (ounces)	Cuts 1⅜ in and longer (ounces)	Mixed cuts and short cuts, less than 1⅜ in (ounces)
8 Z tall	8.65	4.3	4.5	4.7
8 oz glass	8.2	3.9	4.1	4.3
No. 1 (picnic)	10.90	5.4	5.6	6.0
No. 300	15.20	7.6	7.9	8.4
No. 1 tall	16.60	8.3	8.6	9.1
No. 303	16.85	8.4	8.8	9.3
No. 303 glass	17.0	8.2	8.5	9.0
No. 2	20.50	10.3	10.7	11.3
No. 2½	29.75	14.9	15.5	16.4
No. 2½ glass	29.50	14.25	14.8	15.6
No. 10	109.45	54.5	57.0	60.2

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

19. By revising § 51.22 to read as follows:

§ 51.22 Canned corn, canned sweet corn, canned sugar corn; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned corn is:

(1) Except in the case of vacuum pack corn, the maximum practicable quantity of corn that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) Except in the case of vacuum pack corn, a drained weight of corn not less than the average drained weight prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights for whole kernel corn

Container size or designation	Water capacity (ounces)	Drained weight (ounces)
8 Z tall	8.65	5.3
No. 1 (picnic)	10.90	6.6
No. 300	15.20	9.3
No. 303	16.85	10.3
No. 2	20.50	12.5
No. 10	109.45	66.8

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

20. By revising § 51.503 to read as follows:

§ 51.503 Canned mushrooms; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned mushrooms is:

(1) The maximum practicable quantity of mushrooms than can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of mushrooms not less than the average drained weight prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter.

Drained weight of mushrooms

Trade designation	Overall dimensions, sealed can: Diameter (inches)	Overall dimensions, sealed can: Height (inches)	Average weight of drained mushrooms (avoirdupois ounces)
202 by 204	2 1/4	2 1/4	2
211 by 212	2 13/16	2 3/4	4
300 by 400	3	4	8
307 by 510	3 7/16	5 5/16	16
603 by 700	6 7/16	7	68

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

21. By adding new § 51.513 to provide for fill-of-container standards for asparagus as follows:

§ 51.513 Canned asparagus; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned asparagus is:

(1) The maximum practicable quantity of asparagus that can be sealed in the

container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of asparagus not less than the average drained weight (designated as $\bar{X}_d$) prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weight for canned asparagus

Container designation	Container dimensions (inches; or water capacity in ounces avoirdupois as applicable)		Small, medium, or large sizes; and blends of these sizes				Extra large, colossal, giant sizes; or blends including these sizes				Cuts spears, bottom cuts-tips removed			
			Green tipped and white; white (ounces)		Green and green tipped (ounces)		Green tipped and white; white (ounces)		Green and green tipped (ounces)		Green tipped and white (ounces)		Green (ounces)	
	Diameter	Height	LL[1]	$\bar{X}_d$[2]	LL	$\bar{X}_d$	LL	$\bar{X}_d$	LL	$\bar{X}_d$	LL	$\bar{X}_d$	LL	$\bar{X}_d$
8 oz glass	(3)	(3)	4.8	5.1	4.6	4.9	4.8	5.1	4.6	4.9	4.7	5.0	4.4	4.7
8 Z short	2 1/16	3	4.4	4.7	4.2	4.5	4.4	4.7	4.2	4.5	4.2	4.5	4.1	4.3
8 Z tall	2 1/16	3 5/16	4.9	5.2	4.7	5.0	4.9	5.2	4.7	5.0	4.7	5.0	4.5	4.8
No. 1 picnic	2 1/16	4	6.6	7.0	5.8	6.2	6.1	6.5	5.6	6.0	6.2	6.5	5.7	6.0
12 Z	2 1/16	4 9/16	7.6	8.0	7.1	7.5	7.3	7.7	6.8	7.2	7.3	7.7	6.8	7.2
13½ Z glass	(3)	(3)	8.6	9.1	7.8	8.3	8.1	8.6	7.5	8.0				
No. 300	3	4 7/16	9.0	9.5	8.2	8.7	8.5	9.0	7.9	8.4	8.6	9.0	8.2	8.6
300 by 409	3	4 9/16	9.2	9.7	8.5	9.0	8.7	9.2	8.1	8.6	8.8	9.2	8.4	8.8
No. 1 tall	3 1/16	4 13/16	9.9	10.5	8.8	9.4	9.3	9.9	8.5	9.1	9.1	9.6	8.6	9.1
No. 303 glass	(3)	(3)	10.3	10.9	9.1	9.7	9.7	10.3	8.8	9.4	9.4	9.9	8.9	9.4
No. 303	3 5/16	4 9/16	10.1	10.7	8.9	9.5	9.5	10.1	8.6	9.2	9.2	9.7	8.7	9.2
No. 303 cylinder	3	5 9/16			10.3	11.0			9.8	10.5				
No. 2	3 7/16	4 9/16	12.3	13.0	11.1	11.8	11.6	12.3	10.6	11.3	12.1	12.7	11.1	11.7
No. 2½ glass	(3)	(3)	17.7	18.7	16.0	17.0	16.7	17.7	15.5	16.5	17.6	18.3	16.0	16.7
No. 2½	4 1/16	4 13/16	18.0	19.0	16.2	17.2	17.0	18.0	15.7	16.7	17.8	18.5	16.2	16.9
No. 5 squat	6 1/16	4 9/16	41.5	43.0	37.5	39.0	39.5	41.0	36.5	38.0	41.0	42.0	37.0	38.0
No. 10	6 9/16	7									63.1	64.5	58.8	60.2

[1] LL is the lower limit drained weight for individual containers.
[2] $\bar{X}_d$ is the average drained weight of all sample units in the sample.
[3] 8.5 oz avdp.
[4] 14.0 oz avdp.
[5] 17.7 oz. avdp.
[6] 29.5 oz avdp.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(1) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

22. By adding new § 51.523 to provide fill-of-container standards for lima beans as follows:

§ 51.523 Canned lima beans; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned lima beans is:

(1) The maximum practicable quantity of lima beans that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of lima beans not less than the average drained weight prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights of lima beans

Container designation	Container size			Drained weight (ounces)
	Overall diameter (inches)	Overall height (inches)	Overflow capacity (fluid ounces)	
8 Z tall	2 1/16	3 5/16		5 1/4
8 Z jar			8.2	5 1/4
No. 1 (picnic)	2 1/16	4		7
No. 1 tall	3 1/16	4 13/16		10 1/4
No. 300	3	4 7/16		9 1/4
No. 303	3 5/16	4 9/16		11
No. 303 jar			17.0	11
No. 2	3 7/16	4 9/16		13 1/4
No. 10	6 9/16	7		72

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

23. By adding new § 51.533 to provide fill-of-container standards for beets as follows:

§ 51.533 Canned beets; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned beets is:

(1) The maximum practicable quantity of beets that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of beets not less than the average drained weight prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights (in ounces) of beets

Container size or designation	Whole [1]		Sliced [1]		Diced	Quartered cut	Julienne
	Size Nos. 1 to 3, inclusive	Size Nos. 4 to 6, inclusive	Small	Medium and large			
8 Z tall	5½	5	5½	5	5½	5½	5¼
8 Z jar	5½	5	5½	5	5½	5½	5¼
No. 1 picnic	6¾	6½	6¾	6½	7	7	6¾
No. 300	9½	9¼	9½	9½	10	10	8¾
No. 303	10	9½	10¼	9¾	10½	10½	9
No. 303 jar	10	9½	10¼	9¾	10½	10½	9
No. 2	12½	12¼	12½	12	12¾	12½	11¼
No. 2½	19½	19	19	18½	19	18½	18¼
No. 2½ jar	19¼	18¾	18¾	18¾	18¾	18¼	18
No. 10	69	68	69	68	72	70	68

[1] Mixed sizes to be based on drained weight for predominant size of individual units.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

24. By adding new § 51.543 to provide fill-of-container standards for carrots as follows:

§ 51.543 Canned carrots; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned carrots is:

(1) The maximum practicable quantity of carrots that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of carrots not less than the average drained weight prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights (in ounces) of carrots

Container size or designation	Whole [1]		Sliced [1]		Diced	Quartered cut	Julienne
	Less than 1⅝ in in diameter	1⅝ in in diameter and over	Less than 1⅝ in in diameter	1⅝ in in diameter and over			
8 Z tall	5½	5	5½	5	5½	5½	5¼
8 Z jar	5½	5	5½	5	5½	5½	5¼
No. 1 picnic	6¾	6½	6¾	6½	7	7	6¾
No. 300	9¼	9	9½	9¼	10	10	8¾
No. 303	9¾	9¼	10	9½	10½	10½	9
No. 303 jar	9¾	9¼	10	9½	10½	10½	9
No. 2	12½	12¾	12½	12	12¾	12½	11¼
No. 2½	19½	19	19	18½	19	18½	18¼
No. 2½ jar	19¼	18¾	18¾	18¾	18¾	18¼	18
No. 10	69	68	69	68	72	70	68

[1] Mixed sizes to be based on drained weight for predominant size of individual units.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

25. By adding new § 51.553 to provide fill-of-container standards for leafy greens as follows:

§ 51.553 Canned leafy greens; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned leafy greens, either canned collards, kale, mustard greens, turnip greens, spinach, or mixed greens (a mixture of two or more of these greens) is:

(1) The maximum practicable quantity of leafy greens that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of leafy greens not less than the average drained weight (designated as $\bar{X}_d$) prescribed in the table in this paragraph (a)(2) for the container, as determined by the method for drained weight prescribed in paragraph (b) of this section. Drained weight requirements for can sizes not specified in the table are determined by interpolation according to the general method in § 10.9 (c) of this chapter.

Drained weights for canned leafy greens

Container designation	Container size overall dimensions		Capacity weight H_2O at 68° F (avoirdupois ounces)	Drained weight (avoirdupois ounces) LL [1]	$\bar{X}$ [2]
	Diameter (inches)	Height (inches)			
8 Z tall	2 1/16	3 1/16	8.65	4.8	5.2
No. 1 picnic	2 1/16	4	10.90	6.3	6.8
No. 300	3	4 3/16	15.20	8.6	9.1
No. 1 tall	3 1/16	4 11/16	16.60	9.4	10.0
No. 303	3 1/16	4 9/16	16.85	9.6	10.2
No. 303 glass			17.70	9.4	10.0
No. 2	3 7/16	4 9/16	20.50	11.9	12.6
No. 2 1/2	4 1/16	4 11/16	29.75	17.6	18.6
No. 2 1/2 glass			29.50	15.8	16.6
No. 10	6 1/16	7	109.45	54.7	58.4

[1] LL is the lower limit drained weight for individuals.

[2] $\bar{X}$ is the average drained weight of all sample units in the sample.

(b) The drained weight of leafy greens is determined by the following method: The drained weight of canned leafy greens is determined when the product is at approximately room temperature (68° F) and at least 30 days after the product is canned. The contents of the containers are emptied onto a dry, previously weighed U.S. Standard No. 8 circular sieve of proper diameter containing 8 meshes to the inch (0.0937, ± 3 percent, square openings). With the sieve flat on the tray, the container of product is placed open end down in the sieve in an upright position. The container is lifted off the product without spreading the product out on the sieve. The product is allowed to drain for exactly 2 minutes. The weight of the product and sieve minus the weight of the dry sieve is the drained weight of the product. A sieve 8 inches in diameter is used for the equivalent of a No. 3 size can (404 x 700) and smaller, and a sieve 12 inches in diameter is used for containers larger than the equivalent of a No. 3 size can.

(c) Determination of compliance:

(1) Compliance with the requirements of paragraph (a) (1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a) (2) of this section shall be determined as set forth in § 10.9(b) (1) of this chapter.

(d) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

26. By adding new § 51.563 to provide fill-of-container standards for okra as follows:

§ 51.563 Canned okra; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned okra is:

(1) The maximum practicable quantity of okra that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of okra not less than the average drained weight prescribed in the table in this paragraph (a) (2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weight of okra

Container size or designation	Container dimensions (inches)		Styles of canned okra (ounces)	
	Width	Height	Whole or salad	Cut
8 oz tall	2 1/16	3 1/16	4.5	5
No. 1 picnic	2 1/16	4	6.2	6.5
No. 1 tall	3 1/16	4 1/16	9.8	10.2
No. 303	3 1/16	4 9/16	10	10.5
No. 2	3 7/16	4 9/16	12	12.8
No. 2 1/2	4 1/16	4 11/16	17.8	18.8
No. 10	6 1/16	7	60	60

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a) (1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a) (2) of this section shall be determined as set forth in § 10.9(b) (2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

27. By adding new § 51.573 to provide fill-of-container standards for field peas and black-eye peas as follows:

§ 51.573 Canned field peas and black-eye peas; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned field peas or canned black-eye peas is:

(1) The maximum practicable quantity of field peas or black-eye peas that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of field peas or black-eye peas not less than the average drained weight prescribed in the table in this paragraph (a) (2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights for canned field peas and black-eye peas

Container size or designation	Ounces
No. 1 (picnic)	7
No. 1 tall	10 1/2
No. 300	9 3/4
No. 303	11
No. 2	13 1/4
No. 10	72

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a) (1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a) (2) of this section shall be determined as set forth in § 10.9(b) (2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

28. By adding new § 51.583 to provide fill-of-container standards for pimientos as follows:

§ 51.583 Canned pimientos; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned pimientos is:

(1) The maximum practicable quantity of pimientos that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of pimientos not less than the average drained weight pre-

scribed in the table in this paragraph (a) (2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights of pimientos

Metal or glass container designation	Metal container dimension (inches)	Capacity: Avoirdupois ounces of water at 68° F (weight)	Capacity: Whole halves (ounces)	Style of pimientos: Whole and piece (ounces)	Style of pimientos: Pieces (ounces)	Style of pimientos: Diced; chopped (ounces)	Style of pimientos: Sliced (ounces)
Regular pack:							
2 Z jar		2.28	1.5	1.5	1.5	1.5	1.5
4 Z pimiento	211 by 200	4.90	3.2	3.2	3.2	3.2	3.2
4 Z jar		4.88	3.2	3.2	3.2	3.2	3.2
7 Z pimiento	300 by 206	7.59	5.2	5.2	5.2	5.2	5.2
7 Z jar		8.10	5.3	5.3	5.3	5.3	5.3
No. 300	300 by 407	15.20	10.0	10.2	10.2	10.2	10.0
No. 303	303 by 406	16.85	11.0	11.2	11.2	11.2	11.0
No. 303 jar		17.05	11.2	11.5	11.5	11.5	11.2
No. 2	307 by 409	20.50	13.2	13.5	14.0	14.0	13.2
No. 2½	401 by 411	29.75	20.2	20.5	20.5	20.5	20.2
No. 2½ jar		29.38	20.0	20.2	20.2	20.2	20.0
No. 10	603 by 700	109.45	70.7	72.2	74.0	74.0	71.7

Containers of different capacities than above—not less than 66 pct of the water capacity (avoirdupois weight at 68° F) of the container.
Heavy pack—little free liquid and drained weight is not less than 90 pct of the water capacity (avoirdupois weight at 68° F) of the container.

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a) (1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a) (2) of this section shall be determined as set forth in § 10.9(b) (2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

29. By adding new § 51.593 to provide fill-of-container standards for onions as follows:

§ 51.593 Canned onions; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned onions is:

(1) The maximum practicable quantity of onions that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of onions not less than the average drained weight prescribed in the table in this paragraph (a) (2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weights for canned onions

Container size or designation	Maximum headspace allowable (measured from top double seam)	Sizes of canned onions: Tiny (ounces)	Small (ounces)	Medium (ounces)
	One-sixteenth of an inch			
8 Z tall	7.6	4.5	4.5	4.5
No. 303	9.4	9.5	9	9
No. 303 glass	9.4	9	9	9
No. 10	13.6	64	63	60

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a) (1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a) (2) of this section shall be determined as set forth in § 10.9(b) (2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

30. By adding new § 51.603 to provide fill-of-container standards for sweet potatoes as follows:

§ 51.603 Canned sweet potatoes; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned sweet potatoes is:

(1) Except in the case of "vacuum pack" sweet potatoes (closed under high vacuum with little or no packing medium), the maximum practicable quantity of sweet potatoes that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) Except in the case of vacuum pack or solid pack (dry pack, without added packing medium), a drained weight of sweet potatoes not less than the average drained weight prescribed in the table in this paragraph (a) (2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Sweet potatoes in a liquid packing medium

Container size or designation:	Drained weight (ounces)
No. 2	14
No. 2½	19
No. 3 vacuum or squat (404 x 307)	15
No. 10	72

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a) (1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a) (2) of this section shall be determined as set forth in § 10.9(b) (2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

31. By adding new § 51.613 to provide fill-of-container standards for white potatoes as follows:

§ 51.613 Canned white potatoes; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned white potatoes is:

(1) The maximum practicable quantity of white potatoes that can be sealed in the container without impairment of quality in a manner adequate to protect the public health in accordance with Parts 90 and 128b of this chapter and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of con-

tainer prescribed in § 10.6(b) of this chapter.

(2) A drained weight of white potatoes not less than the average drained weight prescribed in the table in this paragraph (a)(2) for the container, as determined by the general method for drained weight prescribed in § 10.9(c) of this chapter. Drained weight requirements for containers not specified in the table are determined by interpolation as specified in § 10.9(e) of this chapter.

Drained weight for white potatoes

Container size or designation	All styles (ounces)
No. 2	13
No. 2½	19
No. 10	74

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(2) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

PART 53—TOMATO PRODUCTS

32. By revising § 53.42 to read as follows:

§ 53.42 Canned tomatoes; fill of container; label statement of substandard fill.

(a) The standard of fill of container for canned tomatoes is:

(1) The maximum practicable quantity of tomatoes that can be sealed in the container without impairment of quality and occupies (including packing medium) not less than 90 percent of the total capacity of the container, as determined by the general method for fill of container prescribed in § 10.6(b) of this chapter.

(2) A drained weight of tomatoes not less than the average drained weight prescribed in the table in this paragraph (a)(2) for the container, as determined by the method prescribed in § 10.9(c) of this chapter except that sieves with square mesh openings of 11.2 mm (0.438 inch) or 11.33 mm (0.446 inch) are used. Drained weight requirements for can sizes not specified in the table are determined by interpolation according to the general method in § 10.9(e) of this chapter.

Drained weights for canned tomatoes

Container designation	Container dimensions		Overflow capacity (fluid ounces)	Average drained weight (ounces)	Minimum drained weight (ounces)
	Width (inches)	Height (inches)			
8 Z Tall	211	304		4.3	3.9
8 oz. glass			8.2	4.1	3.7
No. 300	300	407		7.6	6.8
No. 1 Tall	301	411		8.4	7.5
No. 303	303	406		8.4	7.6
No. 303 glass			17.0	8.5	7.7
No. 2	307	409		10.3	9.2
No. 2½	401	411		14.9	13.4
No. 2½ glass			28.35	14.8	13.3
No. 10	603	700		54.7	45.3

(b) Determination of compliance:

(1) Compliance with the requirements of paragraph (a)(1) of this section shall be determined as set forth in § 10.9(a) of this chapter.

(2) Compliance with the requirements of paragraph (a)(2) of this section shall be determined as set forth in § 10.9(b)(1) of this chapter.

(c) If the fill of container falls below that prescribed in paragraph (a) of this section, the label shall bear the general statement of substandard fill specified in § 10.7(b) of this chapter, in the manner and form specified therein.

Interested persons may, on or before February 5, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated: October 20, 1975.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc.75-28786 Filed 10-23-75;12:00 noon]

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FRIDAY, NOVEMBER 7, 1975



PART III:

INTERSTATE COMMERCE COMMISSION

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CONTINUATION SUBSIDY DECISIONS

Criteria for Rail Service

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 293 (Sub. No. 6)]

CONTINUATION SUBSIDY DECISIONS

Criteria for Rail Service

On June 9, 1975 (40 FR 24686), the Director of the Rail Services Planning Office ("Office") of the Interstate Commerce Commission issued a notice of Intent To Establish Criteria, pursuant to Section 205(d)(4) of the Regional Rail Reorganization Act of 1973 (the "Act") which directs the Office to:

> * * * Assist States and local and regional transportation agencies in making determinations whether to provide rail service continuation subsidies to maintain in operation particular rail properties by establishing criteria for determining whether particular rail properties are suitable for rail service continuation subsidies. * * *

This particular duty of the Office is related to other provisions of the Act, which provide for the preservation of certain rail services in the Northeast and Midwest Regions if States, local or regional transportation authorities, users of rail services or other responsible persons offer to make "rail service continuation subsidy" payments (Section 304); and which provide for a two-year Federally supported assistance program of $90 million for each of two fiscal years (Sections 402 and 403). The Federal share of rail service subsidy costs under Section 402 will be 70 percent, with the remaining 30 percent share to be provided by each State, subject to entitlement as spelled out in Section 402(b) (1) and (2). Eligibility, for a subsidy is covered under Section 402(c). Under Section 403 of the Act. Federal loans or loan guarantees for the acquisition or modernization of rail properties will not exceed 70 percent of the purchase price or the cost of rehabilitation.

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In addition to the requirement that it publish criteria to assist in the making of rail service continuation subsidy decisions, the Office was directed under Section 205(d)(3) of the Act, to publish standards for determining the level of rail service continuation subsidy payments. Such standards were the subject of a proceeding, Ex Parte No. 293, (Sub. No. 2), Standards for Determining Rail Service Continuation Subsidies ("Subsidy Standards"), and were published on July 1, 1974, at 39 FR 24294, with amendments on January 8, 1975, at 40 FR 1624 and with additional amendments on March 28, 1975, at 40 FR 14186. In order to avoid possible confusion, it should be noted that this proceeding pertains to subsidy criteria, required to be issued by the Office under Section 205(d)(4) of the Act, and not to subsidy standards, issued previously by the Office pursuant to Section 205(d)(3).

The Act specifies under Section 205 (d)(4) that the subsidy criteria include the following considerations:

> * * * Rail properties are suitable if the cost of the required subsidy for such properties per year to the taxpayers is less than the cost of termination of rail service over such properties measured by increased fuel consumption and operational costs for alternative modes of transportation; the cost to the gross national product in terms of reduced output of goods and services; the cost of relocating or assisting through unemployment, retraining and welfare benefits to individuals and firms adversely affected thereby; and the cost to the environment measured by damage caused by increased pollution. * * *

It is clear from the Act that the subsidy criteria are to be advisory in nature, and in no respect should they be construed as compulsory guidelines which must be followed by any party in connection with any provisions of the Act. However, Federal Railroad Administration regulations promulgated under § 255.9-(b)(1)(ii), Requirements for State Rail Plan for Rail Transportation and Local Rail Services, Continuation of Local Rail Services, procedures and Requirements Regarding Applications for and Disbursement of Rail Service Continuation Assistance, 49 CFR Part 255, FRA Economic Docket No. 3, Notice No. 2, issued with amendments on January 22, 1975 ("FRA Regulations") require that State Rail Plans submitted to the Federal Railroad Administrator must indicate consideration by the States of the Office's advisory subsidy criteria.

It is also clear that there is no legal requirement that the criteria be adopted pursuant to formal rulemaking procedures. However, the Office believed that public comment, suggestions, and criticism would prove valuable in developing the criteria. Therefore, the Office provided for, and invited, public comments to be filed with the Office on or before July 24, 1975. Although there was a noticeable lack of participation, the comments received provided a number of valuable suggestions which have been incorporated in these final rail service continuation subsidy criteria.

A. Background and Overview

The Act provides for a general reorganization and restructuring of the properties and services of the bankrupt railroads operating in the Northeast and Midwest which were found by their respective reorganization courts not capable of being reorganized under the normal bankruptcy laws. When the statutory planning process is completed and the Final System Plan ("Plan") for restructuring these railroads is effective, services over lines designated as not included in the Plan may be discontinued unless a rail service continuation subsidy is offered or some other appropriate action is taken.

On July 26, 1975, the United States Railway Assocation (the "Association"), the principal planning agency in the rail reorganization process, issued the Plan for restructuring the railroads. In the Plan, the Association identified some 5,760 miles of rail trackage that it recommends not be included in the new system (Consolidated Rail Corporation of "ConRail").

Prior to this time, in accordance with the FRA Regulations cited above, States were required to submit Phase I of their State Rail Plans to the Federal Railroad Administrator for approval by May 15, 1975. Phase II of the State Rail Plan is to be submitted for review within 30 days after the date of approval of the Plan by the Congress.

In Phase I, a State had to explain in detail how it intends to conduct its assistance program, including identification of the data to be acquired on the rail system in the State; the methodology to be used in determining which essential rail services should be continued; the criteria to be employed in ranking these services according to their service priority; and an explanation of the goals to be used in the development of the State Rail Plan. Under Phase II, a State must identify the specific services which should be continued as determined by the application of the Phase I methodology, criteria and goals in response to and consistent with the Plan; the order of funding priority of those services; and the amount and form of the assistance required.

Under the present statutory timetable, the plan could become effective—unless rejected by the Congress—as early as November 9, 1975. Beginning 30 days thereafter, or as early as December 8, 1975, the trustees of railroads in reorganization may give notice of their intention to terminate service on the lines not designated to be included in the Plan. Service discontinuance may become effective on a certain date which is not less than 60 days after date of each such notice. Thus, service on affected branch lines may actually be discontinued as early as February 7, 1976 unless a rail service continuation subsidy is offered.

B. Propose and Conceptual Approach

The purpose of the proposed criteria is to assist a potential subsidizer to decide whether a rail service continuation subsidy should be offered, or whether the rail service should be allowed to be terminated as requested in the notice of intention to terminate service.

While the Act permits potential subsidizers to be a rail user (shipper/reciver); a State Government (or agency thereof); a local or regional transportation authority (or agency); a community; or any responsible person, the Office is directed only to assist "States and local and regional transportation agencies". However, it is assumed that the criteria will be of interest to other concerned organizations and individuals who would not qualify technically as "transportation agencies", but who are intersted in determining whether to retain rail service and the framework in which such decisions should be made. Furthermore, the Office does not believe that it is within its mandate to provide specific criteria to guide individual business firms in determining whether to subsidize rail service for their own benefit, regardless of any benefits that might accrue to the

States, regions or communities in which the firms are located. In all probability, such firms will have available their own cost, revenue and other business information upon which to base such a decision.

The Office's conceptual approach in designing the criteria is to establish the planning framework in which rail service continuation subsidy decisions should be made; to identify relevant factors to be considered in the decision-making process; to present an analytical approach to the subsidy decision; and to identify alternative means of retaining rail service in addition to the subsidy program as provided in the Act.

The criteria are designed to serve as guidelines only. No claim is made that they are all-inclusive and comprehensive. However, their use by a potential subsidizer should provide a reasonable assurance that important issues and factors are not overlooked in the rail subsidy decision-making process.

The relevant factors which should be considered are numerous and complex. Some factors will be convertible to monetary terms, although ascertaining their specific values may be difficult. Other factors will be such that it may be impractical, if not impossible, to represent them in monetary terms. However, a measure of their value, even though it is subjective, may be an important determinant in the rail subsidy determination process. It is also important to recognize that the values assigned to particular factors can vary considerably depending on the perspective of the subsidy provider. These variations depend upon whether the factors are being evaluated at the local, regional, State or Federal level. Finally, it should be noted that in offering these criteria, the Office recognizes that each and every factor cannot be considered in every potential rail subsidy decision situation. Consequently, a potential subsidizer should be guided in the application of the criteria by conditions peculiar to the affected area and to the particular rail properties and services to question.

The Office recognizes that the identification of general subsidy criteria will not be helpful unless they can be applied to the individual situation of potential discontinuance of service. Moreover, those who would be affected by the discontinuance of rail service will have a short time frame in which to decide whether to offer a rail service continuation subsidy, take some other action to retain service, switch to alternative forms of transportation, or accept whatever remaining consequences exist. In short, this means making the decision whether the particular rail service is worth keeping from a public policy and planning perspective. In this regard, decision-makers have a total responsibility to insure that public funds are used to fulfill rail service and other transportation needs so as to minimize the cost to the public.

II. The Subsidy Decision Within a Transportation Planning Framework

Virtually all public subsidy decisions involve the choice of whether or not to use public funds to support the provision of a good or service which the private sector is unable to provide profitably. Since public funds must be viewed as scarce, like all resources, subsidy decisions must be carefully weighed so as to accomplish a rational use of public resources and to minimize the cost to the taxpayer. Achieving this goal depends critically on the perspective of decision-makers and the structure of the decision making process itself. A view that subsidies have little impact outside the immediate area of concern is a very myopic understanding of the consequence. Rather, the decision-maker must be keenly aware that subsidy decisions in one sector of the economy may have profound effects in other sectors, particularly those which are closely related. Consequently, a deecision to subsidize should be made only when it is determined that such a decision makes the best use of public funds.

Section 205(d)(4) of the Act requires that consideration be given to assessing comparative costs of alternative modes of transportation, along with other factors, in determining whether rail properties are suitable for rail service continuation subsidies. The specific language of this section makes it clear that the decision to subsidize is appropriate, if it is less costly to the public when compared to the alternative economic, social and environmental costs including transportation costs of not subsidizing. If this is not the case, a decision to subsidize is inappropriate, for it is less costly to provide some alternative transport service.

Section 255.9(a) of the FRA Regulations states:

> (a) State planning process. Consistent with the purposes of the Act, the State Rail Plan required under § 255.5(a) shall be based upon a comprehensive and coordinated planning process for the provision of rail transportation services in the State, which are essential to meet the economic, environmental and energy needs of the citizens of that State, and to provide for the development of a coordinated and balanced transportation system within the State or the affected portion thereof.

The language of the regulations essentially requires that state rail planning decisions be made within the context of an overall transportation framework. Obviously, decisions with regard to rail continuation subsidies are an integral part of state rail planning.

Both the language of the Act and the FRA Regulations make it apparent that rail continuation subsidy decisions involving the use of public funds should be made within a framework designed to achieve a balance in transportation planning and, concomitantly, a subsidy decision consistent with minimizing the cost to the taxpayer. Accordingly, the purpose of this discussion is to place the subsidy decision within the proper context of overall transportation planning.

A. Transportation Planning Perspective

With the passage of the Act, public officials and elected representatives have become directly involved in the making of decisions which affect the allocation of resources—capital, labor, and materials—both to and within the railroad industry. Historically, these decisions although constrained by public regulation, were a private and decentralized responsibility of individual railroads based on their respective perceptions of market opportunities, in sharp contrast to most other modes of transportation. The trend toward greater involvement in what have been traditionally private investment decisions apparently reflects the belief that rail services objectives are no longer capable of being met completely by the private sector.

Transportation is a vital economic function. With the possible exception perhaps of luxury passenger service, where "getting there is half the fun", transportation is not an end, but a means by which goods and services available in the economy are distributed. Essentially, transportation services to link markets by which goods and services available in this regard, the cost of moving freight in the form of raw materials, intermediate goods, or final products adds to commodity prices just as any input cost. The cost of moving passengers can be viewed identically, although consumers often bear the cost directly. In formulating transportation policy, it is important that transportation be viewed as a cost of production. In this light, rail service should not be preserved for its own sake, but for its value as a means of minimizing the cost of producing goods and services in the economy.

In most private market situations, market forces are activated by decision makers working for the most part, on a decentralized basis to make resource allocation choices in the economy. Through the interaction of these decentralized decisions, resources are allocated within the economy so as to minimize the costs of production. This allocation or market distribution of resources is the natural functioning of the economic system. When markets function in this manner, the result is an efficient combining of resources in the productive process with favorable prices to the consumer. In such cases, public planning is of limited value and may actually be a hinderance to the normal functioning of the market.

There are times when private markets do not operate freely and effectively so that an exclusive reliance on the private sector does not serve to allocate resources efficiently. The most obvious need for public intervention occurs when there is an effective absence of competition in a particular industry. For example, where a firm does not have a choice of service for transporting its products, it is a captive customer of the transport company

which serves the area. Historically, this was a major reason for regulating the transportation industry (although regulation was also espoused because there was in other instances too much competition). In the former situation, carriers are able to impose prices on the market rather than having to meet prices established by competitive mechanisms. Such manipulation of market power tends to reduce production and increase prices to consumers. In these instances, the challenge to the public transportation planner is to determine whether it is possible to maintain or restore competitive forces or to supplant the market mechanism through subsidy, acquisition or some other means.

There are times when the private market fails to capture the costs associated with certain resources used and therefore, fails to distribute these costs directly ot those responsible for their creation. For example, homeowners, rather than shippers, may have to bear the cost of noise and air pollution from trucks or railroads operating in their neighborhoods. Concomitantly, shippers may have to pay higher freight bills because of highway congestion caused by commuters. These externalities can be incorporated by public bodies into the price mechanism through user taxes, tolls and subsidies.

There may also be certain "public goods" or necessities, such as maintaining access to fossil fuel sources or maintaining an enlarged transportation system for use in national emergencies, which can be provided only by public authorities, since private business may have no incentives to produce them. Such goods are deemed to be a public responsibility because it may be impossible (or undesirable) to restrict their use and difficult to collect payments from users.

In the three cases of what might be construed as failings of the private market cited above, transportation planning at the state and regional level can contribute to the development of well functioning transportation systems. The role of planning should include the coordination, promotion, and where necessary, the regulation of transportation activity. In addition, public planning activity should be aimed at producing or restoring the orderly functioning of private markets, as well as achieving public policy objectives that otherwise could not be met through private market mechanisms.

B. The Meaning of Balanced Transportation

Transportation planning, including the rail service continuation subsidy decision, should be responsive to achieving an appropriate balance among the functioning of alternative modes within the transportation system. By the term "balance", it is meant that public resources should be devoted to alternative transportation modes in a manner which maximizes the total benefits to the public.

All too often in the past, transportation planning has meant a proliferation of disjointed transportation programs whereby subsidies are often overly dedicated to one mode. The result has been an imbalance within and a fragmentation of the total transport sector. Effectively, transportation has been compartmentarized as if it consisted of discrete and disjointed parts with little recognition to competitive effects and intermodal interdependency.

Excessive investment (more than is required to produce optimal benefits) in one mode will put other modes at a competitive disadvantage, thereby leading to reduced or discontinued service and financial losses to the competing modes. For example, some observers believe that over-investment in highways has provided trucking with an unwarranted competitive advantage over railroads. The argument is based on the view that trucking has not paid its share of the investment required for the highway system and, therefore, has gained a competitive advantage over railroads which are relegated to paying the total costs of developing and maintaining their rights of way. With the ever increasing fuel prices, the more energy efficient rail transport may continue to narrow that competitive edge. Therefore, unless transportation planning is viewed comprehensively trucking may be placed at a competitive disadvantage in the future.

Fragmentation, over-investment in particular modes, cross-subsidization and other problems have resulted largely from a segmented planning process which often has compelled decision makers to consider transportation issues on a mode-by-mode basis. Such an approach is the antithesis of achieving a rational use of transportation resources and is in vivid contrast to comprehensive and balanced planning which considers all modes simultaneously.

The development of a balanced transportation system is directed toward individual communities or markets, and their particular need for transportation service. For most locations, balanced transportation means planning for trucking, rail and other transport services jointly. For these planning circumstances the geographic size of the location or the extent of the market is of prime importance. There is no point encouraging resource allocation, either through direct cash subsidies or indirect subsidies (which may be in the form of regulatory policy), among competing transportation modes for a community which does not need or cannot support them. For some small markets, balanced transportation may mean only one mode or two modes serving distinct functions. Situations of this type should be recognized and planning undertaken accordingly. Besides the size of the market, the efficiency of the transportation mode at various levels of use is important and must be evaluated. An extremely important consideration in this task is that the unit cost of transportation changes with the scale of operation and market size. Whereas one mode might provide the lowest-cost service in a small market, another mode or a combination of modes may prove to be the least expensive in providing service for the commodity in a larger market.

The essential starting point for balanced transportation planning is to recognize that the primary objective of a transportation system is to provide the most economically efficient movement of freight and passengers. This objective requires that the full costs of all modal alternatives be explored.

Full costs means the costs to society, not simply the costs to the transport company. These include not only the cost of building capital facilities, the cost of maintaining and operating transportation services, but also social costs such as those associated with pollution and congestion. The private market has no direct way of establishing value or assessing the persons responsible for such social costs. Only when the capital and operating costs of each mode are determined on the same basis can a realistic comparison be made among them.

It is the proper and legitimate function of planners to assess these transportation costs, in conjunction with policy considerations, and to present them so that elected representatives and public authorities can make rational and intelligent choices among alternatives. Transportation investment decisions involving public monies can then be made in terms of what the cost would be if one decision rather than another were made. This is the principal contribution which balanced transportation planning can provide to public decision-makers. Concomitantly, rail service continuation subsidy decisions made within such a planning framework will achieve a more rational use of public funds.

III. Structure of the Subsidy Decision Making Process

As discussed previously, the decision whether to subsidize rail service should be reached within a comprehensive planning framework and be part of the development of a balanced transportation system. The central issues which must be addressed are the transportation needs of the public in both the short and long-run, and the means by which these needs can be met with a minimum use of resources. The undertaking of the actual subsidy decision, within a comprehensive planning framework, necessitates a structured approach of analysis. The approach offered herein follows a structured format in outlining the sequence of planning events and decision requirements, yet allows for analytical flexibility as individual situations dictate.

The approach to the decision-making process can be represented by a flowchart depicting analysis and planning activities. Figure 1 schematically shows the sequence of activities partioned into three major phases:

(1) Initiating Procedure.

(2) Analysis: Data and Decision Mechanism.

(3) Decision Options.

In phase (1), preliminary steps are undertaken to establish whether rail service should be preserved. Phase (2) consists of the suggested analytical procedure to be followed when a more thorough assessment of whether to subsidize rail service is needed. Phase (3) involves a consideration of the array of potential options available to the subsidy provider to retain rail service, once that decision has been made.

A. Initiating Procedure

As indicated by the flowchart (Figure 1), the decision process is triggered by the notification from an operating railroad of the intention to discontinue certain rail service ("Notice") and the probable intention to abandon certain rail properties. Rail service cannot be discontinued, however, if a rail service continuation subsidy, as defined in Section 304(c)(2)(A) of the Act, is offered by a responsible party. As required by Section 205(d)(3) of the Act, the amount of the subsidy necessary to maintain rail service will be determined pursuant to the Subsidy Standards promulgated by the Office.

Upon receipt of the Notice, an effort should be made to understand precisely the nature of the rail service to be discontinued and the potential properties to be abandoned. This is to prevent rail service discontinuance from occurring simply because of confusion and/or misunderstandings. The Subsidy Standards require that the Notice contain specific operating and other detailed information. Moreover, § 1125.8(d) states:

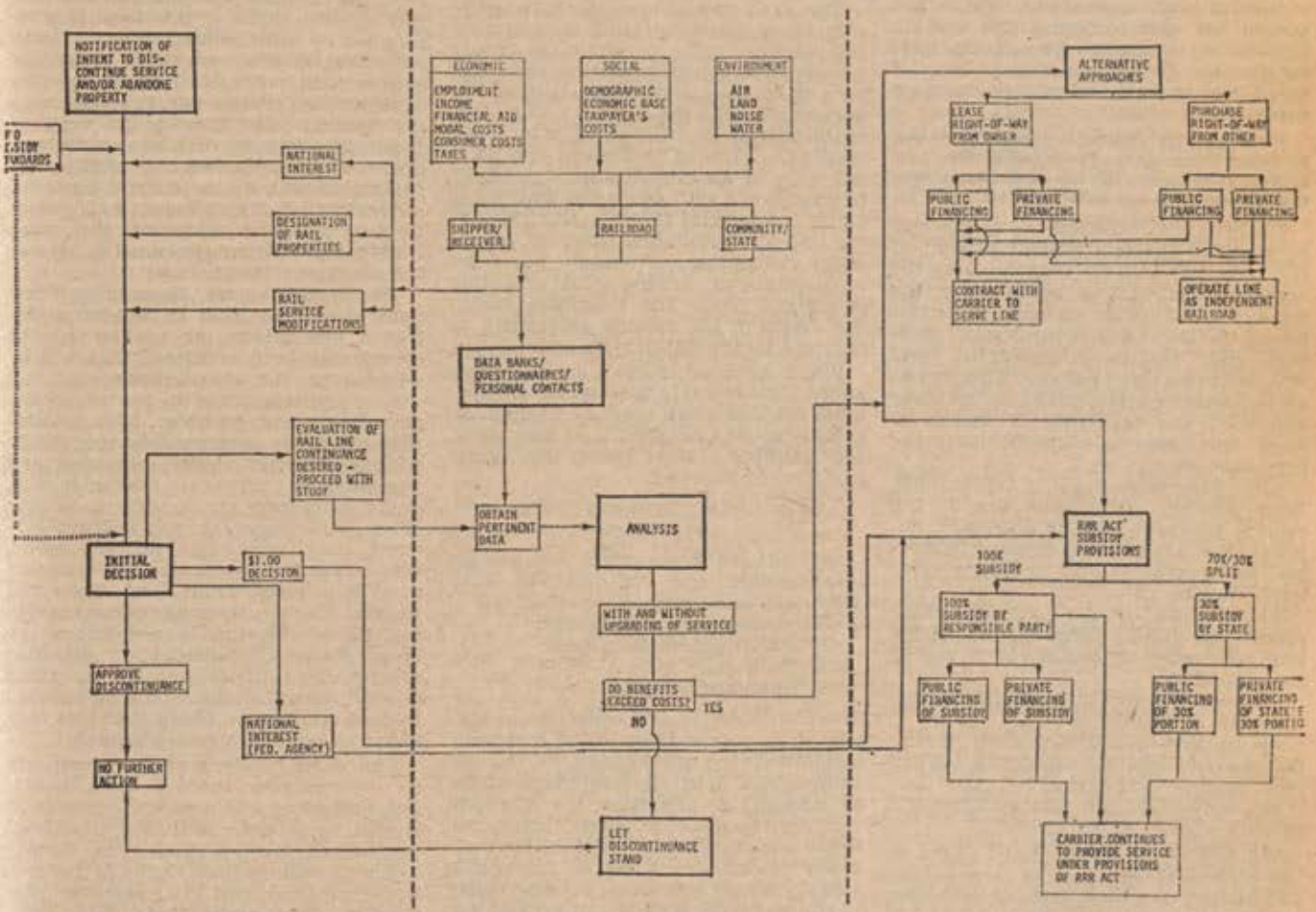
> • • • A notice of intent to discontinue (B) of the Act, is not considered to be completed or given until the railroad has taken the actions required by paragraphs (a) through (c) of this section. • • •

After verification that the Notice is complete, there are three avenues of inquiry that should be undertaken:

(1) The extent to which the rail service is in the national interest;

(2) A review of the designated rail properties to insure that the properties are those used and useful for the rail services in question; and

(3) The possibility of modifications to the service level, stipulated in the Notice.



An investigation should be made to determine whether a Federal agency considers the continuation of rail service necessary to the national interest and, consequently, a potential subsidy provider. Such a situation, for example, could arise where there is a military installation that requires rail service on a line designated for rail service discontinuance. Similarly, there may be situations where maintaining access to coal or other natural resources may be desirable from a national standpoint.

A second avenue of inquiry is to review the designation of used and useful properties in the Notice. The Act requires in Section 102(10) that the

> • • • rail properties (be) assets or rights owned, leased, or otherwise controlled by a railroad which are used or useful in rail transportation service. • • •

The Subsidy Standards require that the value of the properties over which rail service is to be discontinued be estimated by the railroad in its Notice. The basis of the valuation must be the net liquidation value of use and useful rail properties determined in accordance with § 1125.6(b) of the Subsidy Standards:

> • • • The value of the properties shall be their net liquidation value for their highest and best use, consistent with applicable zoning and land use regulations, determined by computing their current market value for other than rail transportation purposes, less all costs of dismantling and disposition of improvement necessary to make the remaining property available for its highest and best use. • • •

Obviously, either a change in designation or a change in the assigned value of rail properties can alter the determination of the required subsidy payment. The value of rail properties is used as the base to calculate the return to the trustees of the owning railroad. Therefore, it is important that a potential subsidy provider make certain that the rail properties are those necessary to provide the rail services required, i.e., those properties which are used and useful for the desired rail service.

Concurrently with the above inquiries, a detailed review of the service level identified in the Notice should be made so as to determine the adequacy or necessity of the stated service. The service level identified is used to determine portions of the on-branch avoidable costs of the rail line operations. There are possibilities for adjusting the subsidy amount by changing the service level as dictated by the needs of the rail users. The Subsidy Standards indicate that:

> * * * The number of trips per year will be based upon the frequency of service performed at the time the notice is filed unless the parties agree to a different level. * * *

For instance, if the level of service can be modified through mutual consent of the potential subsidy provider and the operating railroad so as to lower the number of trips or on-branch service hours, the lower will be on-branch operating costs, and consequently, the lower will be the required subsidy. This can be an important consideration, for in many situations the reliability of service is more important to shippers than the frequency of service.

After these three areas of inquiry have been pursued, a recalculation of the subsidy payment may be necessary, depending on whether any changes in service, rail property, and property value have been made.

At this point in the decision-making process an initial decision, comprising four alternative courses of action, can be contemplated:

(1) accepting and allowing the discontinuance to stand;

(2) continuing rail service which is in the national interest through a subsidy offer by a federal agency;

(3) continuing rail service through a subsidy offer of $1.00; or

(4) proceeding with further study of the subsidy decision.

Whether due to a lack of rail user concern, the fact that the rail line has been out of service with no interest to have it revitalized or for other reasons, there may be no opposition to discontinuance. When this is the case, the Notice may be acceptable and there is no need for further action. The intention of the railroad to discontinue service should be allowed to proceed in accordance with the provisions of Section 304 of the Act.

If the continuance of rail service is determined to be in the national interest, the service should be preserved by a subsidy offer from a federal agency, which would assume the role of a 100% subsidy provider pursuant to Section 304(c)(2) of the Act.

There is a potential situation where a subsidy offer of $1.00 is all that is necessary to preserve rail service. As indicated in the Subsidy Standards, some of the costing methodology and components used by the Office are different from those used by the Association:

> * * * Since the U.S. Railway Association is not required to utilize these standards as criteria for inclusion of branch lines in the Final System Plan, there is a distinct possibility that a branch could be excluded from the plan yet be profitable under the standards. * * *

When this situation arises, the subsidy offer necessary to continue rail service, as required by the Subsidy Standards, is $1.00.

The $1.00 subsidy situation undoubtedly offers an opportunity to maintain rail service while determining future transportation needs and the prospects for a viable transport system. It should be understood that the ultimate obligation of the subsidy provider could be for more than $1.00. The $1.00 amount is a bona fide offer of an initial subsidy payment in accordance with determinations made under the interim formula provisions of the Subsidy Standards. However, subsequent calculations of subsidy payments are determined by using actual operating experience (costs and revenues) within the period of the subsidy agreement, as required by the Subsidy Standards.

When none of these prior situations apply, further study is required to determine whether a rail service continuation subsidy should be offered. At this point, the planning process enters the second partition in Figure 1.

B. Analysis: Data and Decision Mechanism

The analysis phase, first, requires the identification and collection of data. There are essentially three categories of data considered to be pertinent:

(1) Rail Shippers/Receivers.

(2) Railroad.

(3) Community/State.

The identification and collection of specific data within these three categories will provide the relevant factors, as listed in Appendix A, which should be analyzed by planners to determine the effects of rail service discontinuance. Many rail users, communities and States have already undertaken tasks to investigate various factors considered to be pertinent to rail service operations. In general, the Rail Shipper/Receiver data identify the existing and potential commodity shipments by various modes, the economic considerations with regard to alternatives to rail service (costs of converting facilities, losses in retirement of plant and equipment, costs of equipment for alternative modes, etc.), the changes in employment, than the problems with regard to rail service requirements and to restrictions on movements of products by alternative modes. Rail Shipper/Receiver data should be gathered for each industry and/or business in the area which is directly or indirectly affected by the rail service. However, the predominate industries and/or businesses of concern are those that ship and/or receive goods by rail over the rail line in question. Because of the importance of this information to the decision-making process, considerable effort should be undertaken to acquire as extensive and as complete a data set as possible.

The identification and collection of certain Railroad data provides information on the existing rail system, the nature of existing and future freight and passenger rail service capabilities and operating policies, the employment and expenditures of railroads, the costs of maintenance and rehabilitation of plant and equipment, and the costs of operations. A significant portion of the railroad data, in most cases, will be obtained from the railroad petitioning to abandon rail service. Much of this data may be supplied by railroad employees or representatives in the immediate area concerned with potential rail service discontinuance (study area). However, some information may have to be supplied from other sources, such as corporate or divisional headquarters and/or State departments of transportation. The Office suggests that the potential subsidizer (and/or planning representative) work closely with railroad personnel to develop the necessary information.

The third category, Community/State data, should be used to develop a detained description (or profile) of the community (and/or State) that will be affected by the discontinuance of rail service and represents the purview of the potential subsidy provider. This description should be developed to specifically address financial, labor, planning and development, physical characteristics, and demographic characteristics as they effect employment, growth and development, civic institutions, public funding, etc. within the study area. Information may be acquired from local, State and Federal sources. Many times community profiles of this type are developed by civic, financial, political or planning organizations. Therefore, the assistance of such organizations should be solicited to determine areas where sufficient data exists to avoid duplicating efforts.

The data briefly outlined above can be accumulated through data banks, questionnaires and personal contacts. It should be recognized that a significant portion of the required data already exists in various data banks of Federal, State, regional, and local agencies, particularly Community/State data. However, there undoubtedly will be a need to update and make modifications to data sets, aside from collecting necessary additional information. An important source of information, particularly with regard to the shippers/receivers and the railroad, is the questionnaire. In many localities and States, such questionnaires have already been utilized. The information requested should be sufficiently detailed to be directly useable in establishing baseline and development characteristics, and to minimize ambiguity in their interpretation. Very often questionnaires are the first-line sources

of information for direct use in analyses and for establishing data banks. Furthermore, data bank and questionnaire sources of information can be supplemented by personal contacts or interviews. This approach can be used to clarify and amplify information gathered through other sources.

Factors to be considered in the analysis and methods of data collection, as well as actual forms and questionnaires which may be helpful, are presented in detail in "Guide For Evaluating The Community Impact Of Rail Service Discontinuance", prepared for the Office of Public Counsel, Rail Service Planning Office ("Guide") and in "Analysis of Community Impacts Resulting from the Loss of Rail Service", prepared for the U.S. Railway Association ("Analysis"). In addition, Appendix B lists other sources of information which may be of assistance to the analyst.

Generally, the data collected should be sufficient to identify the existing and future transportation needs within the study area, the structure and operation of the transportation system in meeting these needs, and the economic, social and environmental factors which are affected by a change in the transportation system—specifically the impacts resulting from the discontinuance of rail service. The collection and assimilation of such a data base is necessary for subsidy decisions which are consistent with the concept of balanced transportation.

From data collection and assimilation, the decision process moves directly into the analysis phase. The analytical procedure recommended by the Office is benefit-cost analysis. The benefit-cost approach is one of the traditional project evaluation tools used by public planners, particularly when projects involve the use of public funds. Benefit-cost analysis is a procedure whereby the social benefits of a proposed project are compared with its social costs. Generally, when social benefits are equal to or in excess of social costs, the undertaking of a project is deemed to be in the public interest. In the instant case, the objective of the benefit-cost procedure is to determine whether the benefits which will accrue from rail service continuance out-weigh the costs of discontinuing the rail service.

No attempt is made to provide a detailed description of the method of benefit-cost analysis. The Office believes that the circumstances of each rail line are unique; that the particular sources of data are better known to individual State and local planners; and that the capabilities of the various potential subsidy providers to perform benefit-cost analyses vary so widely that to attempt to prescribe a standardized methodology would not be meaningful. Moreover, the publications referred to as Guide and Analysis set forth in considerable detail procedures and methodologies for conducting benefit-cost analyses, specifically addressing rail service discontinuance. For these reasons, the Office believes that it is only necessary to provide a conceptual discussion of benefit-cost analysis, pointing out some of its critical aspects when applied to the problem of rail service discontinuance.

The nature of the benefits and costs, or the universe from which the benefits and costs are determined is dependent on the geographic area (study area or "impact community") affected by rail service discontinuance. The concept of impact community is discussed in the documents previously designated as Guide and Analysis. Defining the "impact community" is a critical task in the analysis. The scope of the data required, the extent and magnitude of evaluations, and the entire nature of the decision process depends on the designation of what constitutes the area affected by rail service discontinuance from the perspective of the potential subsidy provider. If the State is the potential subsidy provider, then the benefits and costs of maintaining rail service should be evaluated as they relate to the entire State. Similarly, if a county is the potential subsidizer then the relevant impact community is the county.

As just described, the nature of the benefit-cost analysis is governed by the geographic area of concern to the potential subsidy provider. In this regard, planning bodies are confronted with an array of questions to be answered in the benefit-cost procedure. What are the relevant economic, social and environmental factors to be considered to insure that a decision to allocate resources to maintain rail service is made to the total benefit of the constituent public? What are the benefits of retaining rail service compared to the cost of the subsidy? What are the feasible alternatives to the subsidization program for continuing rail service?

The benefit-cost concept, by its very nature, requires that factors be quantified and expressed in dollars to as great an extent as possible. Methods of quantification are discussed and presented in Guide and Analysis. However, there are certainly those factors which are affected by rail service discontinuance that cannot be adequately expressed in dollars with any satisfactory degree of reliance. These factors should be explicitly considered in qualitative terms.

As was the case in the determination of benefits, costs are dependent of the identity of the potential subsidy provider. The Act provides that subsidization can be undertaken within a 100% or 70%/30% funding program. States are eligible for the 70%/30% program, whereas the 100% subsidy program is applicable to any other responsible party undertaking the role of a potential subsidy provider. Therefore, any responsible party other than a State, such as a shipper or local or county transportation agency, must consider the entire subsidy amount as a cost of continuing rail service. Whereas, the subsidy cost of continuing rail service is only 30% to a State or a responsible party who chooses to use the State as a conduit for gaining access to the 70%/30% subsidy program.

Irrespective of those instances where the State is requested to undertake subsidization on behalf of other parties, it should be recognized that the State is conducting its own analyses in order to rank rail lines for subsidization as required by the FRA Regulations. Essentially, the State is making benefit-cost evaluations using the State as the "impact community" to determine the order in which rail lines ought to be subsidized. The State must also make a decision on the total amount of subsidy funds that will be requested from FRA for lines designated as non-viable by the Association in its Plan.

The State should establish a systematic approach for ranking the order in which rail service should be subsidized. A suggested approach is to identify all rail lines where the benefits of retaining rail service exceed or are equal to the costs of subsidizing such service. Then, from the set of rail lines which are suitable for a rail service continuation subsidy, the State should select those rail lines whose aggregate subsidization maximizes total net benefits and whose aggregate subsidy amount is less than or equal to the total amount of funds which are available for subsidy purposes.

The completion of the benefit-cost analysis, whether at the State or local level, effectively determines the rail services which are suitable for rail service continuation subsidies. The Office recommends the benefit-cost approach as the analytical vehicle because its proper use involves due consideration of all factors which influence the functioning of a transportation system. The Office believes that only with the application of such an approach will subsidy decisions be made with a total transportation perspective.

C. Decision Options

With detreminations made as to the suitability of maintaining rail service, the final decision is whether to subsidize rail service under the provisions of the Act or to preserve rail service by an alternative course of action. Although it may appear that the subsidy program is the least costly and most effective way of preserving rail service, this will not always be true depending on the circumstances and the goals of the potential subsidy provider as indicated below:

(a) There is no assurance that the federal subsidy funds will be provided for rail service longer than for a two-year period. There are obvious significant risks to letting time pass without considering alternative courses of action;

(b) The conditions and requirements established in the subsidy provisions of the Act, or in other proposed Federal or State legislation, may be too demanding, may be unattainable, or may be of a character which would more appropriately warrant independent self-help alternative approaches to continuing desired rail service. Such self-help approaches may provide the rail service at a lower cost (possibly even paying a net dollar operating profit), of a superior quality, or perhaps in a more efficient manner;

(c) Some situations might call for accepting Federal/State subsidies in concert with independently devised branch line approaches. These solutions could

assure less costly, more efficient rail service operations, rather than depending solely on Federal/State subsidies;

(d) Even if Federal/State subsidies are provided, a State may find that the available federal funds are inadequate to subsidize all rail lines considered essential. In these cases, alternative self-help efforts may offer the most reasonable opportunity for continued, reinstituted, or future rail service; and

(e) In cases where a branch line meets the suitability criteria for Federal/State subsidization, subsequent operations, occurrences, etc., could result in a withdrawal of such assistance. It would be advantageous to anticipate such possibilities and consider alternative self-help approaches before the subsidy is actually withdrawn.

It should be recognized that time, effort and expenses utilized in challenging rail service discontinuance in certain circumstances might be more beneficially applied to developing local self-help efforts to preserve service. Such efforts may have both short and long-term advantages superior to the subsidy program provided for under the Act.

IV. Alternatives to Subsidization Under the Act

The purpose of this section is to present a list and corresponding discussion of alternative methods of preserving rail service other than through subsidization under the provisions of the Act. The nature of each alternative and procedures for its implementation are described. Advantages and disadvantages are considered. No claim is made that the list or discussion is exhaustive. The section is designed to provide a familiarity with various alternatives to subsidization under the Act. In the event that one or more of these alternatives is viewed as helpful in preserving rail service, the Office recommends that further research be conducted before attempts at implementation.

A. Capital and Maintenance Assistance Projects

One of the major reasons for discontinuing service on light density lines is the deteriorated condition of the infrastructure. The Plan has assigned significant cost figures to the rehabilitation of rail plant. For many lines, rehabilitation costs have been large enough to cause the line to be non-viable and, therefore, excluded from ConRail. If a community or user makes a one-time investment in rehabilitation of a line, the line may be more economical to operate and therefore acceptable for operation by ConRail or a solvent railroad. Alternatively, this investment might provide the incentive needed to attract a short-line operator. Such investments can be the impetus to continued or improved rail service.

A line may become viable from an operator's standpoint simply by shifting the responsibility for maintenance or construction of various rail facilities from the railroad to another entity. Some of the capital assistance projects which could be sponsored by communities and users are: (1) repairs and rehabilitation of ties, rail, structures, bridges, stations, and gate crossings; (2) purchase of equipment; and (3) facilities construction, such as a team track or an interchange. Such a community-sponsored project may not only serve to make the line viable for ConRail or a short line operator, but also may stimulate demand for service along the line.

Another way in which assistance can be provided by a community or user is to assume all or part of the maintenance responsibilities of the line. They could provide ties, ballast and other track materials necessary for regular maintenance. Communities and users might also pay the labor costs associated with maintenance activities. Assumption of maintenance responsibilities might result in making the line profitable in terms of the Association's viability criteria since some, if not all, of the maintenance costs would not be incurred by the operating railroad.

B. Direct Participation of Users

The users of the line can also make a direct contribution designed to enhance viability without substantial capital outlays. Essentially, the users might ask the question, "What can I as an individual do to improve the viability of the operation?"

The community and users can alter profitability of a light density line by adjusting operating revenues and expenses. The methods include carload surcharges or revenue supplements, increased or guaranteed levels of traffic, and guarantees of annual revenues. Another method that is not widely used presently is a direct payment from the user to the railroad for maintenance of a siding.

A revenue supplement arises through an agreement by which shippers pay a surcharge on each carload transported. In effect, the line's shippers accept a rate increase. Therefore, the railroad receives an especially high incremental revenue for extending service to the light density line. Revenue supplements do not immediately convert a light density line from an uneconomic operation to a highly attractive service, but the railroad at least perceives the prospect of long-term profitability through shipper interest.

One of the principal problems in establishing a revenue supplement arrangement is securing the agreement of a large railroad company. Many railroads are not staffed to respond to innovative requests. Therefore, the community and shippers must be prepared to spend substantial time in seeking out representative of the railroad who have the authority to enter into a revenue supplement contract.

Another revenue enhancement approach is an agreement where the shipper will increase traffic or at least guarantee a specified level of traffic over a given period. A guaranteed level of traffic will be attractive to a railroad since it provides a dependable level of operating revenues. The problem facing interested shippers is to find a railroad representative with the commensurate authority to respond to their offer.

Guaranteed revenues can work for sidings also. One of the commonplace problems of railroading is that an inordinately large amount of maintenance is conducted on sidings. However, a very small portion of revenues earned by railroads are derived from sidings. The problem is that the railroad does not receive sufficient compensation from the infrequent user. The railroad maintains a switch and siding, yet it only collects revenues on the basis of tendered traffic. Too often the railroad is required to maintain numerous switching facilities and sidings of which only a few are useful in obtaining traffic. An approach to this problem is to internalize these costs. In other words, to pay for the maintenance of a siding, a tariff could be published to collect compensation from each plant located on the facility.

A local government can promote the use of a siding maintenance tariff. If the local government needs to raise revenues to finance its share of a light density line program, then it could tax all rail sidings. Therefore, all direct and indirect users of the rail facilities will contribute to the project. Furthermore, tax exemptions and credits could be extended to those who use the facilities.

C. Rail Banking

There will be situations where a rail line is no longer needed for rail transportation purposes, at least for the present. When such a case arises, the decision must be made whether to preserve the line for future needs or to use the line for non-rail purposes. This is popularly called "rail banking".

Section 206(c)(1)(E) o fthe Act requires the Association to designate in the Plan those rail lines which will not be operated by ConRail or a government entity or a responsible person, and are "suitable for use for other purposes, including highways, other forms of transportation, conservation, energy transmission, education or health care facilities, or recreation". Furthermore, Section 304(b)(2) of the Act requires that in cases where rail property is suitable for other public purposes and is to be abandoned, then a 180 day option must be given for the acquisition, upon reasonable terms, of such property for public purposes. Therefore, the Plan designates those properties which are suitable for public purposes. Such property, if designated for abandonment, cannot be sold unless first offered for public purposes. In addition, there are some state statutes which provide State governments with the right of first refusal to purchase rail properties.

Before any option to purchase rail properties is exercised, the decision must be made as to their potential value for rail purposes. There are at least two situations where a rail line is not worth operating currently, but could be a candidate for rail banking. First, there are coal deposits which are not being mined

at the present time, but are rail dependent. These deposits may become increasingly valuable in the future as advancements in technology ultimately enable high sulfur coal to be utilized. In addition, fluctuating coal prices may reach a point where certain sources currently too costly to mine can be mined profitably. Finally, as the energy problem facing the nation increases, the need to use coal will inevitably rise. If rail transportation is not available, then these reserves may not be obtainable. Furthermore, preservation of rail lines in areas with growth potential may be justified. Such lines could be used to attract industry to promote future development.

D. TOFC/COFC Service

An alternative or supplement to rail service is the establishment of trailer-on-flatcar (TOFC) or container-on-flatcar (COFC) services. TOFC/COFC is a method of transportation in which the consignment is containerized at the point of origin of shipment. The container is transported (usually by truck drayage) to a railroad terminal where it is transferred to a flatcar and then moved by the railroad to the terminating railroad yard and then transferred directly to the consignee's siding or drayed (via another mode) to the consignee. The key characteristics of this service are that the consignment remains in the same container throughout the entire haul and that the complete movement (origin to destination) requires at least one mode in addition to rail. Containerized rail service requires a special terminal equipped to handle the interface between the rail mode and other modes. Varying degrees of sophisticated and specialized equipment may be utilized in such a terminal. The simplest terminal useable for containerized rail freight is a system for TOFC only utilizing circus unloading and a ramp.[1] More complex than the portable ramp technique are terminals which use heavy machines to remove the box (container or trailer) from the car.

TOFC/COFC is attractive to railroads because it often provides a desirable substitute for inefficient switching and operations over rail lines. Also equipment devoted to TOFC/COFC services is usually far superior to conventional rail equipment. The railroad is attracted by the opportunity to develop the types of service which most efficiently capitalizes upon the railroad's operating characteristics, i.e., the long-haul unimpeded high density movement. Therefore, the railroad is attracted by the opportunity to supplant short-haul with TOFC/COFC service to its customers.

Some shippers will benefit substantially from substitution of intermodal services for low quality rail service. However, this will not be true for all shippers because the rates which apply to intermodal services are often higher than the rates which apply to commodity-rated general freight service. Due to the higher capacity of railroad rolling stock, rail rates for bulk commodities are often lower than truck rates; therefore, shippers of bulk materials such as grain, gravel, fertilizer, and particularly liquids are often disadvantaged in changing to intermodal service. Furthermore, shippers may have to invest in a revised layout of their plant in order to accommodate shipments arriving at a truck loading dock instead of at a rail siding.

TOFC/COFC can serve to improve transportation service because it may provide increased flexibility in tendering consignments. Various "plans" for TOPC/COFC service can be implemented:

Plan (1) Ramp-to-ramp service for motor carrier-owned trailers.

Plan (2) Door-to-door service in rail-owner trailers; railroad provides pickup and delivery.

Plan (3) Ramp-to-ramp service in rail-owned trailers with customer pick-up and delivery.

Plan (4) Ramp-to-ramp service for customer-owned trailers.

Plan (5) Door-to-door service with short-haul motor carriers under joint rate/route tariffs.

Other Mail & express move in separate plans. Other variations of the above plans are used sparingly. Containers generally are treated as trailers insofar as plan of movement is concerned.

The principal concern in determining the feasibility of TOFC/COFC is that a railroad typically requires a minimum threshold level of TOFC/COFC service in order to earn an acceptable rate of return to justify an investment in the intermodal facilities. Therefore, the shippers must provide enough traffic to keep the terminal profitable. A problem which will be encountered in many instances is the inadequacy of existing-traffic levels to justify the investment.

It should be clear from the preceding discussion that the provision of TOFC/COFC service is an alternative which will cause rail service on some lines to be discontinued while increasing the volume of traffic on other lines. Essentially, particular rail services are supplanted by a combination of other rail service and truck service with an interconnection at a central terminal facility. Transportation services are preserved, but with an alteration in the mix of modes. Without additional new traffic, the volume of shipments on such lines is often not sufficiently high to warrant the investment in an intermodal terminal. Furthermore, most railroads prefer to serve high density TOFC/COFC terminals. Remotely located terminals at the junction of light density rail lines may not be well suited for an efficient operating pattern. The substitution of the higher quality and higher cost intermodal services may be detrimental to the typical light density line shipper. Certainly, this is true for shippers of bulk commodities.

E. Short Line Railroad

Probably the most complex alternative to subsidization is the establishment and operation of a short line railroad. A short line railroad is normally considered to be a railroad operating as a common carrier under the definition of the Interstate Commerce Act and regulated by the Interstate Commerce Commission (ICC). It is assumed that a short line will not meet the definition of a Class I railroad as prescribed by the ICC (revenues in excess of $5,000,000 annually).

There are essentially three types of short line railroads: full-service common carrier, switching carrier and a private railroad. The distinguishing features of each are related to rate-making activities.

Most short lines are "full service common carrier" transportation companies. A common carrier is a transportation company which is obligated to accept shipments properly tendered by any user. Full service means that it performs all the services of a Class I railroad. It publishes tariffs or it participates in the publishing of tariffs. A tariff is a document published by a common carrier or its agency prescribing conditions under which shipments will be accepted for transportation and the rates and charges to be assessed for the service(s). Tariffs are established in a three step process: (1) Negotiation and concurrence with shipper(s) and other railroad(s), (2) negotiation and concurrence with a rate bureau, and (3) filing and publishing of tariffs with the ICC. The third step is subject to an appeal to the ICC by nonconcurring railroads and shippers. Therefore, this type of short line principally derives its revenues through its division of the through-rates paid by the shippers. Except where noted below, all regulatory and other railroad practices which normally apply to Class I railroads also apply to those short lines which are full service common carriers.

A short line which hauls cars on its lines and obtains revenue by collecting a charge, instead of a rate, for each car moved is a "switching carrier." A switching carrier essentially operates to switch traffic off of a main line. It is not responsible for charging demurrage, billing, preparing waybills, filing reports with weighing inspection bureaus, or putting cars in service. The main line railroad, for which the short line switches cars, administers these activities. It files and publishes "charges" with the ICC. A switching carrier does not participate in rate-making activities of rate bureaus and receives no division from through-rates. The switching carrier delivers cars, and bills the main line railroad for each car delivered at the established charge.

A short line which is owned and operated by a company for its individual transportation needs is a "private railroad". Situations will arise when the appropriate structure for the operating company will not be as a common carrier. In these cases, a private railroad should be established; it will not publish rates and will not be authorized to move goods on behalf of any other shipper tendering traffic to the railroad. In fact, a private railroad is prohibited from accepting

[1] Circus unloading is the process of driving a trailer off its flatcar to the next car continuing from car to car until a ramp leading from the ground is reached. All TOFC cars are properly equipped for circus unloading.

such shipments. This kind of a short line is the probable solution when one or a few shippers are sufficiently concerned with the future of rail service to acquire properties and operate over them to the junction with a Class I carrier.

The success of a short line operation is fundamentally dependent upon its relationship with its connecting Class I carrier. Even before commencing operations, the short line must negotiate divisions or charges with the connecting railroad(s). Division arrangements are critical to the success of the operation because they are the percentage of the total revenue of the haul which the short line will receive. Therefore, favorable divisional agreements can be the difference between business success and failure. For this reason, it is recommended that a division agreement be established along with the other arrangements before even contemplating a short line operation.

The dependence of a short line upon the connecting railroad is particularly important in the areas of quality and frequency of service. Should connecting service deteriorate, a short line will have little recourse but to suffer a concomitant downgrading in the service it provides unless operating agreements with connecting carriers are prudently negotiated. The short line should seek to capitalize on situations where several carriers interchange. Service agreements, car supply and divisions can be favorably negotiated, when several connecting carriers are vying for the short line's traffic. In the event that service deficiencies actually occur, the short line may bring the service problem to the attention of the ICC.

E.1. Operations

Short line railroad operations are broken down into four categories: transportation, equipment, maintenance, and administration.

The transportation function concerns the actual operation of the rail line itself, the movement of motive power and cars from the interchange point(s) to on-line shippers. Short lines will have at least one interchange with a connecting carrier, typically a Class I carrier, which will provide car delivery and pick-up services. Negotiations for interchange point(s) may often result in the short line having to operate over properties of other carriers for short stretches or crossing lines controlled by other carriers. In these situations, the rules and regulations of the carriers must be followed.

The second category is equipment, primarily the rolling stock required for the operation of the short line. The locomotive is probably the most expensive single piece of equipment. Most are diesel operated and range in horsepower and wheel arrangement according to the use to be made of the unit. A short line may need only consider a basic switching engine which might be a Whiting Trackmobile, a device operable both on the highway and on rail with a limited capacity of from one to three cars. In cases of high density traffic or unusual grade and terrain conditions, larger locomotives of sufficient tractive effort and horsepower may be necessary.

There is fairly active market in used locomotives. A used switching engine may be purchased for $25,000 to $75,000 depending upon the amount of rebuilding that has been performed. However, increased demand for these units due to the creation of short line operations could substantially increase prices of both new and used units. Railroads which operate equipment of this type usually incur $100 to $125 in total operating costs of a locomotive per day, including fuel. Without more specific information on the nature of the railroad, length of haul, number of cars, etc. it is virtually impossible to come up with an accurate estimate of locomotive costs.

The next equipment consideration is railroad cars. It is not essential for the line to own cars but there may be advantages in car fleet ownership. If the short line does maintain its own fleet of cars, its on-line shippers will have a more dependable supply of cars, enabling the line to meet service demands more quickly. Such service will help to insure user satisfaction and continued business. The types of cars composing the fleet would of course depend upon shipper needs. Generally, it will not be economical for the short line to supply highly specialized cars as their use may be limited.

Railroads frequently interchange cars freely in lieu of car rental payments which are commonly known as per diem charges. These charges are based on the age and original value of the car and are assessed either on a per day or time-mileage basis. Consequently, a short-line which can load and move its own cars efficiently, can often benefit from per diem charges, particularly when a short line has obtained a quantity of used cars at an attractive price. However, a disadvantage could be the costs resulting from necessary car maintenance.

There are a great number of special cars used for various maintenance functions. These cars are expensive to acquire and maintain and therefore beyond the scope of most short lines. Such equipment includes wreck cranes, Jordan spreaders, tie machines and "Hi-Rail" vehicles. This equipment may possibly be rented from connecting carriers.

A short line may own no equipment and, therefore, have no road crews of its own. It may, by contractual agreement, have its property switched or operated by the connecting carrier. The decision to operate in such a fashion will depend on the financial and traffic characteristics of the short line.

Maintenance is divided into two subcategories: maintenance of way and structures and maintenance of equipment. Maintenance of way involves the functions necessary to keep the track in adequate condition for service requirements and to meet Federal track standards. Functions include track alignment, tie replacement, rail and frog replacement, ditching, ballasting, ballast cleaning and tamping. Manpower requirements will depend upon the condition of the existing track and length of the line. Sophisticated automatic equipment is probably not necessary for a short line and need not be considered. It may be most practical to enter into a contractual agreement with a connecting carrier or local railroad construction firm to perform track maintenance. This might be the least costly approach where the required work is not sufficient to warrant equipment and track crews.

Structural maintenance includes work necessary to keep appurtenant structures and works including bridges, drainage culverts, embankments, tunnels and buildings, in good repair. As with track maintenance, circumstances may dictate that these functions be handled by contract to another carrier or private contractor.

Car and locomotive maintenance require specialize skills.

Locomotive Maintenance.—There are many mechanical devices in the typical diesel unit and these will require servicing at various times. The major components requiring attention include, wheels and trucks, traction motors, generators, engine block and auxiliary devices, air compressor, and cooling systems. The short line should have certain periodic maintenance performed as preventive measures. Maintenance activities may be performed by a major carrier, probably a connecting one at their shop facilities. The same carrier might also provide standby equipment in the event of equipment failures. It is probably best for most short lines to pursue off-line repairing services rather than to invest heavily in shop machinery.

Locomotives use diesel fuel which can be stored in a stand-tank at track side or delivered and pumped by a local fuel oil dealer. Diesel lubricating oil is also required for the operation. Sand may be an important requirement, especially where heavy loads and grades are involved. The sand is of a special grade and must be stored in a dry area.

Car Maintenance.—Most freight cars require some running repairs although they do not generally require the constant attention required of motive power. Major components to be considered include the car body structure itself, and its doors, grab irons, ladders, painting and stenciling. The elements requiring the most attention are usually located below the car body. These include the couplers, brake rigging and the trucks. The trucks consist of wheels, axles, truck frames and springs and the actual braking components. If the line is receiving special equipment such as mechanically refrigerated cars, the capability to check whether refrigeration equipment is functioning properly may be desirable. Therefore, if the short line wishes to maintain some repair capability a covered work area would be desirable in addition to a block and tackle and some basic welding equipment. If the short line owns its own cars, and one of these cars breaks down while on another road ("bad ordered") it will be returned to the home line for repair. Again, these maintenance duties could be performed by con-

tractual arrangement with the connecting carrier or private contractor.

The last category is administration. This may be divided into financial management, clerical, and marketing activities.

The financial activities include billing, collecting and paying accounts with customers and carriers. Interline settlements may include the collection and payment of rate divisions. Per diem charges are paid by the user railroad to the owner of the car. Another charge, demurrage, is a rental assessed against a shipper or receiver for detaining a car longer than 24 hours for loading or unloading purposes. Other charges such as switching charges, route divisions and interline settlements require clerical work and bookkeeping entries. Payroll functions contain one noteable difference—railroad employees are covered by the Railroad Retirement Act instead of the Social Security Act. Many of the bookkeeping and billing functions may be performed by the connecting carrier for a fee. Such arrangements are recommended when the short line is not in a position to perform these functions efficiently.

Whether marketing efforts are actively pursued depends upon the size of the line, management attitudes and development opportunities in areas adjacent to the line. When the line is jointly owned or operated for the benefit of a few shippers and there are no development prospects, marketing efforts are probably unwarranted. If there are potential shippers on the line or development sites are available for plant locations, consideration should be given to marketing activities. Contact should be maintained with shippers to provide information on the railroad's services and to receive valuable feedback. Contact should be initiated with additional on-line industries that can potentially generate rail traffic. Information with regard to short line operations is available by contacting the American Short Line Railroad Association, 2000 Massachusetts Avenue, NW., Washington, D.C. 20036.

F. Regulations

There are a variety of Federal, State and local regulations with which all parties interested in continuing rail service should be familiar. This section discusses regulatory constraints, especially as they might apply to short line railroad operations.

F.1. Federal Regulation

All railroads engaged in interstate commerce are subject to the Interstate Commerce Act 49 US Code 1 ("ICA"). A Certificate of Public Convenience and Necessity as required by Section 1(18) of the ICA must be obtained prior to the commencement of rail operation. The regulations which relate to Section 1(18) are found in the Code of Federal Regulations (CFR) Title 49 Sections 1120.1 to 1120.8, inclusive. These regulations give the details necessary to file an application with the ICC to construct, extend, acquire, or operate railroad lines. Section 20(a) of the ICA outlines the ICC's jurisdiction to regulate the issuance of transportation company securities. For further information one should contact the Finance Section, Interstate Commerce Commission, Washington, D.C. 20423, or the Office.

ICC regulations provide for maximum hours of services of train and engine personnel, quarterly and annual reports to the ICC, monthly locomotive inspections, car service orders and the realignment of debt and equity structure. There are two important exceptions to ICC regulations which are applicable to short line operations. First, if a short line employs fewer than 15 train and engine service employees, it may apply to extend hours of service (per day) of their workers from 12 to 14 or 16 hours. This exception should promote operating flexibility. Second, accounting and reporting requirements for short lines (with regard to operating statistics, traffic data, balance sheets, income and expense information) are not as extensive as required of Class I railroads.

Full service and switching carriers are subject to FRA track and safety standards. Track and operating equipment found to be sub-standard by FRA can be ordered out of service which could severely effect operations of the short line. Concommittantly, enforcement of FRA standards could result in severe start-up problems and costs on those lines not transferred to ConRail or other railroads pursuant to the Plan.

All railroads will be subject to Operating Safety and Health Act ("OSHA") work safety rules, and local or State emission standards. OSHA general industry rules can be found in Vol. 39, No. 125 of the Federal Register (June 27, 1974). There are no Environmental Protection Agency ("EPA") emission standards for railroad locomotives. In order to ascertain local or State standards, contact the appropriate Bureau of Air Quality, or the Air Pollution Control Association, 4400 Fifth Avenue, Pittsburgh, Pa., 15213. New carriers should investigate whether any local or State grandfather classes will be vested in the new owners. Additionally, during fuel shortages, the Federal Energy Administration allocates railroad fuel on the basis of the previous year's usage. Therefore, accurate records of fuel usage should be kept.

Any regulations applying to transportation in particular or business in general may apply to short lines. New operators should become familiar with Internal Revenue Service regulations, the Railway Labor Act and the Railroad Retirement Act.

F.2. State and Local Regulation

These regulations may relate to the operation of a transportation business, but more importantly there are laws which govern the establishment and operation of a business entity, such as a corporation or partnership. For example, if the short line company is to be a corporation then State corporate law must be followed. The business entity must be established prior to applying for ICC authority.

State public utility commissions have varying authority over rail lines, primarily in the area of safety. To what extent this function will be displaced by OSHA and the FRA, if any, is not yet determinable.

There are also local and county laws which may govern the establishment of businesses. Legal counsel should be retained to ensure that all laws and regulations are being accurately followed.

G. Business Structure

One of the first steps in establishing a short line or any other business structure, is the selection of the form of ownership. Forms of ownership are governed primarily by the laws of the state of incorporation. Forms of ownership include the corporation and its variations, cooperatives, partnerships, joint ventures, proprietorships and government ownership.

Probably the most logical and preferred form of ownership is the corporation, as it provides several very important benefits. Foremost among these benefits is the concept of limited liability. Owners of the line are insulated from personal liability in the event of suit. Regulatory treatment of proprietorships and partnerships is noticeably more cumbersome which may be considered to be an additional benefit of the corporate form. Furthermore, the corporation has an infinite whereas partnerships and proprietorships are limited to the lifetimes of the owners. Governments may be reluctant to grant easements or seek easements from railroads whose "lives" will expire with the owners. Another attractive feature of a corporation is its convenient methods for distributing ownership—capital stock—plus other financing instruments such as bonds and debentures.

A cooperative association can be an appealing form of ownership when there is a small group of very concerned users of rail service. For example, when perhaps a dozen shippers are sufficiently concerned with future rail service that they are willing to acquire the right of way, then some sort of nonprofit association could be formed to acquire the line and lease it to a short line operator. Cooperatives may also be attractive when it is anticipated that the short line operation will lose money. In such situations, a funding technique must be developed which provides needed cash to the short line while allowing the contributors to treat the contribution as a tax deductible expense. In contrast, the corporation may be a less desirable form of ownership for tax purposes since such contributions will be treated as investments.

It should be noted, however, that under the Internal Revenue Code, some short line corporate structures might be eligible for treatment as a Subchapter "S" corporation. Under Subchapter "S", eligible, closely-held corporations are taxed as partnerships. Thus, the losses of the short line railroad can be passed through to investors for tax purposes. Before any decision is reached as to the tax advantage of alternative structures,

tax questions should be researched carefully.

The potential operating viability of the short line will have a fundamental influence on its ownership structure and operating nature. The railroad probably will be operated as a full service common carrier when the motivation is to provide socially desirable rail service. If it is anticipated that the line will be profitable, operation as a full service common carrier is even more desirable in order to maximize total traffic.

Full service common carriers or switching carriers can be operated by a private enterprise or by a public institution. If ownership and operation of the line are to be separate, often a public or quasi-public authority will own the right of way and infrastructure while leasing these facilities to a private profit-oriented company which will operate the line. Some situations will require public ownership because private investors will apprehensively view the large initial investment necessary for purchasing rail properties.

When short line operations are established to meet a public need and deficits are unavoidable, then a public authority is logical. Thus, separate ownership and operation of the line is probably a moot issue because the public owner will also have to operate the line.

H. Acquisition

Control of the light density line requires several key decisions, including questions of public versus private ownership, purchase versus lease of properties and joint versus separate ownership and operation. These decisions, as they relate to acquisition of properties, will be influenced by the financing, corporate structure and the potential viability of the operating entity.

Acquisition of rail properties is best achieved through a negotiated sale agreement. An arm's length agreement between buyer and seller is preferable because it minimizes the substantial time and resources required to litigate a transfer of properties. In addition, a negotiated sale enables both parties to structure a transaction in a manner which reflects the preferences of each party.

In those cases where the selling railroad and the buyer are unable to reach an agreement, powers of eminent domain may be used. While a condemnation proceeding will typically insure property acquisition, the proceedings are often lengthy and expensive. Under the Act, the Association has the authority to order bankrupt railroads to transfer rail property to a solvent railroad or ConRail. Accordingly, if a community does not wish to acquire rail properties, but is willing to provide incentives which would make an acquisition attractive, it may be able to convince the Association to order a transfer of rail properties.

When determining whether to acquire rail properties, it should be understood that several sellers may be involved. Some of the properties may be owned outright by the railroad and others may be leased to the railroad. It is even conceivable that although a railroad may own a desirable piece of property, the railroad may not have any operating rights to it. For example, terminal and operating facilities, which were not needed as part of a Class I operation, may be necessary as part of a short line operation.

In some instances, a leasing arrangement will be superior to outright acquisition. One arrangement is a sale-leaseback plan whereby a Class I carrier sells the facilities to the community and agrees to lease and operate them. This arrangement serves to maintain rail service by the existing carrier. An important consideration in the sale-leaseback arrangement is for communities and users to make certain that the carrier (lessee-operator) intends to provide an acceptable quality of service. In this regard, a lease arrangement directly with a Class I railroad is preferable to a lease with a subsidiary of that railroad. Moreover, the time period covered by the lease should reflect a decision as to the future of rail service on the particular properties. In this regard, a long-term lease should not be negotiated when it's clear that shippers, in time, will no longer need or want rail service. Conversely, long-term leases are appropriate when there is a clear indication of substantial development on the line.

Another leasing arrangement is for a short line operator—or a government authority—to lease properties from the abandoning railroad. The rental fees can provide a fair rate of return and save the railroad salvage efforts. For the community, it obviates the need to raise the money to purchase the properties.

Properties can also be acquired by negotiating a direct settlement with mortgagees and other senior lienholders. Assumption of an existing mortgage is plausible with certain preconditions. First, the mortgage should be secured by properties sought by the acquirer. Second, the value of the property should be less than the values of the mortgage claim plus other more senior claims, otherwise the estate's trustee holds a valuable interest in the property, which the trustee would not want to relinquish without compensation.

Direct settlements are possible when the mortgage is willing to reduce his claim in exchange for a mortgage assumption by another party. When this is the case, title and secured claims can be transferred. The trustee is benefited because the estate is relieved of the claims which exceed the value of the property. The new mortgagor is benefited because this arrangement provides for acquisition of the desired properties with a minimum expenditure.

One of the most difficult problems of acquisition is the valuation of rail properties. Valuation is a prominent issue of conflict between the Association and the railroads in reorganization. The Association and the bankrupts differ over the principles and appraisals of the properties which will be conveyed to ConRail and other purchasers. One approach is to value property on the basis of its salvage or net liquidation value. The salvage value concept rests on the premise that a bankrupt railroad has no alternative use for the rail properties other than to liquidate them. To appraise the properties, the salvage market value of the land and other removable properties would be calculated; the expenses required to remove and dismantle these properties would be subtracted from this value.

A second theory of valuation is that property should be valued on the basis of its ability to generate income for rail purposes. Another way is to value property on the basis of its net book value as carried by the railroad.

Once the buyer and seller agree on a valuation principle that is acceptable to both parties, an agreement must also be reached on the application of the principle—the appraisal. The appraisal is fundamentally influenced by the methodology used to calculate the values. For example, the methodology will provide estimates of the time required to remove the materials from the property and the expenses needed to restore the facilities to an acceptable condition. Furthermore, the methodology includes a realistic period of time required to carry out the liquidation program. Accordingly, the buyer and seller must also agree on timing, scrap prices, land values, and dismantling costs.

Where right-of-way ownership is restricted by a reversionary right, the railroad has little bargaining power to demand compensation for the land comprising the right of way. If a reversionary right applies, then when a line is abandoned, the land reverts back to the previous owner. Thus, concerned public bodies should determine whether reversionary rights exist on any of the properties proposed for abandonment.

A problem which is becoming increasingly prevalent is how to transfer the property designated for conveyance in the Plan. Section 303(b)(2) of the Act requires that all property be conveyed free and clear of all liens and encumbrances. This mandate has far reaching ramifications since railroad property for the most part is heavily encumbered as a result of the elaborate financing schemes used by railroads in the past. In addition, almost all properties are encumbered with local tax liens. Thus, purchase of properties directly from the bankrupt estates requires that the transaction include a solution to the problem of liens.

The city, county and State legal departments should be contacted to determine the extent of encumberances existing against specific rail properties. Once these encumberances are identified it will probably be necessary to co-operate with government entities at the local, county and State levels to decide on a strategy for resolving the claims. As an example, a State may compile listings of rail lines within that State which are encumbered by reversionary clauses or tax liens and scheduled to be abandoned. The trustees of the railroads involved could then be approached to negotiate a solution with the option of the State becoming the owner of these lines. The

State could then either operate the lines or lease them to operating companies, thereby preserving rail service.

I. Sources of Funds: Developing a Financial Plan

The financing approach to continuing rail service should be coordinated with whatever operating approach is selected by the community and rail users. However, sufficient latitude exists to permit innovative financial solutions. Communities and rail users have many opportunities to minimize their financial involvement by utilizing various investment techniques. This section will discuss private financing, public financing and non-cash inducements for continued rail service.

I.1. Private Financing

Many programs of continued rail service will rely, at least in part, upon private sources of funds. Private financing may be available because of specific private interests or because of incentives in the private capital markets. A program which establishes a business enterprise will require financing of working capital, fixed infrastructure and an ownership interest. For example, a short line railroad may need to establish a line of credit with a commercial bank in order to secure working capital for its day-to-day operations. The right of way and fixed plant may be financed by bonds or mortgages. Equity capital can be sold to distribute ownership shares.

Local and State government entities may undertake programs to attract private funds with inducements such as:

Leases, tax shelters, guaranteed financing, indirect subsidies, associations of users.

A financing technique which almost certainly can improve the financial plan for most short line railroads is leasing. Locomotives, rolling stock and other equipment are properties which private investors will lease to a railroad. This type of asset is attractive for leasing because the lessor can readily repossess and resell the property if the lessee violates the lease. The lessee (operating railroad) benefits from leasing because it is not necessary to raise capital to purchase the asset. The lessor may be able to offer an attractive rental price depending on tax benefits which may be available.

Another type of incentive is where the Government guarantees the payment of interest, principal, and/or dividends on an obligation. Such guarantees greatly reduce investor risk, thereby providing substantial inducement to private investors to supply funds. Guarantees are particularly useful when a government entity does not wish to be directly involved in financing the continuation of rail service but is willing to bear some of the risks.

Similarly, inducements may be provided by interest rate subsidies. For example, the non-taxable bond is a form of interest rate subsidy. Allowing interest on a short line's debt to be exempt from income taxation may also aid in attracting funds.

Interest rate subsidies can take other forms. If a concerned group is willing to provide low cost capital for the continuation of rail service, then it may be possible to issue securities at interest rates below normal market levels to "friends of the railroad." An alternative method is that a group of concerned citizens and industries acquire the rail properties and then lease these properties back to the railroad at rentals which are less than the cost of debt service.

The tax shelter is a potential financing technique if the light density line operation establishes a business structure which can pass losses through to investors. Tax shelters often receive unfavorable publicity, but their purpose is to encourage investment in activities which are normally unable to compete in capital markets without special provisions to increase after-tax profits. Attractive depreciation rules can serve as tax shelters. Another technique is the depletion allowance, which would allow railroads to expense depreciation on the basis of traffic or revenue and would serve as an offset to revenue to minimize income tax liability.

I.2 State and Local Financing

Eight forms of public financing for retaining rail service can be considered:

(1) General obligation bonds;
(2) Revenue bonds;
(3) General tax revenues;
(4) Development districts or zone;
(5) Special tax assessments or surcharges;
(6) Regional authorities;
(7) Development corporations;
(8) Grants.

General obligation bonds are debt instruments used to supply the debt capital requirements of many State, local and county governments. They are supported by the full faith and credit of the government institution. Revenue bonds are used to finance public works projects such as airports, bridges, and sewer systems. The fees derived from operating these projects are used to service the bonds. Revenue bonds are typically issued at interest rates somewhat higher than general obligation bonds, because they are often not restricted by many of the statutory requirements covering general obligation bonds. Moreover, since revenue bonds are secured by a revenue producing operation, it is easier for governing bodies to authorize their issuance.

Analogous to general obligation bonds, general tax revenues are a source of financing of rail projects unless there are prohibitions against using tax monies for such purposes. Financing by general obligation bonds and general tax revenues distribute the investment burden over the total tax base. However, financing through revenue bonds distributes the burden to users of the project.

In some situations the financial burdens of continuing rail service can be more directly placed on those benefiting from the continuation through the establishment of development districts or zones. An example of a development district is a downtown area of a city where merchants agree to pay a special tax to finance the debt service required for the construction of a downtown municipal parking garage. In order to finance the continuation of rail service, a local government could establish tax districts along the areas served by the rail line. The rationale is that the values of land adjacent to a railroad is enhanced because of the improved opportunities for development due to the availability of rail service. Zones could be designated wherein all land owners in the proximity of the right of way would be assessed a special tax or surcharge depending on their location.

The concept of a special tax zone is directly analogous to the idea that special tax assessments should be used to distribute the burden of the program to those who are the beneficiaries. Therefore, in addition to specific geographic districts, special taxes should be considered. For example, the government could institute a special tax upon industries which are the direct beneficiaries of continued rail services. Alternatively, sales taxes may be used if the project has identifiable benefits for the entire local or regional economy.

Sometimes the difficulty in raising public funds is the political impediment of gaining authorization for additional taxes or bond issues. When this barrier exists, it is useful to seek out alternative public institutions—such as a regional authority—which can extend its activities into the ownership and operation of railroads. For example, several years ago the Port Authority of New York and New Jersey stepped in and acquired the Hudson Tubes for the purpose of providing vital public passenger rail services when the common carrier could no longer serve the market. Similarly, regional authorities could acquire and operate lines of the bankrupts to provide services to existing shippers and to facilitate industrial development.

If no such institution exists or it is considered too elaborate to establish, then "development corporations" might be a convenient alternative. Some localities and regions have already established development corporations which function to acquire land and then to promote and finance commercial and industrial development. The success of development corporations is largely dependent on the assistance they can provide to industrial tenants in their efforts to raise capital. Many industrial development corporations purchase land and erect industrial parks financed with tax exempt bonds. The space is then leased to a business at rentals which reflect the low service costs on the tax exempt bonds. A development corporation is ideally suited for the financing of continued rail service because it can raise capital at relatively low interest rates and can issue bonds without the impediments of municipal financing.

I.3. Federal Financing

In addition to private funding at the State and local levels, federal funds are available to help finance the continuation of rail service.

Title IV of the Act provides $180 million of Federal funds designed primarily to continue rail service on light density lines not recommended for service in the Final System Plan. These sums must be matched to a minimum of 30% by other parties.

The Act envisions that operating subsidies will not be the only method utilized to continue the operation of rail lines which are not included in ConRail. Sections 402 and 403 of the Act provide that Federal dollars be made available on a matching basis to local, regional and State transportation authorities for acquisition and modernization of rail lines.

Section 402 provides that the $90 million discretionary fund, over which the Secretary of Transportation has control, may be used for Section 403 purposes, i.e., these funds can be allocated for acquisition and modernization of rail lines. Any grants made under the discretionary funding portion of Section 402(b)(2) for modernization and acquisition must be pursuant to the State Rail Plan required under Section 402(c). The local, regional, or State authority must match the federal funds with at least 30 percent.

Section 403 provides for acquisition and modernization loans to local, regional and State transportation authorities of states eligible for subsidy funds under 402(c). The funds for Section 403 are provided for in Section 211 of the Act. The amount of money which will be available for this program has not yet been determined. The Federal share must be matched by the recipient of Federal funds on at least a 70–30 basis. (Any project for which a Section 403 loan is made can no longer receive a rail service continuation subsidy under Section 402).

It should also be noted that there are numerous sources of funds available under Federal grant programs that may be used for any of the alternatives to subsidization. Many agencies, such as the Department of Commerce, the Department of Housing and Urban Development, and the Department of Transportation, offer assistance in the form of project and research grants, direct loans, and guaranteed/insured loans to public and private organizations and private citizens. Both profit and non-profit institutions are eligible.

I.4. The Use of Tax Claims

Railroads pya txes to State and local governments. The taxes paid are mostly on real estate, but other types of taxes such as ad valorum taxes, State franchise taxes, unemployment tax, and school taxes, may also be paid by the railroads. Unpaid State and local taxes are one of the largest claims against the estates of the bankrupts. Past and future taxes can function as a source of funds for communities interested in continued rail service.

An intriguing concept for raising funds to be used for preserving rail service is to treat forgiveness of tax claims as a method of financing. In railroad reorganizations, tax claims are senior debts of the estate. Tax claims which accrued after the petition for bankruptcy are considered administrative expenses of the estate and are accorded the high priority which is given to such claims. However, tax claims which result from nonpayment before bankruptcy (pre-petition) are not given as high priority, but they are still relatively senior. Those tax claims which statutorily constitute liens on the property are known as secured tax claims. This class of claim is accorded the highest priority of all pre-bankruptcy claims (save one small class). However, some localities do not place liens upon property when the taxes are in default. For these claims, the priority is lowered to "unsecured" tax claims. Nevertheless, most localities have a substantial claim against bankrupt estates because of post-petition deferrals. It is these senior claims which can be used as an attractive source of capital.

Forgiveness of tax claims is, strictly speaking, an inappropriate term for describing the use of tax claims as a source of funds. Forgiveness implies the relinquishment of claim without a corresponding exchange of consideration from the debtor. In contrast, the theme of this discussion is that consideration will be received in exchange for relinquishment of a claim; thus, forgiveness is essentially part of a contractual agreement between the debtor and the claimant.

For what purposes can such tax forgiveness be used? These claims will probably be useful for acquisitions and/or inducements for other financing arrangements. An obvious use for tax claims is as the consideration in an acquisition of rail properties. For example, assume there are tax claims against a bankrupt carrier held by county and local governments. If the agreed purchase price of the line were $50,000 and the tax claims were $10,000, then this amount could be applied towards the purchase price. The governments would have to raise $40,000 additional dollars to acquire the rail line. An important issue which must be considered is possible sources for the needed $40,000. To carry the example further, assume the county has properties of the bankrupt carrier within its jurisdiction; undoubtedly, tax liens and claims exist against these properties as well. Therefore, can the claims against the non-acquired properties be used to offset the purchase of the desired rail line? Can the State allow some of its own claims against the estate to be allocated for the purpose of satisfying the purchase price of the rail line? These issues are not altogether clear in every case; however, as long as the State and local governments hold senior claims against the estates, the trustee(s) should be willing to listen to reasonable offers aiding the settlement of the estate. Thus, if the tax claim offset against the purchase price appears to be an attractive way to dispose of claims, then the trustee will likely be amendable to offers from the government agencies.

Forgiveness of tax claims may also emerge as a useful technique in financing inducements for continued rail services. A typical inducement will be the standardized rail service continuation subsidy under the Act. Since the subsidy provider is responsible for providing a rate of return on investments to the estate of the owner of the line under subsidy, then tax claims forgiveness might offset this expense in total or in part.

Somewhat more complex is an arrangement whereby the operating carrier which does not own the infrastructure contracts with the subsidizer to provide continued rail services. This sort of arrangement might be possible if a solvent carrier acquires portions of an estate which is conveying substantially all of its assets. In this case, the acquirer could satisfy its purchase obligation by assuming a State/local tax claim which in turn would be forgiven in exchange for an operating subsidy. A hypothetical application of this rather complex arrangement would be an agreement in which the Chessie operated an undesignated light density line of the Reading Company. The agreement for operations would be between Chessie System and the subsidizer. However, if the Chessie purchases portions of the Reading Company, part of its purchase price could be "forgiven" in exchange for operating contracts over the undesignated line. It would be contracturally agreed that the Chessie arrangement would be "consideration" conveyed to the Reading Company for some properties. This consideration would be directly applicable to satisfy Reading's claims to the governments involved in the subsidy contract. Thus, a three-way arrangement is formed from the subsidizer to the Chessie in which the subsidizer's liens against the Reading Company are used as partial payment to the Chessie.

In contrast, the Boston and Maine is a special case because it is a railroad which has substantial liens against it, and it intends to remain in business. These tax liens could be contracturally eliminated in a court-approved operating agreement in which the claim is forgiven in exchange for some sort of operating agreement. (An operating agreement between a subsidizer and the Boston and Maine is not restricted by the Act).

There are several issues which will have to be recognized and resolved before the forgiveness of tax claims becomes a functional alternative method of retaining rail service. Usage of tax liens for such purposes is unprecedented and has no statutory guides. Pitfalls exist within the estates of the bankrupts, as well as within the political structure and laws which constrict the subsidizer.

The subsidizer should be prepared to negotiate and compromise with the trustee of the bankrupt estates. However, these negotiations will not be easy because the trustees may not necessarily interpret themselves as having the authority to make the agreements envisioned by the subsidizer. In fact, some trustees do not have the staff needed to react to matters as complex as offset-

ting liens against subsidy costs. The most important factor to bear in mind is that most railroad reorganization plans are the result of compromised negotiated agreements among classes of claimants in which full compensation is not received, but the settlement is superior to continued litigation. The State and local claimants, despite the seniority of their claims, are in the same predicament. It will take many years to distribute the proceeds of the reorganization plan. Therefore, if a State and local government is interested in utilizing its claims in the near future, it must be prepared to offer an attractive deal to the trustees which the trustees can submit to the reorganization court for approval. If the proposal is clearly unfavorable, the trustee or some other class of creditor will undoubtedly successfully block the contract.

As can be seen, one of the extremely important issues is the different classes into which the state and local governments' claims can be allocated.

Tax claims are separated according to the following categories:

(1) Secured—unsecured;
(2) Interest;
(3) Pre-petition—post-petition;
(4) Federal tax claims.

A secured tax claim is that in which local statute provides the tax claimant with a lien on the property to which the taxes are in default. An unsecured tax claim is not secured by such a lien. The bankruptcy statutes treat the secured claim with a higher priority than unsecured claims. If the proceeds from the disposition of a particular property do not fully satisfy the claims of the tax lienholder (claimant), then the claimant may have an unsecured claim against the remainder of the estate. The courts treat interest on such claims in a wholly subjective manner. Very often they will not accept interest on post-petition tax accruals. However, some courts have given some weight to interest on pre-petition tax claims. At this stage, it is impossible to conjecture what a probable interest rate will be even if the courts decide to recognize interest claims.

Tax claims, like all other claims, are ranked according to the time of incurrance of the claim. Claims which accrue after the petition for bankruptcy are known as post-petition claims. These are related to the cost of administration of the estate in order to keep the estate operating until it is reorganized. These claims are afforded the highest priority. Vendor-type claims which occur just before the petition for bankruptcy receive the next highest priority. Then pre-petition claims are addressed. The most senior class among these is secured tax liens. Unsecured tax liens are subordinate to these and other secured liens. (An example of another lienholder is the mortgagee on properties.) Secured claims are probably of high enough priority to be useful levers in negotiations.

State and local claims are subordinate to Federal claims. However, unresolved at this time is whether unsecured Federal claims are senior to secured state and local claims. Another issue facing the State and local creditors are the residual claims that they hold beyond their lien. That is, can the State/local claimant holding a lien against a particular property bring an unsecured claim against the entire estate if the proceeds from the sale of the secured property are not sufficient to satisfy the lien?

Even though the State/local claims are rather senior claims, in many cases they will not be satisfied in cash at 100 cents on the dollar. In fact, some sort of paper is likely to be issued and the market value may be at somewhat of a discount to the recognized claim. Furthermore, it is very possible that disposition of a claim could take many years from the time of conveyance to ConRail. Thus, the proceeds to be distributed to the State and local governments are likely to have a present worth at a very substantial discount of their base claim. Once again, there is cogent reason for the state and locals to negotiate an agreement with the estate.

An interesting wrinkle which will emerge in some of these negotiations is the inset of reversionay rights. When many of the railroads were built in the region, the State provided the railroad franchise with the right to construct the railroad with the provision that if the railroad ceased to exist, then the land would revert back to the original owner or the State. Thus, if the railroad abandons a line, it does not actually hold the salvage right to the land, but merely the removeable structures. In such cases, it may be more advantageous for the State/local governments to permit the railroad to abandon the line; then, the government can take over the right of way when the reversionary rights become effective. In effect, a costless acquisition of the land has occurred. Of course, statutory constraints at the State and local level will have to be researched before properties can be taken over by this method.

J. Non-Cash Financial Incentives

Tax credits are a way to enhance the prospects of a project; they can be used as incentives to users or suppliers of rail service. A special investment tax credit could be applicable to investors in light density line projects. For example, rehabilitation expenditures could be accorded a specialized accounting treatment by State and local taxing authorities. In States with income taxes, rehabilitation expenditures could be treated in a manner similar to the Federal investment tax credit. Where income taxes do not exist, then special provisions for rehabilitation could be used to offset assessed real estate tax rates.

Communities may not need to provide direct economic impetus to attract investor support for a light density line project. Often the powers of the community government can be brought to bear to make the operations of the light density line more attractive. Typically the community controls zoning, development and public works. Each of these authorities could provide incentives with very real implications to the owners and operators of rail lines.

Class I railroads and potential investors in a short line enterprise will often consider the overall package much more attractive if it is accompanied by the prospect for development of railroad owned land adjacent to the line. Changes in zoning classifications on these lands could facilitate railroad-lead development. An agreement could be made wherein the railroad would agree to upgrade its rail facilities in exchange for certain land and/or zoning changes. Another incentive is to use the capability of the community's office of public works. The community could assume the responsibility for maintenance of some structures on the right of way in exchange for continued or improved rail service on the line.

In summary, local, county, regional, and State governments have potentially numerous ways of enhancing the prospect for continued rail service on a line without simply establishing massive subsidy and acquisition programs. However, the applicability of these techniques has to be considered with regard to each individual light density rail line.

[SEAL] Robert L. Oswald,
Secretary.

Appendix A—Relevant Factors in the Benefit-Cost Analysis

In determining whether a particular rail property is suitable for a service continuation subsidy, the potential subsidizer should focus on the economic, social, and environmental factors involved in the loss of rail service, and possible shift to alternative modes, assessing them in quantitative and/or qualitative terms.

The major economic factors which should be considered in assessing the impact of rail discontinuance are: (a) Employment. Layoff or transfer of railroad employees; curtailment, relocation or cessation of operations by rail users; reduction in work force by firms providing goods and services to the affected area; and additional jobs created in the affected area. (b) Income. Loss or gain of compensation, to all employees identified in (a) above, in the form of wages, salaries, dividends and fringe benefits; proprietors' income generated by small business firms providing retail and wholesale goods and services, including farms; rental income resulting from rental of property and equipment by individuals; and corporate profits produced by generally large manufacturers. (c) Financial Aid. Increase or decrease in employment benefits paid to laid-off employees; welfare benefits paid to affected employees and their dependents; relocation allowances made to employees wishing to relocate in their jobs; retraining expenses to retrain employees who lose their jobs; and government aids to private industry in the form of special grants, waivers, etc. to adversely affected business firms. (d) Taxes. Loss or gain of revenue accruing to local, State and Federal governments generated from personal income taxes; sales taxes; property taxes; and corporate taxes. (e) Modal Costs. Increased or decreased operating costs, including fuel consumption, incurred by businesses in the use of an alternative transportation mode, with due consideration of such elements as packaging, loading, transloading, switching and line-haul costs. (f) Consumer Costs. Increased or decreased costs of goods and services to

consumer brought about by changes in costs (i.e. transport costs) incurred by affected manufacturers, wholesalers and retailers. (g) Other. Loss of future benefits due to decreased potential for new industrial development and plant expansion where rail service is essential; unavailable or impractical alternative transportation modes because of local road and bridge conditions or because of the nature of the product being shipped, such as coal, fertilizer, grain or lumber; and lowering of commercial and residential property values dependent upon rail service, affecting the worth of those who own such properties.

The major social factors which should be considered are: (a) Demographic Changes affecting population; urban/rural composition; housing patterns; and life style peculiarities. (b) Economic. Effects on the diversity of economic base of the affected area; and the diversity of skills among the affected area's labor force. (c) Taxpayer Costs. Budgetary uncertainties and changes in funding priorities, irretrievable commitments of funds for projects and public services no longer needed; disruption of land use plans and zoning regulations, including possible re-use of rail rights-of-way for agricultural, commercial, industrial or residential purposes, transportation-related purposes or recreational, tourist, wildlife, hobby, or historic preservation purposes; and overall government economic, social, energy and environmental objectives, policies and programs.

The major environmental factors which should be considered are: (a) Air Pollution. Pollutants (i.e. carbon monoxide, hydrocarbons, and nitrogen oxides) produced by combustion in diesel locomotives; and pollutants produced by alternative transportation modes, especially trucks. (b) Land Pollution. Esthetic conditions, such as accumulation of litter and weeds along rail lines; traffic congestion on highways and streets resulting from a switch to an alternative transportation mode, such as trucking; and public safety hazards, such as brush fires produced by locomotive sparks, motor-vehicle accidents at railroad grade-crossings and motor-vehicle accidents on highways and streets if the alternative transportation mode is trucking. (c) Noise Pollution. Noise levels, for both the railroad and the alternative transportation mode (usually trucks), depending on such factors as locations of the rail line and major highways and streets in relation to locations of schools, hospitals and residential neighborhoods; types of equipment used by the railroad and the alternative mode; the number of railroad grade-crossings and State Laws concerning audible warnings; number and age of motor vehicles required to replace rail; types of motor vehicle engines to be used—diesel vs. gasoline; and overall level of background noise. (d) Water Pollution. Interference with normal water flow by railroad causeways; the threat to water quality by the application of pesticides to railroad rights-of-way for weed and brush control; and fuel spillage, especially at railroad fueling stations, shops and terminals.

INFORMATION SOURCES APPENDIX B

The following, which are referred to in the preceding text, are suggested as useful sources of information to those who are interested in the rail service continuance subsidy program provided for under the Regional Rail Reorganization Act of 1973. They are listed in chronological order according to their date of issuance. A limited number of copies of these sources are available from the Rail Services Planning Office, Government and Industry Liaison, 1900 L Street NW., 5th Floor, Washington, D.C. 20036, (202)/254-3294).

*Regional Rail Reorganization Act of 1973, Public Law 93-236, 87 Stat. 985 (January 2, 1974).

*Rail Service in the Midwest and Northeast Region, A Report by the Secretary of Transportation, Volumes I and II, 39 FR 5392 (February 1, 1974).

*Evaluation of the Secretary of Transportation's Rail Services Report. A Report of the Rail Services Planning Office, 39 FR 17147, (May 2, 1974).

*Rail Service Continuation Subsidies, Standards for Determination, Rail Services Planning Office, 39 HR 24294, (July 1, 1974), with Amendments, 40 FR 1624, (January 8, 1975), and with additional Amendments, 40 FR 14186, (March 28, 1975).

*United States Railway Association Annual Report June 30, 1974 with a Supplemental Report Through October, 1974. (November 13, 1974).

*Preliminary Views on Rail Restructuring, Comments of the Rail Services Planning Office (January 10, 1975).

*Guide for Evaluating the Community Impact of Rail Service Discontinuance, Office of Public Counsel, Rail Services Planning Office (January 10, 1975).

**Continuation of Local Rail Service, Procedures and Requirements Regarding Applications and Disbursement*, Federal Railroad Administration, U.S. Department of Transportation, 40 FR 4232 (January 28, 1975).

**Analysis of Community Impacts Resulting from the Loss of Rail Service*, CONSAD Research Corporation, Prepared for United States Railway Association, Volumes I, II, III and IV (February 14, 1975).

**Preliminary System Plan*, United States Railway Association, Volumes I and II, 40 FR 9323 (March 4, 1975).

**Evaluation of the U.S. Railway Association's Preliminary System Plan*, A Report of the Rail Services Planning Office, 40 FR 21802 (May 19, 1975).

**Community Self-Help Methods to Preserve or Reinstitute Rail Light-Density Line Service*, Ernest Weiss. Prepared for Rail Services Planning Office (June 6, 1975).

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FRIDAY, NOVEMBER 7, 1975



PART IV:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

MORTGAGE INSURANCE AND ASSISTANCE FOR HOMEOWNERS

Revised Section 235 Program for Lower Income Families

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing Production and Mortgage Credit

[24 CFR Part 235]

[Docket No. R-75-358]

MORTGAGE INSURANCE AND ASSISTANCE FOR HOMEOWNERS

Revised Section 235 Program for Lower Income Families

On October 17, 1975, the Secretary of Housing and Urban Development announced a revised homeownership program which would assist lower income families to acquire new or rehabilitated single-family homes. It is expected that this program will stimulate home construction and rehabilitation and assist the housing recovery.

The revised program is authorized under section 235 of the National Housing Act. This section was enacted in 1968. The initial homeownership assistance program carried out under section 235 was suspended in January 1973 and, with very limited exceptions, has not been used for new approvals since that time. Among other things, this prior program provided assistance payments which could reduce a family's monthly mortgage payments to as low as those which would be required on a mortgage bearing an interest rate of 1 percent. It also authorized mortgage insurance and assistance payments with respect to existing housing as well as new and rehabilitated housing and permitted minimum downpayments that could be as low as $200.

The revised program will apply with respect to mortgages approved for insurance after January 1, 1976, but properties otherwise eligible may qualify if construction or rehabilitation is started after October 17, 1975. As indicated above, the revised program will be limited to new and rehabilitated single-family homes and condominium units. It provides for assistance payments that will reduce monthly homeowner payments to as low as those that would be required on a mortgage bearing a 5 percent interest rate. It also includes a number of other modifications, such as increased downpayment requirements and limitations on the concentration of subsidized units, which are designed to avoid or minimize problems which developed under the prior program. Consistent with amendments contained in the Housing and Community Development Act of 1974, assistance under the new program will generally be limited to mortgagors whose adjusted annual incomes do not exceed 80 percent of area median incomes, although the Secretary is authorized to set higher or lower limits based on certain findings.

It is the purpose of this notice to provide interested members of the public with an opportunity to comment on the regulations the Department is proposing to use in implementing the revised program. Readers should note that these new regulations involve changes in only a limited number of sections in the existing section 235 regulations. However, for ease of comment, the Department is publishing Part 235 in its entirety (except for Subparts D, E and F relating to rehabilitation sales projects which will not be covered in the revised program) so that significantly revised sections can be seen in context and members of the public can more easily propose additional changes in existing regulations that they believe may be desirable. It should also be noted that, in addition to revisions designed to provide for the new program, there are several changes which affect provisions governing the prior program. These are largely technical or correcting in nature and are noted below.

Following is a brief summary of proposed significant changes in the section 235 regulations, as set forth in Part 235, accompanied in each case by a parenthetical reference to the relevant section or sections of the proposed and current Part 235.

1. Definition: Substantial rehabilitation. The proposed regulations define "substantial rehabilitation" to mean improvement of a unit in deteriorating or substandard condition to a decent, safe and sanitary level meeting FHA's standards and require that the cost of such rehabilitation be at least 25 percent of the value of the property after rehabilitation. Some features of this definition are taken from practice under the prior program but there is no comparable specific definition included in current regulations. (Proposed § 235.5(f).)

2. Eligible mortgagors: Income limit. The proposed regulations specify that the mortgagor shall have an adjusted annual income not in excess of 80 percent of median income for the area, with adjustments for smaller or larger families in a manner specified, except that the Secretary may establish higher or lower limits in certain cases. This change specifically reflects provisions of the Housing and Community Development Act of 1974, which amended provisions of prior law providing for section 235 income limits based on public housing limits and limits for below market rate section 221(d)(3) projects. Current regulations provide only that limits will not exceed those established by the FHA Commissioner. (Proposed and current § 235.10(a).)

3. Eligible mortgagors: Asset limit. For the new program, no requirement would be set forth in the regulations for limiting assets of eligible mortgagors. Regulations governing the prior program provide that mortgagors must have assets within limitations prescribed by the Secretary. (proposed and current § 235.10(a))

4. Eligible mortgagors: Adequacy of income. Under the new program, the regulations would not specify a particular ratio of housing expense to income, or recurring charges to income, which would be considered to establish that the mortgagor's income was adequate to meet his mortgage payments. Such ratios are included in current regulations governing the prior program. (proposed and current § 235.10(b))

5. Counseling. The proposed regulations contain a general provision, not in current regulations, which would require the Secretary to provide counseling. (proposed § 235.11) The Department is still developing specific features of a counseling program which may include use of buyer education material, counseling through local organizations and other measures to assist home purchasers to better understand and deal with the responsibilities of homeownership. The Department may incorporate additional counseling provisions in final regulations.

6. Seller's reimbursement agreement. The proposed regulations eliminate the requirement in current regulations that sellers of dwellings more than one-year old execute an agreement to reimburse FHA for certain expenses it may incur because of defects in the property. This modification does not relate to the revised program and is simply a technical change to conform existing regulations to administrative practice. (current § 235.12)

7. Eligible dwellings. Under the proposed regulations for the revised program, only new or substantially rehabilitated single-family dwellings, the construction or rehabilitation of which began after October 17, 1975, are eligible. The regulations governing the prior program provided assistance also for purchase of existing, cooperative and two-family units. (proposed § 235.15(b); current § 235.15)

8. Maximum mortgage term. The maximum mortgage term under the proposed regulations would be limited to 30 years. The current regulations governing the prior program provide that mortgages can extend for as long as 40 years in certain circumstances. (proposed and current § 235.22 (c) and (d))

9. Downpayments. For the revised program, the homeowner must make a downpayment in an amount (which may include prepaid expenses) equal to the greater of 6 percent of the Secretary's estimate of the cost of acquisition, or 3 percent of the first $25,000 and 10 percent of any excess above $25,000 of the cost of acquisition. For a $25,000 mortgage, the Secretary estimates that downpayments will approximate $1,500. Under the prior program the minimum investment could be as low as $200 (subsequently raised to 3 percent of acquisition costs pursuant to the Housing and Community Development Act of 1974). (proposed and current § 235.35)

10. Subdivision limitation. No more than 30 percent of the homes, or 40 homes, whichever is lesser, in any subdivision will be eligible for section 235 mortgage assistance. Current regulations contain no provision to restrict the concentration of subsidized units in a single area. (proposed § 235.37)

11. Commitments and reservations of contract authority. The proposed regulations describe procedures for obtaining commitments which are consistent with prior practice but not specifically provided for in prior regulations. They also contain specific provisions, not in current regulations, under which the Sec-

retary may issue reservations of contract authority. Reservations will extend for 6 months and may be extended for an additional 6 months. (proposed § 235.38)

12. Rehabilitation Projects. Under the proposed regulations, after October 17, 1975, no applications will be accepted for mortgage insurance under section 221 (h)(1) or 235(j) to assist financing of rehabilitation sales projects. There is no comparable restriction in current regulations. (proposed and current § 235.45(a))

13. Required assignments of mortgages. The proposed regulations would delete a provision in current regulations (§ 235.210) under which the Secretary may require mortgagees to assign mortgages on which assistance payments are being made. This is a technical modification not specifically related to the revised program.

14. Relation of sales price to mortgage limits. The proposed regulations provide that the purchase price shall not exceed either the Secretary's estimate of the value of the property or 120 percent of the maximum mortgage amount. Current regulations provide only that the sales price may not exceed the estimate of value but specify no percentage limitation between sales price and mortgage amount. (proposed and current § 235.320)

15. Level of assistance payments. Mortgage assistance payments may reduce the purchaser's mortgage payments to the equivalent of interest costs as low as 5 percent, but the homeowner must contribute at least 20 percent of his adjusted annual income for monthly mortgage, insurance and taxes. The regulations governing the prior program permit subsidies which reduce mortgage payments by the homeowner to as low as the equivalent of payments on a mortgage bearing interest at 1 percent. (proposed and current § 235.335(a))

16. Mortgagors required recertification of income. For the revised program, the proposed regulations would provide that recertification of a mortgagor's income shall be made on a calendar year basis and shall be accompanied by a copy of the mortgagor's Federal income tax return. Mortgagor recertification requests are also to be accompanied by tax returns. Current regulations provide for recertifications on anniversary dates of the mortgage and contain no requirements with respect to submission of income tax returns. (proposed and current §§ 235.350 and 235.355)

17. Termination of payments. Under the revised program, assistance payments would terminate in all cases when the homeowner sold the property. Regulations governing the prior program provide that payments may continue if a home is sold to a purchaser who meets the income requirements and is otherwise eligible for assistance under the program. (proposed and current § 235.375 (a)(2))

Section 235.335(c) of the proposed regulations relating to the handling charge payable to mortgagees does not specify the amount of that charge and remains the same as current regulations in this regard. However, the Department has reviewed the handling charge, which has been $3.50 per month, and is now considering reducing the charge to $3.00 per month per mortgage, effective January 1, 1976.

The Department is currently developing specific procedures for allocation of subsidy funds for the revised program through HUD regional and area offices. These procedures are not set forth in the proposed regulations but, when completed, will be applied so that specific allocations may be made to particular communities in accordance with section 213(d) of the Housing and Community Development Act of 1974. Builders, local governments and other interested persons will be able to determine the amount of these allocations by contacting their appropriate HUD area office.

Readers of this notice should also be aware that a variety of general HUD requirements not contained in Part 235 will nevertheless apply to that Part according to their terms. Those include, for example, the site selection criteria contained in 24 CFR Part 200, Subpart N.

Interested persons are invited to participate in the making of this rule for furnishing such written comments, data and suggestions as they may desire. All such materials should be filed with the Rules Docket Clerk, Office of the General Counsel, Room 10245, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. All comments receive on or before December 10, 1975, will be considered before adoption of a final rule in this matter. Copies of all comments will be available for public inspection at the above address during regular business hours both before and after the close of the comment period.

The Department has determined that these proposed regulations will not have an environmental impact, as defined in HUD Handbook 1390.1. The finding of inapplicability may be inspected at the above address.

Accordingly, it is proposed to amend Title 24, Part 235, by revising Subparts A, B and C to read as follows:

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Subpart A—Eligibility Requirements—Homes for Lower Income Families

Sec.
235.1 Incorporation by reference.
235.5 Definitions used in this subpart.
235.7 Application and commitment extension fees.
235.10 Eligible mortgagors.
235.11 Counseling.
235.15 Eligible types of dwellings.
235.20 Requirements for family unit in condominium.
235.22 Mortgage provisions.
235.25 Maximum mortgage amount.
235.30 Increased mortgage amount—high cost areas.
235.35 Mortgagor's investment.
235.37 Limitation on number of mortgages in subdivision.
235.38 Reservations of contract authority.
235.40 Late charge.
235.45 Eligibility requirements for purchaser from rehabilitation sales project.

Subpart B—Contract Rights and Obligations—Homes for Lower Income Families

Sec.
235.201 Incorporation by reference.
235.205 Deed in lieu of foreclosure.
235.215 Method of paying insurance benefits.
235.220 Condition of property.

Special Provisions Applicable Only to Mortgages Involving Condominium Units

235.221 Waived title objections.
235.225 Changes in plan of apartment ownership.
235.230 Condition of multifamily structure.
235.235 Certificate or statement of condition.
235.240 Assessment of taxes.
235.245 Certificate of tax assessment.
235.250 Cancellation of property insurance.

Subpart C—Assistance Payments—Homes for Lower Income Families

235.301 Definitions.
235.305 Contract for assistance payments.
235.310 Execution of assistance payment contract.
235.315 Qualified homeowners.
235.320 Limitation of sales price.
235.325 Qualified cooperative members.
235.330 Cooperative units eligible for assistance payments.
235.335 Assistance payment and handling charges.
235.340 Time of payment.
235.345 Term of assistance payment contract.
235.350 Mortgagor's required recertification.
235.355 Mortgagor's optional recertification.
235.360 Adjustment in assistance payments.
235.365 Mortgagee records.
235.370 Effect of assignment of mortgage with an assistance payment contract.
235.375 Termination, suspension or reinstatement of the assistance payment contract.
235.499 Effect of amendments.

Authority: The provisions of this Part 235 issued under sec. 211, 52 Stat. 23, as amended, sec. 235, 82 Stat. 477, as amended; 12 U.S.C. 1715b, 1715z.

Subpart A—Eligibility Requirements—Homes for Lower Income Families

§ 235.1 Incorporation by reference.

(a) All of the provisions of Subpart A, Part 203 of this chapter concerning eligibility requirements of mortgages covering one- to four-family dwellings under section 203 of the National Housing Act apply to mortgages insured under section 235(i) of the National Housing Act, except the following provisions:

Sec.
203.12 Application and commitment extension fees.
203.16 Certificate and contract regarding use of dwelling for transient or hotel purposes.
203.17 Mortgage provisions.
203.18 Maximum mortgage amounts.
203.19 Mortgagor's minimum investment.
203.25 Late charge.
203.28 Economic soundness of project.
203.29 Eligible mortgages in Alaska, Guam, or Hawaii.
203.33 Relationship of income to mortgage payments.
203.36 Certificate and contract regarding use of dwelling for transient or hotel purposes.
203.38 Location of dwelling.
203.42 Rental properties.
203.43 Eligibility of miscellaneous type mortgages.

Sec.
203.44 Eligibility of open-end advances.
203.50 through 203.102 Insured home improvement loans.

(b) For the purposes of this subpart, all references in Part 203 of this chapter to section 203 of the Act shall be construed to refer to section 235 of the Act.

§ 235.5 Definitions used in this subpart.

As used in this subpart, the following terms shall have the meaning indicated:

(a) "Adjusted annual income" means the annual family income remaining after making certain exclusions from gross annual income. The following items shall be excluded, in the order listed, from family gross annual income:

(1) 5 percent of such gross annual income, in lieu of amounts to be withheld (social security, retirement, health insurance, etc.).

(2) Any unusual income or temporary income, as defined by the Secretary.

(3) The earnings of each minor in the family who is living with such family, plus the sum of $300 for each such minor.

(b) "Displaced family" means a family displaced from an urban renewal area, or as a result of a governmental action, or as a result of a major disaster as determined by the President.

(c) "Family" means (1) two or more persons related by blood, marriage, or operation of law, who occupy the same dwelling or unit; (2) a handicapped person who has a physical impairment which is expected to be of long-continued and indefinite duration, substantially impedes his ability to live independently, and is of such a nature that his ability to live independently could be improved by more suitable housing conditions; or (3) a single person, 62 years of age or older.

(d) "Gross annual income" means the total income, before taxes and other deductions, received by all members of the mortgagor's household. There shall be included in this total income all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, interest and dividend payments, and such other income items as the Secretary considers appropriate.

(e) "Minor" means a person under the age of 21. As used in this subpart, minor shall not include a mortgagor or his spouse.

(f) "Substantial rehabilitation" means the improvement of a unit in deteriorating or substandard condition to a decent, safe and sanitary level, meeting FHA's standards for mortgage insurance. A unit is in deteriorating or substandard condition when it does not provide safe and adequate shelter and endangers the health, safety or well-being of the occupants, although it may be structurally sound; or when it has one or more critical defects or combination of potential defects in sufficient number or extent to require considerable repair or rebuilding. In order for rehabilitation to be considered substantial, the cost of that rehabilitation shall not be less than 25 percent of the value of the property after completion of rehabilitation.

§ 235.7 Application and commitment extension fees.

All of the provisions of § 203.12 of this chapter, concerning application and commitment extension fees, apply to mortgages insured under this part, except that the mortgagee shall not be required to pay an application or a commitment extension fee where the dwelling or family unit involved is being released from a project mortgage which is insured at the time of the release under one of the parts of this chapter.

§ 235.10 Eligible mortgagors.

(a) To be eligible under this subpart, the mortgagor shall have an adjusted annual income which shall not exceed at the time of initial occupancy 80 percent of the median income for the area, with adjustments for smaller and larger families, as determined by the Secretary, except that the Secretary may establish income ceilings which are higher based upon his determination that such higher ceilings are necessary because of prevailing levels of construction costs, unusually high or low median family incomes or such other factors as the Secretary may deem to be necessary to carry out the purposes of this part. The percentage of median income for smaller and larger families shall be as follows:

Persons per family:	*Percent of median family income*
1 person	50
2 persons	64
3 persons	72
4 persons	80
5 persons	85
6 persons	90
7 persons	95
8 or more persons	100

(b) In addition to the income limitations set forth in paragraph (a) of this section, a mortgagor must establish that his income is and will be adequate to meet his portion of the periodic payments required in the mortgage submitted for insurance. Only that part of the mortgagor's income which can be expected to continue for approximately the first 5 years of the mortgage term will be considered effective income for the purpose of determining the adequacy of the mortgagor's income.

§ 235.11 Counseling.

The Secretary shall provide counseling under such terms as the Secretary shall determine.

§ 235.15 Eligible types of dwellings.

(a) With respect to mortgages approved for insurance prior to January 1, 1976, the mortgage shall involve one of the following types of dwellings:

(1) A single family dwelling, concerning which the application for insurance is approved by the Secretary prior to the beginning of construction or prior to the beginning of rehabilitation.

(2) A two-family dwelling, one of the units of which is to be occupied by the owner, which is approved by the Secretary prior to the beginning of substantial rehabilitation.

(3) A one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multifamily project, the construction or substantial rehabilitation of which shall have been completed not more than 2 years prior to the filing of the application for assistance payments under Subpart C of this Part. The family unit shall have had no previous occupant other than the mortgagor.

(4) An existing single family dwelling or a family unit in an existing condominium project which meets such standards as the Secretary may prescribe and which is to be occupied by a mortgagor of one of the following types:

(i) A displaced family.

(ii) A family that has been occupying low rent public housing.

(iii) A family with five or more minor persons.

(5) A family unit in an existing project which is released from a multifamily project covered by a mortgage insured pursuant to § 236.1 et seq. or which is released from a multifamily project in which the housing owner has been receiving rent supplement payments pursuant to § 5.1 et seq. of this title.

(6) An existing single family dwelling or a family unit in an existing condominium project concerning which assistance payments have been made on behalf of the previous owner of the dwelling or family unit, if the previous owner was the mortgagor under a mortgage insured pursuant to § 235.45.

(7) An existing single family dwelling or a family unit in an existing condominium project which meets such standards as the Secretary prescribes and concerning which an application for assistance payments is filed pursuant to § 235.-301 et seq. and approved prior to July 1, 1971.

(b) With respect to mortgages approved for insurance under this Part on and after January 1, 1976, the mortgage shall involve only the types of dwellings identified in paragraphs (a)(1) or (a)(3) of this section, the construction or rehabilitation of which shall have begun after October 17, 1975.

§ 235.20 Requirements for family unit in condominium.

Where the dwelling involved is a one-family unit in a condominium project, the following additional requirements shall be met:

(a) Family unit eligibility. The family unit must be located in a project which has been financed with a mortgage which is or has been insured under any of the FHA-multifamily housing programs other than sections 213(a) (1) and (2) of the National Housing Act: Provided That, this FHA mortgage financing rule does not apply to projects involving 11 or less units nor to existing public housing units concerning which there has been established a condominium which meets such standards as the Secretary may prescribe and for which the mortgagor qualifies as a family occupying low-rent public housing.

(b) Plan of apartment ownership. The project in which the family unit is located shall have been committed to a plan of apartment ownership by enabling deed, deed of constitution, public deed, or other recorded instrument which has been approved by the Secretary and which is certified by the mortgagee as acceptable and binding within the jurisdiction where the project is located.

(c) Certificate by mortgagee. The mortgagee shall certify as to each of the following:

(1) That the individual deed for the family unit to be covered by an FHA-insured mortgage complies with all legal requirements of the jurisdiction and that ownership thereunder is subject to the plan of apartment ownership.

(2) That the mortgagor has good and marketable title to the family unit subject only to the mortgage which is a valid first lien on the property.

(3) That the family unit is assessed and subject to assessment for taxes pertaining to the unit.

(d) FHA controls for consumer and public interest. The Secretary may require the execution of a regulatory agreement which shall be made applicable to any association of owners and to any subsequent owner of a family unit. The Secretary may impose such additional conditions and provisions as he deems necessary for the protection of the consumer and public interest.

(e) Mortgage covenant concerning common expenses and assessments. The mortgage shall contain a covenant by the mortgagor to pay the allocated share of the common expenses or assessments and charges by the Association of Owners as provided in the Plan of Apartment Ownership and a provision approved by the Secretary by which the regulatory agreement is incorporated in and made a part of the mortgage.

(f) Definition of term "assessment". As used in the mortgage, the term "assessment", except where it refers to assessments and charges by the Association of Owners, shall mean special assessments by State or local governmental agencies, districts or other public taxing or assessing bodies.

§ 235.22 Mortgage provisions.

(a) *Mortgage form.* The mortgage shall be excuted upon a form approved by the Secretary for use in the jurisdiction in which the property covered by the mortgage is situated and shall be a first lien upon property that conforms with property standards prescribed by the Secretary. The entire principal amount of the mortgage must have been disbursed to the mortgagor or to his creditors for his account and with his consent.

(b) *Mortgage multiples.* The mortgage shall involve a principal obligation in multiples of $50.

(c) *Payments.* The mortgage shall:

(1) Come due on the first of the month.

(2) Have an amoritization period of either 10, 15, 20, 25, or 30 years, by providing for either 120, 180, 240, 300 or 360 monthly amortization payments.

(d) *Maturity.* (1) The mortgage shall provide for complete amortization not to exceed 30 years from the date of the beginning of amortization of the mortgage.

(2) No mortgage shall have a maturity exceeding three-quarters of the Secretary's estimate of the remaining economic life of the building improvements. If this limitation results in a term of less than 15, 20, 25, or 30 years the term shall be adjusted to the next lower multiple of 5 years.

§ 235.25 Maximum mortgage amount.

A mortgage shall not exceed the following:

(a) $21,600 for a single-family dwelling or a one-family unit in a condominium project, except that such amount may be increased to $25,200 in the case of a family with five or more persons.

(b) $28,000 for a two-family dwelling, except that no commitments to insure a mortgage on a two-family dwelling shall be issued under this part after January 1, 1976.

§ 235.30 Increased maximum mortgage amount—high cost areas.

In any geographical area where the Secretary finds cost levels so require, the Secretary may increase the dollar amount limitations set forth in § 235.25 to an amount not to exceed the following:

(a) $25,200 for a single-family dwelling or a one-family unit in a condominium project, except that such an amount may be increased to $28,800 in the case of a family with five or more persons.

(b) $36,000 for a two-family dwelling, except that no commitments to insure a mortgage on a two-family dwelling shall be issued under this part after January 1, 1976.

§ 235.35 Mortgagor's investment.

(a) With respect to the mortgages approved for insurance under this Part prior to January 1, 1976, the mortgagor shall have paid, at the time the mortgage is insured, on account of the property, in cash or its equivalent, at least an amount equal to 3 percent of the Secretary's estimate of the cost of acquisition.

(b) With respect to mortgages approved for insurance under this Part on and after January 1, 1976, the mortgagor shall have paid, at the time the mortgage is insured, on account of the property, in cash or its equivalent, the higher of (1) an amount equal to 3 percent of the first $25,000 of the Secretary's estimate of the cost of acquisition and 10 percent of such estimate in excess of $25,000, or (2) an amount equal to 6 percent of the Secretary's estimate of the cost of acquisition which amount may include the cost of such prepaid expenses as taxes, hazard and mortgage insurance premiums and such other expenses paid at closing as may be approved by the Secretary.

§ 235.37 Limitation on number of mortgages in subdivision.

(a) No more than thirty percent of the homes, or 40 homes, whichever is lesser, in any subdivision shall be eligible for mortgage insurance under this part, except that when subsidy payments pursuant to Subpart C have been terminated pursuant to § 235.375 such insurance contracts shall not be considered in determining whether the thirty percent limit has been reached.

(b) For purposes of this section, "subdivision" means a group of 10 or more homes offered for sale under a common promotional scheme, or a group of 10 or more lots to be used for the construction of houses under a common promotional scheme, or a combination of 10 or more such lots and homes being sold and used under a common promotional scheme. Where homes or lots located in different tracts of land are being offered for sale or used for building by a single builder or group of builders acting in concert, and where the tracts are contiguous or are known, designated or advertised as a common unit, or by a common name, they shall be presumed to be subject to a common promotional scheme without regard to the number of homes or lots within each tract. Homes already sold shall be considered as part of a subdivision for purposes of this section if they were sold under a common promotional scheme with homes not yet built or sold.

(c) For purposes of this section a "subdivision" shall include a condominium regime of 10 or more units.

§ 235.38 Reservations of contract authority.

(a) The Secretary will not issue conditional commitments to insure mortgages and to make interest reduction payments pursuant to this Part. However, conditional commitments to insure mortgages issued under Part 203, Part 221, Subpart A, and Part 234, Subpart A of this chapter will be considered to be conditional commitments to insure under this Part upon request by the mortgagee accompanied by submission of an application for firm commitment to insure under this Part for an eligible mortgagor subject to the availability of contract authority for interest reduction payments under Subpart C of this Part and subject to any limitations on eligibility set forth in this Subpart.

(b) Advance reservations of contract authority may be issued by the Secretary to a builder specifically identified for use in connection with commitments or a group of commitments for insurance of mortgages in a particular subdivision, subject to the limitation in § 235.37, or for a specific home not in a subdivision as defined therein.

(c) Reservations of contract authority shall be considered void (1) upon the expiration without mortgage insurance of the commitments for mortgage insurance in connection with which they were issued, or (2) 6 months after issuance unless extended for an additional period not to exceed 6 months.

§ 235.40 Late charge.

A late charge may be collected by the mortgagee for each payment more than 15 days in arrears, but such charge shall not exceed 2 cents for each dollar for the

mortgagor's share of the monthly payment. Such charge shall be separately billed to and collected from the mortgagor and shall not be deducted from any aggregate monthly payment. Such charge shall not be included in the assistance payment.

§ 235.45 Eligibility requirements for purchaser from rehabilitation sales project.

(a) Except as provided in this section, all of the provisions of this subpart shall apply to the insurance under section 235 (j)(4) of the National Housing Act of a mortgage financing the purchase by a lower income person from a rehabilitation sales project of a single or two-family dwelling or a family unit in a condominium project. The rehabilitation sales project shall be financed with a mortgage insured under either section 221(h)(1) of the National Housing Act or section 235(j)(2) of such Act, but no applications for project mortgage insurance under such sections will be accepted after October 17, 1975.

(b) The mortgagee shall not be required to pay an application or commitment extension fee.

(c) The mortgage shall comply with each of the following requirements:

(1) It shall involve a principal obligation in an amount not exceeding that portion of the unpaid balance of the project mortgage which is allocable to the dwelling or family unit being purchased.

(2) It shall bear interest at the maximum rate permitted under § 203.20 at the time the commitment for insurance was issued for the project mortgage.

(3) It shall be limited to the term of the project mortgage remaining at the time of the purchase.

(d) The purchase price of the dwelling or family unit shall equal that portion of the unpaid balance of the project mortgage which is allocable to the dwelling or family unit plus such additional amount, not less than $200, as the Secretary may determine to be reasonable. This additional amount may be paid in cash or its equivalent, and may be applied in whole or in part toward closing costs. It shall be paid by the mortgagor in lieu of the minimum investment prescribed in § 235.35.

(e) The mortgagor shall be required to have an adjusted annual income within the limits prescribed by the Secretary.

Subpart B—Contract Rights and Obligations—Homes for Lower Income Families

§ 235.201 Incorporation by reference.

(a) All of the provisions of Subpart B, Part 203 of this chapter covering mortgages insured under Section 203 of the National Housing Act apply to mortgages insured under Section 235 of the National Housing Act, except the following provisions:

Sec.
203.305 Open-end advance subject to open-end charge.
203.306 Method of payment of open-end charge.
203.307 Calculation, amount, and due date of open-end charge.
203.308 Duration of open-end charge.
203.309 Pro rata payment of open-end charge.
203.357 Deed in lieu of foreclosure.
203.379 Adjustment for fire, flood, earthquake, or tornado damage.
203.380 Certificate of property condition.
203.389 Waived title objections.
203.400 Method of payment.
203.420 Nature of Mutual Mortgage Insurance Fund.
203.421 Allocation of Mutual Mortgage Insurance Fund income or loss.
203.422 Rights and liability under Mutual Mortgage Insurance Fund.
203.423 Distribution of distributive shares.
203.424 Maximum amount of distributive shares.
203.425 Finality of determination.
203.426 Inapplicability to housing in older, declining urban areas.
203.440 through 203.495 Insured home improvement loans.

(b) The term "property" or "each family dwelling unit" as used in §§ 203.251 through 203.435 of this chapter (Part 203, Subpart B) shall, when used in connection with a family unit in a condominium, be construed to include a "one-family unit and the undivided interest in the common areas and facilities."

§ 235.205 Deed in lieu of foreclosure.

All of the provisions of § 203.357 of this chapter relating to the acceptance of a deed in lieu of foreclosure shall apply to mortgages insured under this part, except that where a family unit in a condominium is involved, the deed in lieu of foreclosure may be accepted only if the mortgagee establishes to the satisfaction of the Secretary that there are no unpaid assessments owed to the association or cooperative of owners.

§ 235.215 Method of paying insurance benefits.

If the application for insurance benefits is acceptable to the Secretary, the insurance claim shall be paid in cash, unless the mortgagee files a written request with the application for payment in debentures. If such a request is made, the claim shall be paid in debentures issued in multiples of $50, with any balance less than $50 to be paid in cash.

§ 235.220 Condition of property.

All of the provisions of § 203.379 relating to the adjustment of the insurance claim for fire, flood, earthquake or tornado damage and all of the provisions of § 203.380 requiring the mortgagee to certify as to the condition of the property shall apply to mortgages insured under this subpart with the exception of mortgages involving condominium units. §§ 235.230 and 235.235 contain the comparable provisions applicable to mortgages involving condominium units.

Special Provisions Applicable Only to Mortgages Involving Condominium Units

§ 235.221 Waived title objections.

(a) General provisions. All of the provisions of § 203.389 of this chapter (relating to the waiver by the Secretary of objections to title) shall apply to mortgages insured under this subpart, with the exception of mortgages involving condominium units.

(b) Provisions applicable to condominiums. Where the mortgage involves a condominium unit, the Secretary shall not object to title by reason of the following matters:

(1) Violations of a restriction based on race, color or creed, even where such restriction provides for a penalty of reversion or forfeiture of title or a lien for liquidated damage.

(2) Easements for public utilities along one or more of the property lines, provided the exercise of the rights thereunder do not interfere with any of the buildings or improvements located on the subject property.

(3) Encroachments on the subject property by improvements on adjoining property, provided such encroachments do not interfere with the use of any improvements on the subject property.

(4) Variations between the length of the subject property lines as shown on the application for insurance and as shown by the record or possession lines, provided such variations do not interfere with the use of any of the improvements on the subject property.

(5) Customary buildings or use restrictions for breach of which there is no reversion and which have not been violated to a material extent.

§ 235.225 Changes in plan of apartment ownership.

The mortgagee shall notify the Secretary of any change in the plan of apartment ownership and in the administration of the property. Such notification shall be given either at the time of the conveyance of the property or at the time of the assignment of the mortgage. Any change in such plan shall require approval by the Secretary.

§ 235.230 Condition of multifamily structure.

(a) When a family unit is conveyed or a mortgage is assigned to the Secretary, the family unit and the common areas and facilities (including restricted common areas and facilities) designated for the particular unit shall be undamaged by fire, earthquake, tornado, or boiler explosion. If the property has been damaged, either of the following actions shall be taken:

(1) The property may be repaired prior to its conveyance or prior to the assignment of the mortgage to the Secretary.

(2) With the prior approval of the Secretary, the property may be conveyed or the mortgage assigned to the Secretary without repairing the damage. In such instances, the Secretary shall deduct from the insurance benefits either his estimate of the decrease in value of the family unit or the amount of any insurance recovery received by the mortgagee, whichever amount is the greater.

(b) If the property has been damaged by fire and such property was not covered by fire insurance at the time of the damage, the mortgagee may convey the property or assign the mortgage to the Secretary without deduction from the insurance benefits for any loss occasioned by such fire if the following conditions were met:

(1) The property shall have been covered by fire insurance at the time the mortgage was insured.

(2) The fire insurance company shall have later canceled or refused to renew the policy.

(3) The mortgagee shall have notified the Secretary within 30 days (or within such further time as the Secretary may approve) of the cancellation of the fire insurance or of the refusal of the insuring company to renew the fire insurance. This notification shall have been accompanied by a certification of the mortgagee that diligent efforts were made, but it was unable to obtain fire insurance coverage at reasonably competitive rates and that it will continue its efforts to obtain adequate fire insurance coverage at competitive rates.

§ 235.235 Certificate or statement of condition.

(a) At the time of conveyance of the property or assignment of the mortgage to the Secretary, the mortgagee shall, as of the date of the filing for record of the deed or assignment, either:

(1) Certify that the conditions of § 235.230(a) have been met; or

(2) Submit a statement describing any such damage that may still exist.

(b) In the absence of evidence to the contrary, the mortgagee's certificate or its statement as to damage shall be accepted by the Secretary as establishing the condition of the family unit and the common areas and facilities including restricted common areas and facilities designated for the particular unit.

§ 235.240 Assessment of taxes.

When a family unit is conveyed to the Secretary or a mortgage is assigned to the Secretary, the unit shall be assessed and subject to assessment for taxes pertaining only to that unit.

§ 235.245 Certificate of tax assessment.

The mortgagee shall certify, as of the date of filing for record of the deed or assignment of the mortgage to the Secretary, that the family unit is assessed and subject to assessment for taxes pertaining to that unit.

§ 235.250 Cancellation of property insurance.

The provisions of § 203.382, relating to the cancellation of hazard insurance upon filing for record of the deed to the Secretary, are incorporated by reference and shall apply to hazard insurance policies carried solely for the family unit.

Subpart C—Assistance Payments—Homes for Lower Income Families

§ 235.301 Definitions.

The definitions contained in § 235.5 shall apply to this subpart. In addition the term "assistance payment" means that portion of a homeowner's or cooperative member's monthly mortgage payment which the Secretary becomes obligated to pay under an assistance payment contract.

§ 235.305 Contract for assistance payments.

This subpart shall constitute the contract between the mortgagee and the Secretary for assistance payments pursuant to section 235(b) of the National Housing Act.

§ 235.310 Execution of assistance payment contract.

(a) Homeowners. The issuance of a mortgage insurance certificate pursuant to § 235.1 et seq. shall also constitute the execution of the assistance payment contract with respect to the mortgage being insured.

(b) Cooperative members. The issuance of a certificate approving an application filed on behalf of a cooperative member shall constitute the execution of the assistance payment contract with respect to member named in the certificate.

§ 235.315 Qualified homeowners.

To qualify for assistance payments, the homeowner's adjusted annual income, at the time of application for assistance, shall be within the limitations provided in § 235.10, and the homeowner shall be a mortgagor under a mortgage insured or to be issued pursuant to Subparts A and B of this part.

§ 235.320 Limitation of sales price.

To qualify for assistance payments, the homeowner shall not have paid in connection with the purchase of the property with respect to which assistance payments are to be made more than the Secretary's estimate of value of such property, nor shall the purchase price exceed 120 percent of the mortgage amount established pursuant to § 235.25 or § 235.30 of this Part, whichever is applicable.

§ 235.325 Qualified cooperative members.

To qualify for assistance payments, the cooperative member's adjusted annual income, at the time of application for assistance, shall be within the limitations provided in § 235.10 and the cooperative member shall be one of the following:

(a) A member of a cooperative association which operates a housing project which has been constructed or substantially rehabilitated not more than two years prior to the filing of the application for assistance payments and which is financed with a mortgage insured under §§ 213.1 through 213.280 of this chapter. The dwelling unit occupied by the cooperative member shall have had no previous occupant.

(b) A member of a cooperative association which operates an existing housing project financed with a mortgage insured under §§ 213.1 through 213.280 of this chapter, if such member has acquired membership and occupancy rights from one who was receiving assistance payment.

(c) A member of a cooperative association which oprcates an existing housing project financed with a mortgage insured under §§ 213.1 through 213.280 of this chapter, if such member meets one of the following qualifications:

(1) The member shall qualify as a displaced family.

(2) The member's family shall include five or more minor persons.

(3) The member's family shall have been occupying low-rent public housing at the time the application for assistance payments is filed.

(d) A member of a cooperative association which operates a housing project which is financed under a State or local program providing assistance through loans, loan insurance or tax abatements, and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section.

§ 235.330 Cooperative units eligible for assistance payments.

The maximum amount of the mortgage attributed to the dwelling unit of the cooperative member shall not exceed $21,600 except that such amount may be increased to $25,200 in the case of a family of five or more persons. These amounts may be increased to $25,200 and $28,800 respectively, in any geographical area where the Secretary finds cost levels so require.

§ 235.335 Assistance payments and handling charges.

(a) The assistance payment on behalf of a mortgagor shall be the lesser of the following:

(1) The difference between 20 percent of the homeowner's or cooperative member's adjusted monthly income and the required monthly payment under the mortgage for principal, interest, taxes, insurance, and mortgage insurance premium.

(2) (i) With respect to mortgages approved for insurance under this Part by the Secretary before January 1, 1976, the difference between the required monthly payment under the mortgage for principal, interest, and mortgage insurance premium and the monthly payment which would be required for principal and interest if the mortgage bore an interest rate of 1 percent.

(ii) With respect to mortgages approved for insurance under this Part by the Secretary on or after January 1, 1976, the difference between the required monthly payment under the mortgage for principal, interest, and mortgage insurance premium and the monthly payment which would be required for principal and interest if the mortgage bore an interest rate of 5 percent.

(b) The assistance payment on behalf of a cooperative member shall be in an amount computed by using the formula prescribed in paragraph (a) of this section and applying the cooperative member's proportionate share of the obligation under the project mortgage to the items set forth in the formula.

(c) In addition to the assistance payment referred to in paragraphs (a) and (b) of this section, the mortgagee shall be entitled to the monthly payment of an amount the Secretary deems sufficient to reimburse the mortgagee for its expense in handling the mortgage.

§ 235.340 Time of payments.

The assistance payment shall be due on the first day of each month and shall

be paid upon the receipt of a billing, on a form prescribed by the Secretary, from the mortgagee or its authorized agent.

§ 235.345 Term of assistance contract.

(a) Homeowners. The term of the assistance payment contract shall begin on the date of disbursement of mortgage proceeds as shown on the commitment for insurance and shall continue until the contract is terminated pursuant to § 235.375.

(b) Cooperative members. The term of the assistance payment contract shall begin on the date of issuance of a certificate approving an application filed on behalf of a cooperative member and shall continue until the contract is terminated pursuant to § 235.375.

§ 235.350 Mortgagor's required recertification.

(a) With respect to mortgages insured under this Part prior to January 1, 1976, the mortgagee shall obtain from the homeowner (or from the cooperative association on behalf of the cooperative member), on a form prescribed by the Secretary a recertification as to occupancy, employment, family composition and income whenever one of the following events takes place:

(1) Annually, no earlier than 60 days before and no later than 30 days after the anniversary date of the mortgage or at such other anniversary date as set by the Secretary;

(2) No more than 30 days after the mortgagee is notified by the mortgagor or learns from any source, that the mortgagor or any adult (21 years or older) member of the family residing in the household changes or begins employment which results in an increase in the family income reported in the original application for assistance or the most recent recertification;

(3) At such other times as the Secretary may require.

(b) With respect to mortgages insured under this part after January 1, 1976, the mortgagee shall obtain from the homeowner, on a form prescribed by the Secretary, a recertification as to occupancy, employment, family composition and income for the prior calendar year, and a certified copy of the federal income tax returned for the year preceding recertification filed by each person who is required to file such a return and whose income is reported in the recertification, whenever one of the following events takes place:

(1) Annually, within 30 days after the filing of the federal income tax return or returns, but in no event later than May 15; provided, that the first annual recertification shall be submitted for the calendar year ending before the first anniversary date of the mortgage.

(2) No more than 30 days after the mortgagee is notified by the mortgagor or learns from any source, that the mortgagor or any adult (21 years or older) member of the family residing in the household changes or begins employment which results in an increase in the family income reported in the original application for assistance or the most recent recertification;

(3) At such other times as the Secretary may require. Income tax returns submitted pursuant to the provisions of this subsection and § 235.355 shall be used solely for the purpose of verifying recertifications.

§ 235.355 Mortgagor's optional recertification.

Upon request of the mortgagor or cooperative member the mortgagee shall accept recertification and a certified copy of the most recent federal income tax return filed by each person whose income is reported in the recertification whenever the mortgagor, his or her spouse or an adult (21 years or older) member of the family changes or loses employment which results in a decrease in the family income reported in the most recent certification or recertification. This recertification shall be on a form prescribed by the Secretary.

§ 235.360 Adjustment in assistance payments.

The mortgagee shall make appropriate adjustments in the amount of the requested assistance payments to reflect changes in family income reported in any required or optional recertification of the homeowner or cooperative member. The adjustment shall not be retroactive except at the discretion of the Secretary. The adjustment shall apply only to assistance payments beginning with the payment due no earlier than the first day of the month following and no later than the first day of the second month following the date the mortgagor's recertification is received by the mortgagee.

§ 235.365 Mortgagee records.

The mortgagee shall maintain such records as the Secretary may require with respect to the mortgagor's payments, the mortgage assistance payments received from the Secretary, and the annual recertifications of financial status from the homeowner or mortgagor. Such records shall be kept on file for a period of time and in a manner prescribed by the Secretary and shall be available, when requested, for review and inspection by the Secretary or the Comptroller General of the United States.

§ 235.370 Effect of assignment of mortgage with an assistance payment contract.

Where a mortgage covered by an assistance payment contract is sold to another approved mortgagee, the buyer shall succeed to all the rights and become bound by all the obligations of the seller under such contract.

§ 235.375 Termination, suspension, or reinstatement of the assistance payments contract.

(a) Termination. The assistance payments contract shall be terminated when any of the following events occurs:

(1) The contract of mortgage insurance is terminated, except when the mortgage has been assigned to the Secretary.

(2) The homeowner or cooperative member ceases to occupy the property, except in the following instances:

(i) Where the property is purchased by a homeowner who assumes the mortgage obligation under a mortgage insured prior to January 1, 1976, and who meets the income and asset requirements prescribed by the Secretary.

(ii) Where the cooperative member transfers his membership and occupancy rights to a new member who meets the income and asset requirements prescribed by the Secretary.

(3) When the assistance payments contract has been suspended for a period of 3 years without reinstatement.

(b) Suspension. The assistance payments contract shall be suspended when any one of the following events occurs:

(1) The mortgagee determines that the mortgagor or cooperative member ceases to qualify for the benefits of assistance payments by reason of his income increasing to an amount enabling him to pay the full monthly mortgage payment by using 20 percent of the family income.

(2) Foreclosure is instituted.

(3) The mortgagee is unable to obtain from the homeowner (or from the cooperative association on behalf of the cooperative member) a required recertification of occupancy, employment, income, and family composition.

(4) At such other times as the Secretary may require.

(c) Effect of termination or suspension. Upon termination or suspension of the assistance payments contract, the payment due on the first day of the month in which the termination or suspension occurs shall be the last payment to which the mortgagee shall be entitled; except that, in the case of a suspended contract, payment may be resumed after the contract is reinstated pursuant to paragraph (e) of this section.

(d) Noneffect on mortgage insurance contract. The termination or suspension of the assistance payments contract, where the mortgage insurance contract is not simultaneously terminated, shall have no effect on the mortgage insurance contract.

(e) Reinstatement. Where the assistance payments contracts is suspended, it may be reinstated by the Secretary at his discretion and on such conditions as he may prescribe.

§ 235.499 Effect of amendments.

The regulations in this subpart may be amended by the Secretary at any time and from time to time, in whole or in part, but such amendment shall not adversely affect the interest of a mortgagee under an existing contract for assistance payments.

It is hereby certified that the economic and inflation impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A–107.

Issued at Washington, D.C. on November 3, 1975.

DAVID S. COOK,
Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner.

[FR Doc.75-29949 Filed 11-6-75;8:45 am]

federal register

FRIDAY, NOVEMBER 7, 1975



PART V:

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

■

AIR TRAFFIC AND GENERAL OPERATING RULES

IFR Altitudes; Miscellaneous Changes

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 15134; Amdt. No. 95-262]

PART 95—IFR ALTITUDES

Miscellaneous Changes

The purpose of this amendment to Part 95 of the Federal Aviation Regulations (14 CFR Ch. I) is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or any portion of a route. These altitudes, when used in conjunction with the current changeover points for the routes or portions of routes, also assure navigational coverage that is adequate and free of frequency interference.

Since situations exist which demand immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

(Secs. 307 and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348 and 1510); sec. 6(c) Department of Transportation Act (49 U.S.C. § 1655(c)))

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 FR 5662), Subpart C of Part 95 of the Federal Aviation Regulations is amended as follows, effective December 4, 1975.

Issued in Washington, D.C., on October 31, 1975.

JAMES M. VINES,
Chief, Aircraft Programs Division.

§95.47 GREEN FEDERAL AIRWAY 7
is amended to read in part:

FROM	TO	MEA
Ft. Davis, Alas. NDB	Norton Bay, Alas. NDB	5000
Bishop, Alas. NDB	Birch INT, Alas.	5800
Birch INT, Alas.	Nenas INT, Alas.	4100
Nenas INT, Alas.	Chena, Alas. NDB	4100

§95.102 AMBER FEDERAL AIRWAY 2
is amended to read in part:

FROM	TO	MEA
U.S. Canadian Border	Nabesna, Alas. NDB	9600
Evansville, Alas. LF/RBN	Chips INT, Alas.	*10000
*9400—MOCA		
Chips INT, Alas.	Brownerville, Alas. LF/RBN	2000

§95.103 AMBER FEDERAL AIRWAY 3
is amended to read in part:

FROM	TO	MEA
Evansville, Alas. NDB	Put River, Alas. NDB	10000

§95.612 BLUE FEDERAL AIRWAY 12
is amended to read:

FROM	TO	MEA
Takotna River, Alas. NDB	Bishop, Alas. NDB	6000
Bishop, Alas. NDB	Hathorn, Alas. NDB	6000

§95.619 BLUE FEDERAL AIRWAY 19
is deleted.

§95.626 BLUE FEDERAL AIRWAY 26
is amended to read in part:

FROM	TO	MEA
Campbell Lake, Alas. NDB	Willo INT, Alas.	4100
Willo INT, Alas.	Peters Creek, Alas. NDB	4800
Summit, Alas. NDB	Wolfe INT, Alas.	9500
*4700—MCA Wolfe INT, S-bound		
Wolfe INT, Alas.	Chena, Alas. NDB	3200
Yukon River, Alas. NDB	*Barter Island, Alas. NDB	12000
*4100—MCA Barter Island NDB, S-bound		

§95.638 BLUE FEDERAL AIRWAY 38
is amended to read in part:

FROM	TO	MEA
Elephant, Alas. NDB	Chill INT, Alas.	7300
Chill INT, Alas.	Haines, Alas. NDB	9000

§95.1001 DIRECT ROUTES—U.S.
is amended to delete:

FROM	TO	MEA
Bimini, Bh. RBN	Carolina Beach, N.C. RBN	*2500
*1200—MOCA	(Via Control 1150)	
Halibut INT, Fla.	*Mullet INT, Bahamas	**6500
*6500—MRA	(Via Control 1150)	
**1200—MOCA		
*Mullet INT, Bahamas	**Porpoise INT, Fla.	***15000
*6500—MRA		
**15000—MRA		
***1200—MOCA		
Porpoise LF INT, Fla.	Sturgeon LF INT, Fla.	2000
	(Via Control 1150)	
Sturgeon LF INT, Fla.	Barracuda LF INT, Fla.	2000
	(Via Control 1150)	
Baron INT, Fla.	Guage INT, Fla.	*2000
*1200—MOCA	(Via Control 1150)	
Gauge INT, Fla.	Carolina Beach, N.C. LF/RBN	*2000
*1200—MOCA	(Via Control 1150)	
Nassau, Bh. RBN	Carolina Beach, N.C. RBN	*2500
*1200—MOCA	(Via Control 1151)	
Carps INT, Fla.	Abaco INT, Bh.	*2000
*1300—MOCA	(Via Control 1151)	
Carps INT, Fla.	Trout INT, Fla.	*2000
*1200—MOCA	(Via Control 1153)	
Carps INT, Fla.	Yellow Tail INT, S.C.	*2000
*1200—MOCA		
Yellowtail INT, S.C.	Carolina Beach, S.C. RBN	*2500
*1200—MOCA	(Via Control 1151)	
Ashley, S.C. LF/RBN	Azana INT, S.C.	*2500
*2000—MOCA		MAA—45000
Azana INT, S.C.	Yellow Tail INT, S.C.	*2500
*1200—MOCA		MAA—45000
Yellow Tail INT, S.C.	Smelt INT, S.C.	2500
	Via Control 1152	MAA—45000
Dinsmore, Fla. LF/RBN	Carps INT, Fla.	2500
	(Via Control 1153)	
Maytown INT, Fla.	*Apollo INT, Fla.	**2500
	(Control 1386)	
*4000—MRA		
**1500—MOCA		
*Apollo INT, Fla.	**Barracuda INT, Fla.	***15000
*4000—MRA		
**15000—MRA		
***1200—MOCA		
Newark, N.J. LF/RBN	Ramsey INT, N.J.	*2000
*1700—MOCA		MAA—3000
Paterson INT, N.J.	Ramsey INT, N.J.	2000
Ramsey INT, N.J.	Spring Valley INT, N.Y.	3000
Ramsey INT, N.J.	Westchester Co., N.Y.	*2000
	ILS/LOM	
*1800—MOCA		
Toccoa, Ga. VORTAC	Charleston, W. Va. VORTAC	29000
	COP 45 TOC	MAA—43000
Tazewell INT, Ga.	Durand INT, Ga.	3400

§95.1001 DIRECT ROUTES—U.S.
is amended to delete:

Bahama Routes

FROM	TO	MEA
65V		
Freeport, Bh. VOR	*Mullet INT, Bh.	**2000
*6500—MRA		
**1400—MOCA		

§95.1001 DIRECT ROUTES—U.S.
is added to read:

Bahama Routes

FROM	TO	MEA
69Y		
INT 112 M rad Biscayne Bay, Fla. VOR & 230 M rad Bimini, Bh. VOR *1300—MOCA	Bimini, Bh. VOR	*2000
Bimini, Bh. VOR	Bream INT, Bh.	2000
Bream INT, Bh.	Freeport, Bh. VOR	1400

§95.1001 DIRECT ROUTES—U.S.
is amended by adding:

FROM	TO	MEA
Allendale, S.C. VOR	Sinclair INT, Ga.	11000 MAA—23000
Stockton, Calif. VOR	Bush INT, Calif.	6000
St. Petersburg, Fla. VORTAC	Atlanta, Ga. VORTAC	30000 MAA—41000

§95.1001 DIRECT ROUTES—U.S.
is added to read:

Atlantic Routes

FROM	TO	MEA
AR 1		
Biscayne Bay, Fla. VORTAC	Corbina INT, Fla.	6000 MAA—45000
Corbina INT, Fla.	Tarpo INT, Fla.	18000 MAA—45000
Tarpo INT, Fla.	Guage INT, Fla.	25000 MAA—45000
Guage INT, Fla.	Azana INT, S.C.	25000 MAA—45000
Azana INT, S.C.	Caroline Beach, S.C. NDB	25000 MAA—45000
Caroline Beach, S.C. NDB	Wilmington, N.C. VORTAC	25000 MAA—45000
AR 2		
Bimini Island, Bh. NDB	Palme INT, Fla.	2500 MAA—45000
*Palme INT, Fla. *22000—MRA	Squid INT, Fla.	2500 MAA—45000
Squid INT, Fla. *25000—MRA	*Paver INT, S.C.	2500 MAA—45000
*Paver INT, S.C. *25000—MRA	Panal INT, S.C.	2500 MAA—45000
*Panal INT, S.C. *12000—MRA **1300—MOCA	Haw, S.C. VORTAC	**6000 MAA—45000
AR 3		
Nassau, Bh. NDB *1400 — MOCA	Abaco LF INT, Bh.	*2000 MAA—45000
Abaco LF INT, Bh.	Carps INT, Fla.	2500 MAA—45000
Carps INT, Fla.	Oldey INT, S.C.	2500 MAA—45000
Oldey INT, S.C.	Carolina Beach, S.C. NDB	2500 MAA—45000
AR 4		
Ashley, S.C. NDB	Smelt INT, S.C.	2500 MAA—45000
AR 5		
Dinsmore, Fla. NDB	Trout INT, Fla.	2500 MAA—45000
AR 6		
Orlando, Fla. VORTAC	Apollo INT, Fla.	4000 MAA—45000
Apollo INT, Fla. *25000—MRA	*Hobee INT, Fla.	15000 MAA—45000

§95.5000 HIGH ALTITUDE RNAV ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J801R is amended to read in part:						
Mesic, Calif. W/P	36				18000	45000
Boulder City, Nev. VORTAC				050/230 to Boulder City		

§95.5500 HIGH ALTITUDE RNAV ROUTES

FROM/TO	TOTAL DISTANCE	CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION		TRACK ANGLE	MEA	MAA
J904R is amended to read in part:						
Mesic, Calif. W/P	36				18000	45000
Boulder City, Nev. VORTAC				050/230 to Boulder City		
J906R is amended to read:						
Los Angeles, Calif. W/P	111				18000	45000
Hector, Calif. W/P				047/227 to Hector		
Hector, Calif. W/P	73			023/203 to COP	18000	45000
Mesic, Calif. W/P				025/205 to Mesic		
Mesic, Calif. W/P	151	101	Mesic	025/205 to COP	18000	45000
Adapt, Nev. W/P				024/204 to Adapt		
Adapt, Nev. W/P	131	50	Adapt	009/189 to COP	18000	45000
Fools, Utah W/P				010/190 to Fools		
Fools, Utah W/P	96			350/170 to COP	18000	45000
Ogden, Utah W/P				349/169 to Ogden		
J920R is amended to add:						
Krums, Mont. W/P	118				21000	45000
Mille, Mont. W/P				199/019 to Mille		

§95.6004 VOR FEDERAL AIRWAY 4
is amended to delete:

FROM	TO	MEA
Hallsville, Mo. VOR	St. Louis, Mo. VOR	
Via N alter.	Via N alter.	*2700
*2300–MOCA		
Topeka, Kans. VOR	Wood INT, Kans.	
Via N alter.	Via N alter.	*2700
*2400–MOCA		
Wood INT, Kans.	Kansas City, Mo. VOR	
Via N alter.	Via N alter.	2700
Salina, Kans. VOR	*Admire INT, Kans.	
Via S alter.	Via S alter.	**4500
*4500–MRA		
**3000–MOCA		
Admire INT, Kans.	Dover INT, Kans.	
Via S alter.	Via S alter.	*3100
*2800–MOCA		
Dover INT, Kans.	Topeka, Kans. VOR	
Via S alter.	Via S alter.	*3100
*3000–MOCA		
Laramie, Wyo. VOR	Loveland INT, Colo.	10500
Loveland INT, Colo.	Longmont INT, Colo.	7900

§95.6004 VOR FEDERAL AIRWAY 4
is amended by adding:

FROM	TO	MEA
Topeka, Kans. VOR	Manhattan, Kans. VOR	3000
Via N alter.	Via N alter.	
Manhattan, Kans. VOR	INT 204 M rad Manhattan VOR & 071 M rad Salina VOR	3000
Via N alter.	Via N alter.	
*Laramie, Wyo. VOR	Libel INT, Colo.	10500
*10600–MCA Laramie VOR, W-bound		
Libel INT, Colo.	Longmont INT, Colo.	9700

§95.6004 VOR FEDERAL AIRWAY 4
is amended to read in part:

FROM	TO	MEA
Salina, Kans. VOR	*Vasco INT, Kans.	3000
*5000–MRA		
*Vasco INT, Kans.	Custer INT, Kans.	2900
*5000–MRA		
Kansas City, Mo. VOR	Fleming INT, Mo.	2600

§95.6005 VOR FEDERAL AIRWAY 5
is amended to read in part:

FROM	TO	MEA
Athens, Ga. VOR	Commerce INT, Ga.	3800

§95.6007 VOR FEDERAL AIRWAY 7
is amended to read in part:

FROM	TO	MEA
*Niles INT, Ill.	Beach INT, Ill.	3400
*3100–MCA Niles INT, N-bound		
Beach INT, Ill.	Papi INT, Ill.	*2500
*1900–MOCA		

§95.6009 VOR FEDERAL AIRWAY 9
is amended to delete:

FROM	TO	MEA
Farmington, Mo. VOR	St. Louis, Mo. VOR	
Via W alter.	Via W alter.	*3000
*2400–MOCA		

§95.6010 VOR FEDERAL AIRWAY 10
is amended to delete:

FROM	TO	MEA
Emporia, Kans. VOR	Pomona INT, Kans.	*2900
*2400–MOCA		
Pomona INT, Kans.	Eudora INT, Kans.	*2800
*2600–MOCA		
Eudora INT, Kans.	De Soto INT, Kans.	*2500
*2200–MOCA		
De Soto INT, Kans.	Parkville INT, Mo.	*2500
*2400–MOCA		
Parkville INT, Mo.	Kansas City, Mo. VOR	2300
Kansas City, Mo. VOR	Lawson INT, Mo.	*2600
*2400–MOCA		
Lawson INT, Mo.	Utica INT, Mo.	*3000
*2200–MOCA		
Utica INT, Mo.	Kirksville, Mo. VOR	2700
Emporia, Kans. VOR	Topeka, Kans. VOR	*3000
Via N alter.	Via N alter.	
*2400–MOCA		
Topeka, Kans. VOR	Springdale INT, Kans.	
Via N alter.	Via N alter.	2700
Springdale INT, Kans.	Lansing INT, Kans.	
Via N alter.	Via N alter.	2700
Lansing INT, Kans.	Kansas City, Mo. VOR	
Via N alter.	Via N alter.	*2600
*2300–MOCA		

§95.6010 VOR FEDERAL AIRWAY 10
is amended by adding:

FROM	TO	MEA
Emporia, Kans. VOR	De Soto INT, Kans.	3000
Via N alter.	Via N alter.	
De Soto INT, Kans.	Blue Springs, Mo. VOR	3000
Via N alter.	Via N alter.	
Blue Springs, Mo. VOR	Lawson INT, Mo.	2500
Via N alter.	Via N alter.	
Lawson INT, Mo.	Kirksville, Mo. VOR	*3000
Via N alter.	Via N alter.	
*2400–MOCA		
Emporia, Kans. VOR	Blue Springs, Mo. VOR	3000
Blue Springs, Mo. VOR	Kirksville, Mo. VOR	*3000
*2400–MOCA		

§95.6012 VOR FEDERAL AIRWAY 12
is amended to delete:

FROM	TO	MEA
Anthony, Kans. VOR	Milan INT, Kans.	
Via S alter.	Via S alter.	*3000
*2500–MOCA		
Milan INT, Kans.	Wichita, Kans. VOR	
Via S alter.	Via S alter.	*2900
*2700–MOCA		
Wichita, Kans. VOR	Whitewater INT, Kans.	
Via N alter.	Via N alter.	3400
Whitewater INT, Kans.	*Florence INT, Kans.	
Via N alter.	Via N alter.	**3000
*5000–MRA		
**2600–MOCA		
Florence INT, Kans.	Emporia, Kans. VOR	
Via N alter.	Via N alter.	*3300
*2700–MOCA		
Gage, Okla. VOR	Clark INT, Kans.	
Via N alter.	Via N alter.	*4000
*3900–MOCA		
Clark INT, Kans.	*Saler INT, Kans.	
Via N alter.	Via N alter.	**10500
*4000–MRA		
**3400–MOCA		

VOR FEDERAL AIRWAY 12—Cont'd.

is amended to delete:

FROM	TO	MEA
Safer INT, Kans.	Rago INT, Kans.	
Via N alter.	Via N alter.	*5000
*2900—MOCA		
Rago INT, Kans.	Wichita, Kans. VOR	
Via N alter.	Via N alter.	3400
Emporia, Kans. VOR	Pomona INT, Kans.	*2900
*2400—MOCA		
Pomona INT, Kans.	Eudora INT, Kans.	*2800
*2600—MOCA		
Eudora INT, Kans.	De Soto INT, Kans.	*2500
*2200—MOCA		
De Soto INT, Kans.	Shawnee INT, Kans.	*2600
*2400—MOCA		
Shawnee INT, Kans.	Leeds INT, Mo.	3000
Leeds INT, Mo.	Blue Springs, Mo. VOR	*3000
*2100—MOCA		

§95.6012 VOR FEDERAL AIRWAY 12

is amended by adding:

FROM	TO	MEA
Emporia, Kans. VOR	Blue Springs, Mo. VOR	3000

§95.6013 VOR FEDERAL AIRWAY 13

is amended to delete:

FROM	TO	MEA
Butler, Mo. VOR	*Pleasant Hill INT, Mo.	
Via E alter.	Via E alter.	**2600
*4000—MRA		
**2100—MOCA		
Pleasant Hill INT, Mo.	Leeds INT, Mo.	
Via E alter.	Via E alter.	*3000
*2400—MOCA		
Leeds INT, Mo.	Kansas City, Mo. VOR	
Via E alter.	Via E alter.	3000
Butler, Mo. VOR	Kansas City, Mo. VOR	3000

§95.6013 VOR FEDERAL AIRWAY 13

is amended by adding:

FROM	TO	MEA
Butler, Mo. VOR	Blue Springs, Mo. VOR	2600
Blue Springs, Mo. VOR	Plattsburg INT, Mo.	3000

§95.6014 VOR FEDERAL AIRWAY 14

is amended to delete:

FROM	TO	MEA
Vichy, Mo. VOR	St. Louis, Mo. VOR	
Via S alter.	Via S alter.	2800
St. Louis, Mo. VOR	Godfrey INT, Ill.	
Via N alter.	Via N alter.	*2200
*2000—MOCA		
Godfrey INT, Ill.	INT 057 M rad St. Louis VOR & 269 M rad Vandalia VOR	
Via N alter.	Via N alter.	*2500
*2000—MOCA		
INT 057 M rad St. Louis VOR & 269 M rad Vandalia VOR	Vandalia, Ill. VOR	
Via N alter.	Via N alter.	*2500
*2100—MOCA		

§95.6014 VOR FEDERAL AIRWAY 14

is amended to read in part:

FROM	TO	MEA
Neosho, Mo. VOR	Springfield, Mo. VOR	3000

§95.6015 VOR FEDERAL AIRWAY 15

is amended to delete:

FROM	TO	MEA
Kansas City, Mo. VOR	Dearborn INT, Mo.	*2600
*2300—MOCA		
Dearborn INT, Mo.	St. Joseph, Mo. VOR	2800

§95.6015 VOR FEDERAL AIRWAY 15

is amended to read in part:

FROM	TO	MEA
Bismarck, N.D. VOR	Hancock INT, N.D.	3700
Hancock INT, N.D.	Minot, N.D. VOR	3900

§95.6017 VOR FEDERAL AIRWAY 17

is amended to read in part:

FROM	TO	MEA
Gage, Okla. VOR	Flack INT, Kans.	*4400
*3800—MOCA		
Flack INT, Kans.	Garden City, Kans. VOR	4700

§95.6018 VOR FEDERAL AIRWAY 18

is amended to delete:

FROM	TO	MEA
Hefin INT, Ala.	Rex, Ga. VOR	*4000
*3700—MOCA		
Rex, Ga. VOR	Maddi INT, Ga.	*3000
*2400—MOCA		

§95.6018 VOR FEDERAL AIRWAY 18

is amended to read in part:

FROM	TO	MEA
Hokes Bluff INT, Ala.	Rome, Ga. VOR	
Via N alter.	Via N alter.	*5000
*4000—MOCA		
Talladega, Ala. VOR	Hefin INT, Ala.	4000
Hefin INT, Ala.	Atlanta, Ga. VOR	4000
Atlanta, Ga. VOR	Maddi INT, Ga.	*3000
*2200—MOCA		
Maddi INT, Ga.	Raytown INT, Ga.	*4000
*2200—MOCA		
Raytown INT, Ga.	Augusta, Ga. VOR	*2500
*1800—MOCA		
Commerce INT, Ga.	Athens, Ga. VOR	
Via N alter.	Via N alter.	3800

§95.6020 VOR FEDERAL AIRWAY 20

is amended to read in part:

FROM	TO	MEA
Columbus, Ga. VOR	Grant INT, Ga.	*2700
*2100—MOCA		
Grant INT, Ga.	Milner INT, Ga.	*3000
*2100—MOCA		
Milner INT, Ga.	Sinclair INT, Ga.	*4000
*2000—MOCA		
Sinclair INT, Ga.	Maddi INT, Ga.	*3000
*2000—MOCA		
Maddi INT, Ga.	Athens, Ga. VOR	*3000
*2100—MOCA		
Seman INT, Ala.	Gibson INT, Ala.	*4000
Via N alter.	Via N alter.	
*3300—MOCA		
Gore INT, Ala.	Rome, Ga. VOR	*5000
Via N alter.	Via N alter.	
*4000—MOCA		

§95.6022 VOR FEDERAL AIRWAY 22
is deleted:

§95.6026 VOR FEDERAL AIRWAY 26
is amended by adding:

FROM	TO	MEA
Hayden, Colo. VOR	Celia INT, Colo.	10000
Celia INT, Colo.	Cherokee, Wyo. VOR	10000

§95.6035 VOR FEDERAL AIRWAY 35
is amended by adding:

FROM	TO	MEA
Albany, Ga. VOR	Ross INT, Ga.	2000
Via W alter.	Via W alter.	
Ross INT, Ga.	Potter INT, Ga.	2300
Via W alter.	Via W alter.	
Potter INT, Ga.	Byron INT, Ga.	*3000
Via W alter.	Via W alter.	
*2000–MOCA		
Byron INT, Ga.	Macon, Ga. VOR	2000
Via W alter.	Via W alter.	

§95.6035 VOR FEDERAL AIRWAY 35
is amended to read in part:

FROM	TO	MEA
Sinclair INT, Ga.	Maddi INT, Ga.	*3000
*2000–MOCA		
Maddi INT, Ga.	Athens, Ga. VOR	*3000
*2100–MOCA		
Macon, Ga. VOR	Sinclair INT, Ga.	2500

§95.6050 VOR FEDERAL AIRWAY 50
is amended to read:

FROM	TO	MEA
Pawnee City, Nebr. VOR	INT 113 M rad Pawnee City VOR & 302 M rad Kansas City VOR	3000
Via S alter.	Via S alter.	
INT 113 M rad Pawnee City VOR & 302 M rad Kansas City VOR	New Market INT, Mo.	3000
Via S alter.	Via S alter.	
New Market INT, Mo.	St. Joseph, Mo. VOR	2700
Via S alter.	Via S alter.	

§95.6051 VOR FEDERAL AIRWAY 51
is amended to read in part:

FROM	TO	MEA
Athens, Ga. VOR	Commerce INT, Ga.	3800

§95.6052 VOR FEDERAL AIRWAY 52
is amended to read in part:

FROM	TO	MEA
Hardin INT, Ill.	Winfield INT, Mo.	2500
Winfield INT, Mo.	St. Louis, Mo. VOR	2500

§95.6056 VOR FEDERAL AIRWAY 56
is amended to read in part:

FROM	TO	MEA
Roberta INT, Ga.	Macon, Ga. VOR	2000

§95.6065 VOR FEDERAL AIRWAY 65
is amended to read in part:

FROM	TO	MEA
New Market INT, Mo.	St. Joseph, Mo. VOR	2700

§95.6065 VOR FEDERAL AIRWAY 65
is amended to delete:

FROM	TO	MEA
INT 170 M rad St. Joseph VOR & 223 M rad Kansas City VOR	Lansing INT, Kans.	*2600
*2300–MOCA		
Lansing INT, Kans.	New Market INT, Mo.	2700

§95.6066 VOR FEDERAL AIRWAY 66
is amended to delete:

FROM	TO	MEA
LaGrange, Ga. VOR	Grant INT, Ga.	*3500
*3400–MOCA		

§95.6066 VOR FEDERAL AIRWAY 66
is amended by adding:

FROM	TO	MEA
LaGrange, Ga. VOR	INT 119 M rad LaGrange VOR & 067 M rad Columbus VOR	3500
INT 119 M rad LaGrange VOR & 067 M rad Columbus VOR	Grant INT, Ga.	*2700
*2100–MOCA		

§95.6066 VOR FEDERAL AIRWAY 66
is amended to read in part:

FROM	TO	MEA
Grant INT, Ga.	Milner INT, Ga.	*3000
*2100–MOCA		
Milner INT, Ga.	Sinclair INT, Ga.	*4000
*2000–MOCA		
Sinclair INT, Ga.	Maddi INT, Ga.	*3000
*2000–MOCA		
Maddi INT, Ga.	Athens, Ga. VOR	*3000
*2100–MOCA		

§95.6069 VOR FEDERAL AIRWAY 69
is amended to read in part:

FROM	TO	MEA
Farmington, Mo. VOR	Troy, Ill. VOR	3000

§95.6071 VOR FEDERAL AIRWAY 71
is amended to delete:

FROM	TO	MEA
Butler, Mo.	Kansas City, Mo. VOR	3000
Kansas City, Mo. VOR	New Market INT, Mo.	*2500
*2300–MOCA		
New Market INT, Mo.	Rushville INT, Mo.	*2700
*2200–MOCA		
Rushville INT, Mo.	Huron INT, Kans.	*2600
*2100–MOCA		
Huron INT, Kans.	Pawnee City, Nebr. VOR	*3000
*2600–MOCA		

§95.6071 VOR FEDERAL AIRWAY 71
is amended by adding:

FROM	TO	MEA
Butler, Mo. VOR	Topeka, Kans. VOR	2900
Topeka, Kans. VOR	Pawnee City, Nebr. VOR	3000

§95.6072 VOR FEDERAL AIRWAY 72
is amended by adding:

FROM	TO	MEA
Montrose INT, Ill.	Mattoon, Ill. VOR	*2500
*1900–MOCA		
Mattoon, Ill. VOR	Monticello INT, Ill.	*2700
*2200–MOCA		
Monticello INT, Ill.	Bloomington, Ill. VOR	2700

§95.6074 VOR FEDERAL AIRWAY 74
is amended to read in part:

FROM	TO	MEA
Anthony, Kans. VOR Via N alter.	Pioneer, Okla. VOR Via N alter.	3000
Anthony, Kans. VOR	Pioneer, Okla. VOR	3000
Anthony, Kans. VOR	INT 087 M rad Anthony, Kans. VOR & 325 M rad Pioneer, Okla. VOR	
Via N alter.	Via N alter.	3000
INT 087 M rad Anthony, Kans. VOR & 325 M rad Pioneer, Okla. VOR Via N alter.	Pioneer, Okla. VOR Via N alter.	2800

§95.6077 VOR FEDERAL AIRWAY 77
is amended to read in part:

FROM	TO	MEA
Pioneer, Okla. VOR	Wichita, Kans. VOR	3400

§95.6088 VOR FEDERAL AIRWAY 88
is amended to read in part:

FROM	TO	MEA
Forney, Mo. VOR Via S alter.	Vichy, Mo. VOR Via S alter.	3000

§95.6097 VOR FEDERAL AIRWAY 97
is amended to delete:

FROM	TO	MEA
Americus INT, Ga. *2100–MOCA	Tazewell INT, Ga.	*3000
Tazewell INT, Ga. *2200–MOCA	Grant INT, Ga.	*4000

§95.6097 VOR FEDERAL AIRWAY 97
is amended by adding:

FROM	TO	MEA
Americus INT, Ga. *3000–MRA **2100–MOCA	*Pratt INT, Ga.	**3000
*Pratt INT, Ga. *3000–MRA **1900–MOCA	Grant INT, Ga.	**4000

§95.6097 VOR FEDERAL AIRWAY 97
is amended to read in part:

FROM	TO	MEA
Albany, Ga. VOR	Americus INT, Ga.	2000
Grant INT, Ga. *2300–MOCA	Atlanta, Ga. VOR	*3000
Atlanta, Ga. VOR	Crabapple INT, Ga.	4000

§95.6101 VOR FEDERAL AIRWAY 101
is amended by adding:

FROM	TO	MEA
Gill, Colo. VOR *11500–MCA Libel INT, W-bound	*Libel INT, Colo.	10000
Libel INT, Colo.	Kater INT, Colo.	16000
Kater INT, Colo.	Hayden, Colo. VOR	13000
Hayden, Colo. VOR	Strim INT, Colo.	10000
Strim INT, Colo.	Renae INT, Colo.	11000
Renae INT, Colo.	Vernal, Utah VOR	11000

§95.6107 VOR FEDERAL AIRWAY 107
is amended to delete:

FROM	TO	MEA
*Los Angeles, Calif. VOR Via W alter.	Ventura, Calif. VOR Via W alter.	5000
*3200–MCA Los Angeles VOR, W-bound		
Ventura, Calif. VOR Via W alter.	Fillmore, Calif. VOR Via W alter.	5000

§95.6113 VOR FEDERAL AIRWAY 113
is amended by adding:

FROM	TO	MEA
*Boise, Ida. VOR	Clasi INT, Ida. SW-bound NE-bound	 9700 **12500
*8200–MCA Boise VOR, NE-bound **9700–MOCA		
Clasi INT, Ida.	Salmon, Ida. VOR	12500
Salmon, Ida. VOR	Slipp DME Fix, Mont.	13000
Slipp DME Fix, Mont.	*Butte, Mont. VOR SW-bound NE-bound	 **13000 11000
*10200–MCA Butte VOR, SW-bound **11000–MOCA		

§95.6116 VOR FEDERAL AIRWAY 116
is amended to delete:

FROM	TO	MEA
Kansas City, Mo. VOR *2400–MOCA	Excelsior INT, Mo.	*2600

§95.6121 VOR FEDERAL AIRWAY 121
is amended by adding:

FROM	TO	MEA
McCall, Ida. VOR	Salmon, Ida. VOR	12000
Salmon, Ida. VOR	Nosey DME Fix, Mont.	12000
Nosey DME Fix, Mont.	Dillon, Mont. VOR E-bound W-bound	 *10000 *12000
*9100–MOCA		

§95.6121 VOR FEDERAL AIRWAY 121
is amended to read in part:

FROM	TO	MEA
*Parson INT, Ore.	**Vida INT, Ore. SW-bound NE-bound	 6000 8000
*6300–MCA Parson INT, NE-bound **8200–MCA Vida INT, NE-bound		

§95.6125 VOR FEDERAL AIRWAY 125
is deleted.

§95.6129 VOR FEDERAL AIRWAY 129
is amended by adding:

FROM	TO	MEA
Dubuque, Iowa VOR *2500–MOCA	Quest INT, Wis.	*3100
Quest INT, Wis.	Nodine, Minn. VOR	3000

§95.6129 VOR FEDERAL AIRWAY 129
is amended to read in part:

FROM	TO	MEA
Dubuque, Iowa VOR Via W alter.	Waukon, Iowa VOR Via W alter.	2900
Waukon, Iowa VOR Via W alter.	Nodine, Minn. VOR Via W alter.	3000

§95.6139 VOR FEDERAL AIRWAY 139
is amended by adding:

FROM	TO	MEA
Florence, S.C. VOR	Wilmington, N.C. VOR	2000

§95.6142 VOR FEDERAL AIRWAY 142
is amended to read in part:

FROM	TO	MEA
Hampton INT, Ga. *3500–MRA **2000–MOCA	*Godfrey INT, Ga.	**7500

§95.6155 VOR FEDERAL AIRWAY 155
is amended by adding:

FROM	TO	MEA
Columbus, Ga. VOR *2100–MOCA	Grant INT, Ga.	*2700
Grant INT, Ga. *2100–MOCA	Milner INT, Ga.	*3000
Milner INT, Ga. *2000–MOCA	Sinclair INT, Ga.	*4000
Sinclair INT, Ga. *2400–MOCA	Beylo INT, Ga.	*5000
Beylo INT, Ga. *1900–MOCA	Augusta, Ga. VOR	*2500

§95.6156 VOR FEDERAL AIRWAY 156
is amended by adding:

FROM	TO	MEA
South Bend, Ind. VOR *2300–MOCA	Kalamazoo, Mich. VOR	*3000
Cedar Rapids, Iowa VOR	Moscow INT, Iowa	3200
Moscow INT, Iowa *2100–MOCA	Moline, Ill. VOR	*2600

§95.6159 VOR FEDERAL AIRWAY 159
is amended to read in part:

FROM	TO	MEA
Blue Springs, Mo. VOR	St. Joseph, Mo. VOR	3000
Blue Springs, Mo. VOR	Lawson INT, Mo.	2500

§95.6161 VOR FEDERAL AIRWAY 161
is amended to read in part:

FROM	TO	MEA
Blue Springs, Mo. VOR	Lawson INT, Mo.	2500

§95.6162 VOR FEDERAL AIRWAY 162
is amended to delete:

FROM	TO	MEA
Harrisburg, Pa. VOR	Hershey INT, Pa.	3000
Hershey INT, Pa. *1800–MOCA	Aetna INT, Pa.	*3000

§95.6162 VOR FEDERAL AIRWAY 162
is amended by adding:

FROM	TO	MEA
Harrisburg, Pa. VOR	Hersh INT, Pa.	3000
Hersh INT, Pa. *1900–MOCA	Aetna INT, Pa.	3000

§95.6179 VOR FEDERAL AIRWAY 179
is amended to delete:

FROM	TO	MEA
Dublin, Ga. VOR *2000–MOCA	Sinclair INT, Ga.	*2500
Sinclair INT, Ga.	Hampton INT, Ga.	2500

§95.6179 VOR FEDERAL AIRWAY 179
is amended to read:

FROM	TO	MEA
Dublin, Ga. VOR *2000–MOCA	Hampton INT, Ga.	*3000

§95.6187 VOR FEDERAL AIRWAY 187
is amended to delete:

FROM	TO	MEA
Rangely INT, Colo. *11700–MOCA	Rock Springs, Wyo. VOR	*13000

§95.6187 VOR FEDERAL AIRWAY 187
is amended by adding.

FROM	TO	MEA
Rangely INT, Colo. *10600–MOCA	Renoe INT, Colo.	*13000
Renoe INT, Colo. *11700–MOCA	Rock Springs, Wyo. VOR	*13000

§95.6200 VOR FEDERAL AIRWAY 200
is amended by adding:

FROM	TO	MEA
Meeker, Colo. VOR Via N alter.	Axial INT, Colo. Via N alter.	11000
Axial INT, Colo. Via N alter.	Hayden, Colo. VOR Via N alter.	
	SW-bound	11000
	NE-bound	10000
Hayden, Colo. VOR Via N alter.	Habro INT, Colo. Via N alter.	10000
Habro INT, Colo. Via N alter.	Kremmling, Colo. VOR Via N alter.	13000

§95.6206 VOR FEDERAL AIRWAY 206
is amended to read in part:

FROM	TO	MEA
Blue Springs, Mo. VOR *2400–MOCA	Kirksville, Mo. VOR	*3000

§95.6216 VOR FEDERAL AIRWAY 216
is amended to read in part:

FROM	TO	MEA
Iowa City, Iowa VOR *2500–MOCA	Charlotte INT, Iowa	*3500

§95.6222 VOR FEDERAL AIRWAY 222
is amended to delete:

FROM	TO	MEA
Norcross, Ga. VOR *3400–MOCA	Toccoa, Ga. VOR	*4000

§95.6222 VOR FEDERAL AIRWAY 222
is amended by adding:

FROM	TO	MEA
Logen INT, Ga.	Commerce INT, Ga.	4000
Commerce INT, Ga.	Toccoa, Ga. VOR	4000

§95.6222 VOR FEDERAL AIRWAY 222
is amended to read in part:

FROM	TO	MEA
LaGrange, Ga. VOR	Tyrone INT, Ga.	3000

§95.6229 VOR FEDERAL AIRWAY 229
is amended to delete:

FROM	TO	MEA
Eagle INT, Conn.	*Leroy INT, Mass.	**3000
*4500—MRA		
**2300—MOCA		
*Leroy INT, Mass.	Millbury INT, Mass.	**3000
*4500—MRA		
**2200—MOCA		
Millbury INT, Mass.	Gardner, Mass. VOR	3000
*2700—MOCA		

§95.6229 VOR FEDERAL AIRWAY 229
is amended by adding:

FROM	TO	MEA
Eagle INT, Conn.	Gardner, Mass. VOR	3000

§95.6230 VOR FEDERAL AIRWAY 230
is amended by adding:

FROM	TO	MEA
*Friant, Calif. VOR	**Cains INT, Calif.	11000
*9000—MCA Friant VOR, NE-bound		
**13000—MCA Cains INT, NE-bound		
Cains INT, Calif.	Nicol INT, Calif.	14300
Nicol INT, Calif.	*Bishop, Calif. VOR	13000
*10000—MCA Bishop VOR, NW-bound		

§95.6231 VOR FEDERAL AIRWAY 231
is amended by adding:

FROM	TO	MEA
Burley, Ida. VOR	Menin INT, Ida.	
	S-bound	7000
	N-bound	*9500
*7000—MOCA		
*Menin INT, Ida.	Salmon, Ida. VOR	14000
*10600—MCA Menin INT, N-bound		
Salmon, Ida. VOR	*Missoula, Mont. VOR	12000
*10000—MCA Missoula VOR, S-bound		

§95.6234 VOR FEDERAL AIRWAY 234
is amended to read in part:

FROM	TO	MEA
Liberal, Kans. VOR	Flack INT, Kans.	4500
Flack INT, Kans.	Krier INT, Kans.	*5000
*3800—MOCA		

§95.6241 VOR FEDERAL AIRWAY 241
is amended to read in part:

FROM	TO	MEA
LaGrange, Ga. VOR	Tyrone INT, Ga.	3000
Via W alter.	Via W alter.	

§95.6243 VOR FEDERAL AIRWAY 243
is amended to delete:

FROM	TO	MEA
Vienna, Ga. VOR	Grant INT, Ga.	*3000
*2700—MOCA		
Grant INT, Ga.	LaGrange, Ga. VOR	*3500
*3400—MOCA		

§95.6243 VOR FEDERAL AIRWAY 243
is amended by adding:

FROM	TO	MEA
Vienna, Ga. VOR	Pratt INT, Ga.	*3000
*1900—MOCA		
Pratt INT, Ga.	LaGrange, Ga. VOR	*3500

§95.6243 VOR FEDERAL AIRWAY 243
is amended to read in part:

FROM	TO	MEA
LaGrange, Ga. VOR	Hefin INT, Ala.	*4000
*3200—MOCA		

§95.6256 VOR FEDERAL AIRWAY 256
is added to read:

FROM	TO	MEA
Hutchinson, Kans. VOR	Pioneer, Okla. VOR	2800

§95.6261 VOR FEDERAL AIRWAY 261
is added to read:

FROM	TO	MEA
INT 204 M rad Manhattan VOR & 013 M rad Wichita VOR	Wichita, Kans. VOR	3400

§95.6267 VOR FEDERAL AIRWAY 267
is amended to read in part:

FROM	TO	MEA
Athens, Ga. VOR	Commerce INT, Ga.	3800

§95.6269 VOR FEDERAL AIRWAY 269
is amended by adding:

FROM	TO	MEA
Pocatello, Ida. VOR	Jatts INT, Ida.	
	NW-bound	*8000
	SE-bound	7700
*7700—MOCA		
*Jatts INT, Ida.	Salmon, Ida. VOR	14000
*10100—MCA Jatts INT, NW-bound		

§95.6280 VOR FEDERAL AIRWAY 280
is amended to delete:

FROM	TO	MEA
Topeka, Kans. VOR	Wood INT, Kans.	*2700
*2400—MOCA		
Wood INT, Kans.	Kansas City, Mo. VOR	2700

§95.6281 VOR FEDERAL AIRWAY 281
is deleted.

§95.6285 VOR FEDERAL AIRWAY 285
is amended to delete:

FROM	TO	MEA
Goshen, Ind. VOR	South Bend, Ind. VOR	2900
South Bend, Ind. VOR	Kalamazoo, Mich. VOR	*3000
*2300—MOCA		

§95.6285 VOR FEDERAL AIRWAY 285
is amended by adding:

FROM	TO	MEA
Goshen, Ind. VOR	Kalamazoo, Mich. VOR	2600

§95.6289 VOR FEDERAL AIRWAY 289
is amended to delete:

FROM	TO	MEA
Dogwood, Mo. VOR	Stout INT, Mo.	*5500
*2900—MOCA		
Stout INT, Mo.	Richland INT, Mo.	*3000
*2400—MOCA		
Richland INT, Mo.	Vichy, Mo. VOR	*3000
*2500—MOCA		

§95.6289 VOR FEDERAL AIRWAY 289
is amended by adding:

FROM	TO	MEA
Dogwood, Mo. VOR	Forney, Mo. VOR	3400
Forney, Mo. VOR	Vichy, Mo. VOR	3000

§95.6298 VOR FEDERAL AIRWAY 298
is amended to read in part:

FROM	TO	MEA
Dubois, Ida. VOR	St. Anthony INT, Ida.	
	W-bound	*9000
	E-bound	*13000
*8500—MOCA		
*St. Anthony INT, Ida.	Lamont INT, Ida.	
	W-bound	**9000
	E-bound	**13000
*11100—MCA St. Anthony INT, E-bound		
**8500—MOCA		

§95.6299 VOR FEDERAL AIRWAY 299
is amended to read in part:

FROM	TO	MEA
*Los Angeles, Calif. VOR	Ventura, Calif. VOR	5000
*3200—MCA Los Angeles VOR, W-bound		
Ventura, Calif. VOR	Fillmore, Calif. VOR	5000

§95.6300 VOR FEDERAL AIRWAY 300
is amended to read in part:

FROM	TO	MEA
Millinocket, Me. VOR	Prentiss INT, Me.	3000
Prentiss INT, Me.	U.S. Canadian Border	3000

§95.6307 VOR FEDERAL AIRWAY 307
is amended by adding:

FROM	TO	MEA
Chanute, Kans. VOR	Oswego, Kans. VOR	*3000
*2400—MOCA		
Oswego, Kans. VOR	Neosho, Kans. VOR	3000

§95.6311 VOR FEDERAL AIRWAY 311
is amended to delete:

FROM	TO	MEA
Norcross, Ga. VOR	Commerce INT, Ga.	*4000
*3400—MOCA		

§95.6311 VOR FEDERAL AIRWAY 311
is amended by adding:

FROM	TO	MEA
Logen INT, Ga.	Commerce INT, Ga.	4000

§95.6321 VOR FEDERAL AIRWAY 321
is amended to read in part:

FROM	TO	MEA
LaGrange, Ga. VOR	Hefin INT, Ala.	*4000
*3200—MOCA		

§95.6323 VOR FEDERAL AIRWAY 323
is amended to read:

FROM	TO	MEA
Macon, Ga. VOR	Hampton INT, Ga.	*3000
*2000—MOCA		

§95.6325 VOR FEDERAL AIRWAY 325
is amended to delete:

FROM	TO	MEA
Norcross, Ga. VOR	Athens, Ga. VOR	*3000
*2400—MOCA		

§95.6325 VOR FEDERAL AIRWAY 325
is amended by adding:

FROM	TO	MEA
Logen INT, Ga.	Moles INT, Ga.	4000
Moles INT, Ga.	Athens, Ga. VOR	*3000
*2400—MOCA		

§95.6325 VOR FEDERAL AIRWAY 325
is amended to read in part:

FROM	TO	MEA
Dallas INT, Ga.	Gadsden, Ala. VOR	*5000
*4000—MOCA		

§95.6328 VOR FEDERAL AIRWAY 328
is amended to delete:

FROM	TO	MEA
*Jackson, Wyo. VOR	**Dubois, Ida. VOR	15000
*14300—MCA Jackson VOR, W-bound		
**8900—MCA Dubois VOR, E-bound		

§95.6328 VOR FEDERAL AIRWAY 328
is amended by adding:

FROM	TO	MEA
Kremmling, Colo. VOR	Hebro INT, Colo.	13000
Hebro INT, Colo.	Hayden, Colo. VOR	10000
Hayden, Colo. VOR	Celia INT, Colo.	10000
Celia INT, Colo.	Snoky INT, Wyo.	10000
Snoky INT, Wyo.	Rock Springs, Wyo. VOR	11000

§95.6333 VOR FEDERAL AIRWAY 333
is amended to read in part:

FROM	TO	MEA
Dallas INT, Ga.	Rome, Ga. VOR	*4000
*3200—MOCA		

§95.6340 VOR FEDERAL AIRWAY 340
is added to read:

FROM	TO	MEA
Fort Wayne, Ind. VOR	Richmond, Ind. VOR	3000

§95.6401 HAWAII VOR FEDERAL AIRWAY 1
is amended to delete:

FROM	TO	MEA
Adise INT, Hawaii	*Hibiscus INT, Hawaii	**3000
*3000—MRA		
**1000—MOCA		

§95.6401 HAWAII VOR FEDERAL AIRWAY 1
is amended by adding:

FROM	TO	MEA
Paris INT, Hawaii	*Hibiscus INT, Hawaii	**3000
*3000—MRA		
**1000—MOCA		

§95.6402 HAWAII VOR FEDERAL AIRWAY 2
is amended to read in part:

FROM	TO	MEA
Waipio INT, Hawaii	Paris INT, Hawii	
	E-bound	4000
	W-bound	6000
Paris INT, Hawaii	*Arbor INT, Hawaii	**4000
*8000—MRA		
**2800—MOCA		

§95.6403 HAWAII VOR FEDERAL AIRWAY 3
is amended to delete:

FROM	TO	MEA
Hamakua INT, Hawaii	Adise INT, Hawaii	5000

§95.6403 HAWAII VOR FEDERAL AIRWAY 3
is amended by adding:

FROM	TO	MEA
Hamakua INT, Hawaii	Paris INT, Hawaii	5000

§95.6424 VOR FEDERAL AIRWAY 424
is amended to read in part:

FROM	TO	MEA
Blue Springs, Mo. VOR	Macon, Mo. VOR	2700

§95.6429 VOR FEDERAL AIRWAY 429
is amended to read in part:

FROM	TO	MEA
Montrose INT, Ill. *1900—MOCA	Mattoon, Ill. VOR	*2500

§95.6438 VOR FEDERAL AIRWAY 438
is amended by adding:

FROM	TO	MEA
Deadhorse, Alas. VOR/DME *1300—MOCA	Oosik DME Fix, Alas.	*2000
Oosik DME Fix, Alas. *1300—MOCA	Tunda DME Fix, Alas.	*5000
Tunda DME Fix, Alas. *1200—MOCA	Barrow, Alas. VOR	*3000

§95.6440 VOR FEDERAL AIRWAY 440
is amended to delete:

FROM	TO	MEA
Harbor Point INT, Alas. *2000—MOCA	Crescent DME Fix, Alas.	#*9000

#MEA is established with a gap in navigation signal coverage.

§95.6440 VOR FEDERAL AIRWAY 440
is amended by adding:

FROM	TO	MEA
Hapit INT, Alas. *2000—MOCA	Cenia DME Fix, Alas.	*9000

§95.6444 VOR FEDERAL AIRWAY 444
is amended to delete:

FROM	TO	MEA
Bettles, Alas. VOR	Circle DME Fix, Alas.	3500

§95.6444 VOR FEDERAL AIRWAY 444
is amended by adding:

FROM	TO	MEA
Barrow, Alas. VOR *1200—MOCA	Chips DME Fix, Alas.	*2000
Chips DME Fix, Alas. *1200—MOCA	Bronx DME Fix, Alas.	*5000
Bronx DME Fix, Alas. *9000—MOCA	Evansville, Alas. NDB	*10000
Evansville, Alas. NDB	Circle DME Fix, Alas.	3500

§95.6444 VOR FEDERAL AIRWAY 444
is amended to read in part:

FROM	TO	MEA
*Kanuti DME Fix, Alas. Via S alter.	Rampa INT, Alas. Via S alter.	7000

*4400—MCA Kanuti DME Fix, SE-bound

§95.6454 VOR FEDERAL AIRWAY 454
is amended to read in part:

FROM	TO	MEA
Columbus, Ga. VOR *2100—MOCA	Grant INT, Ga.	*2700
Grant INT, Ga. *2000—MOCA	Milner INT, Ga.	*3000
Milner INT, Ga. *2100—MOCA	Sinclair INT, Ga.	*4000
Sinclair INT, Ga. *2000—MOCA	Maddi INT, Ga.	*3000

§95.6463 VOR FEDERAL AIRWAY 463
is amended to delete:

FROM	TO	MEA
Norcross, Ga. VOR *4100—MOCA	College INT, Ga.	*5000
College INT, Ga.	Harris, Ga. VOR	7000

§95.6463 VOR FEDERAL AIRWAY 463
is amended by adding:

FROM	TO	MEA
Logen INT, Ga. *3800—MOCA	Dawsonville INT, Ga.	*7000
Dawsonville INT, Ga.	Harris, Ga. VOR	7000

§95.6475 VOR FEDERAL AIRWAY 475
is amended to read in part:

FROM	TO	MEA
Norwich, Conn. VOR	Providence, R.I. VOR	2400

§95.6490 VOR FEDERAL AIRWAY 490
is amended to read in part:

FROM	TO	MEA
Dublin INT, N.H.	Mt. Vernon INT, N.H.	4000

§95.6496 VOR FEDERAL AIRWAY 496
is amended to read in part:

FROM	TO	MEA
Glens Falls, N.Y. VOR	*Sandi INT, Vt.	4500
*5000—MCA Sandi INT, E-bound		
Sandi INT, Vt.	Lebanon, N.H. VOR/DME	5900

§95.6506 VOR FEDERAL AIRWAY 506
is amended to delete:

FROM	TO	MEA
Sound DME Fix, Alas.	Kotzebue, Alas. VOR	2000
Espenberg DME Fix, Alas. Via W alter.	Kotzebue, Alas. VOR Via W alter.	2000

§95.6506 VOR FEDERAL AIRWAY 506
is amended by adding:

FROM	TO	MEA
Sound DME Fix, Alas.	Hotham, Alas. NDB	2000
Hotham, Alas. NDB *5000—MOCA	Shokk DME Fix, Alas.	*6000
Shokk DME Fix, Alas. *7000—MOCA	Meade DME Fix, Alas.	*10000
Meade DME Fix, Alas. *1100—MOCA	Barrow, Alas. VOR	*2000
Espenberg DME Fix, Alas. Via W alter.	Hotham, Alas. VOR Via W alter.	2000

§95.6516 VOR FEDERAL AIRWAY 516
is amended to read in part:

FROM	TO	MEA
Anthony, Kans. VOR	Pioneer, Okla. VOR	2800

§95.6520 VOR FEDERAL AIRWAY 520
is amended by adding:

FROM	TO	MEA
Lewiston, Ida. VOR	Ferdi INT, Ida.	
	W-bound	6700
	E-bound	*12000
*6700—MOCA		
Ferdi INT, Ida.	Salmon, Ida. VOR	12000
Salmon, Ida. VOR	*Dubois, Ida. VOR	13500
*10500—MCA Dubois VOR, W-bound		
*Dubois, Ida. VOR	**Jackson, Wyo. VOR	15000
*8900—MCA Dubois VOR, E-bound		
**14300—MCA Jackson VOR, W-bound		

§95.7040 JET ROUTE NO. 40 is amended to delete:

FROM	TO	MEA	MAA
Richmond, Va. VORTAC	Marbury INT, Md.	18000	45000

§95.7040 JET ROUTE NO. 40 is amended by adding:

FROM	TO	MEA	MAA
Richmond, Va. VORTAC	INT 231 M rad New Castle VORTAC & 065 M rad Gordonsville VORTAC	18000	45000
INT 231 M rad New Castle VORTAC & 065 M rad Gordonsville VORTAC	New Castle, Del. VORTAC	18000	35000

§95.7081 JET ROUTE NO. 81 is amended to delete:

FROM	TO	MEA	MAA
Orlando, Fla. VORTAC	Barracuda INT, Fla.	18000	45000

§95.7123 JET ROUTE NO. 123 is amended to delete:

FROM	TO	MEA	MAA
Marble INT, Alas.	Kodiak, Alas. VORTAC	18000	45000
King Salmon, Alas. VORTAC	Bethel, Alas. VORTAC	18000	45000
Kotzebue, Alas. VORTAC	Browerville, Alas. LF/RBN	18000	45000

§95.7123 JET ROUTE NO. 123 is amended by adding:

FROM	TO	MEA	MAA
Marlo INT, Alas.	Kodiak, Alas. VORTAC	18000	45000
King Salmon, Alas. VORTAC	Kokwok INT, Alas.	18000	45000
Kokwok INT, Alas.	Bethel, Alas. VORTAC	18000	45000
Kotzebue, Alas. VORTAC	Barrow, Alas. VORTAC	18000	45000

§95.7141 JET ROUTE NO. 141 is deleted.

§95.7145 JET ROUTE NO. 145 is amended by adding:

FROM	TO	MEA	MAA
Toccoa, Ga. VORTAC	Charleston, W. Va. VORTAC	18000	45000

§95.7149 JET ROUTE NO. 149 is amended to read in part:

FROM	TO	MEA	MAA
Big Isaac INT, W. Va.	Int. 051 M rad Charleston VOR & 117 M rad Rosewood VOR	26000	45000
Int. 051 M rad Charleston VOR & 117 M rad Rosewood VOR	Happs INT, W. Va.	27000	45000

§95.7150 JET ROUTE NO. 150 is amended by adding:

FROM	TO	MEA	MAA
Gordonsville VORTAC	INT 240 M rad Woodstown VORTAC & 065 M rad Gordonsville VORTAC	18000	45000
INT 240 M rad Woodstown VORTAC & 065 M rad Gordonsville VORTAC	Woodstown, N. J. VORTAC	18000	41000
Woodstown, N. J. VORTAC	Robbinsville, N. J. VORTAC	18000	45000

§95.7183 JET ROUTE NO. 183 is deleted.

§95.6186 JET ROUTE NO. 186 is added to read:

FROM	TO	MEA	MAA
Toccoa, Ga. VORTAC	Corry INT, Ky.	33000	45000

§95.7190 JET ROUTE NO. 190 is deleted.

§95.7507 JET ROUTE NO. 507 is amended to delete:

FROM	TO	MEA	MAA
Browerville, Alas. LF/RBN	Oliktok, Alas. LF/RBN	18000	45000
Oliktok, Alas. LF/RBN	Deadhorse, Alas. VOR/DME	18000	45000
Northway, Alas. VORTAC	Yakutat, Alas. VORTAC	#22000	#45000

#For that airspace over U.S. Territory

§95.7507 JET ROUTE NO. 507 is amended by adding:

FROM	TO	MEA	MAA
Barrow, Alas. VORTAC	Deadhorse, Alas. VOR/DME	18000	45000
Northway, Alas. VORTAC	Border INT, Alas.	18000	45000
Border INT, Alas.	Yakutat, Alas. VORTAC	#22000	#45000

#For that airspace overlying U.S. Territory

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS

AIRWAY SEGMENT FROM	TO	CHANGEOVER POINTS DISTANCE	FROM
V-101 is amended by adding:			
Gill, Colo. VORTAC	Hayden, Colo. VOR	72	Gill
Hayden, Colo. VOR	Vernal, Utah VORTAC	56	Hayden
V-200 is amended by adding:			
Meeker, Colo. VORTAC Via N alter.	Hayden, Colo. VOR Via N alter.	25	Meeker
V-230 is amended by adding:			
Friant, Calif. VORTAC	Mina, Calif. VOR	40	Friant
V-506 is amended by adding:			
Barrow, Alas. VORTAC	Hotham, Alas. NDB	105	Barrow
V-328 is amended to delete:			
Jackson, Wyo. VOR	Dubois, Ida. VOR	10	Jackson

[FR Doc.75-29794 Filed 11-6-75;8:45 am]

federal register

FRIDAY, NOVEMBER 7, 1975



PART VI:

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions and Index

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Pre-determination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5, Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

Modifications to general wage determination decisions. The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL75–1063	June 20, 1975.
AL75–1073	Aug. 8, 1975.
AL75–1086	Sept. 26, 1975.
Connecticut:	
NY75–3108	Oct. 24, 1975.
Delaware:	
NY75–3108	Do.
Illinois:	
IL75–2051	Mar. 21, 1975.
NY75–3108	Oct. 24, 1975.
Indiana:	
IL75–5079	July 11, 1975.
IN75–2088	June 27, 1975.
IN75–2089	July 3, 1975.
Iowa:	
AM–6712	Apr. 14, 1972.
Maine:	
NY75–3108	Oct. 24, 1975.
Maryland:	
NY75–3108	Do.
Massachusetts:	
NY75–3108	Do.
Michigan:	
IL75–5079	July 11, 1975.
Minnesota:	
IL75–5079	Do.
Nevada:	
NV75–5095; NV75–5096; NV75–5097	Aug. 1, 1975.
New Hampshire:	
NY75–3108	Oct. 24, 1975.
New Jersey:	
NJ75–3108	Do.
New York:	
IL75–5079	July 11, 1975.
NY75–3108	Oct. 24, 1975.
Ohio:	
AR–3042	Aug. 23, 1975.
IL75–5079	July 11, 1975.
Oregon:	
OR75–5122	Oct. 3, 1975.
OR75–5042	Apr. 11, 1975.
Pennsylvania:	
IL75–5079	July 11, 1975.
NY75–3108	Oct. 24, 1975.
Rhode Island:	
NY75–3108	Do.
Tennessee:	
TN75–1072	July 11, 1975.
Texas:	
TX75–4088	May 15, 1975.
TX75–4098; TX75–4103	May 23, 1975.
TX75–4117	July 11, 1975.
TX75–4154	Aug. 22, 1975.
TX75–4163; TX75–4166	Oct. 24, 1975.
Virginia:	
MD75–3100	Sept. 26, 1975.
Washington, D.C.:	
DC75–3099	Do.
Wisconsin:	
IL75–5079	July 11, 1975.

Supersedeas decisions to general wage determination decisions. The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decision being superseded.

Alaska:	
AK75–5099 (AK75–4134)	Aug. 8, 1975.
Massachusetts:	
MA75–2008 (MA75–2123)	Jan. 17, 1975.
MA75–2053 (MA75–2120)	Mar. 14, 1975.
MA75–2071 (MA75–2119)	May 2, 1975.
MA75–2072 (MA75–2121)	Apr. 25, 1975.
Texas:	
TX75–4087 (TX75–4189); TX75–4094 (TX75–4186); TX75–4095 (TX75–4184).	May 16, 1975.
TX75–4099 (TX75–4185); TX75–4101 (TX75–4187).	May 23, 1975.
TX75–4147 (TX75–4188)	Aug. 8, 1975.
TX75–4160 (TX75–4183)	Oct. 17, 1975.

Signed at Washington, D.C., this 31st day of October 1975.

RAY J. DOLAN,
Assistant Administrator
Wage and Hour Division.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AL75-1063 - Mod. #3 (40 FR 26168 - June 20, 1975) Madison County, Alabama					
CHANGE:					
Plumbers, Pipefitters	$ 8.90	.45	.45		.10
Sheet metal workers	9.25	.50	.50		.05
DECISION #AL75-1073 - Mod. #2 (40 FR 33580 - August 8, 1975) Montgomery County, Alabama					
CHANGE:					
Glaziers	$6.45	.25	.30		
DECISION #AL75-1086 - Mod. #1 (40 FR 4447-September 26, 1975) Jefferson and Shelby Counties, Alabama					
CHANGE:					
Sprinkler fitters	$ 9.35	.50	.80		.08

DECISION #NY75-3108 - Mod. #2 (40 FR 49948 - October 24, 1975) Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania and Rhode Island	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Drill Boats:					
Oilers	$9.04	.35	.35	b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnote:
b. 8 paid holidays, A Through F plus Washington's Birthday and Veterans' Day; 6½ days vacation with pay for 84 days of service, one additional day of vacation with pay for each additional 21 2/3 days of service, all in one calendar year. Employees not qualifying for vacation, as set forth above, will receive one day's vacation with pay for each full 20 days of service in one calendar year.

DECISION #IL75-2051 - Mod. #2
(40 FR 12976 - March 21, 1975)
Henry, Knox, Mercer & Rock Island Counties, Illinois

Change:
Laborers: Rock Island & Mercer Counties, Illinois

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Unskilled	$7.82	.30	.50		.035
Semi-Skilled	8.07	.30	.50		.035
Skilled	8.32	.30	.50		.035

DECISION #IL75-5079 - Mod. #4
(40 FR 29490 - July 11, 1975)
Illinois, Indiana, Michigan, Minnesota, New York, Ohio, Pennsylvania and Wisconsin.

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Drill Boats: Oilers	$9.04	.35	.35	c	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

Footnote:
c. 8 paid holidays, A through F plus Washington's Birthday and Veterans' Day; 6½ days vacation with pay for 84 days of service, one additional day of vacation with pay for each additional 21 2/3 days of service, all in one calendar year. Employees not qualifying for vacation, as set forth above, will receive one day's vacation with pay for each full 20 days of service in one calendar year.

DECISION NO. IN75-2088 - Mod. #3
(40 FR 27422 - June 27, 1975)
Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers:					
Allen & Grant Counties	$10.55	.35	.55		
Boilermakers:					
Remainder of Counties	10.85	.80	1.00		.03
Electricians:					
Vigo County	9.75	.30	1%+.40		.02
Ironworkers:					
Allen, Delaware (Northeastern 1/3 of Co.), & Grant Counties	10.20	.65	.80		.01
Plumbers; Steamfitters:					
Allen County	9.90	.30	.65		.07

DECISION NO. IN75-2089 - Mod. #3
(40 FR 28346 - July 3, 1975)
Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

Change:					
Boilermakers	10.85	.80	1.00		.03
Bricklayers:					
Lake & Porter Counties:					
Bricklayers; Marble setters; Stonemasons; & Terrazzo workers	10.55	.45	.55		.02
LaPorte County:					
Bricklayers; Marble setters; Stonemasons; Terrazzo workers; & Tile setters	9.57	.35	.65		.02
Plasterers:					
Lake County (Hammond Area)	9.44	.60	.55		.01

DECISION #AM-6712 - Mod. #2
(37 FR 7429 - April 14, 1972)
Carroll, Cass, Clay, Crawford, Howard, Monona, O'Brien, Osceola, Ringgold, Taylor Counties, Iowa.

OMIT FROM LOCATION:
Howard and Monona Counties

DECISION #NV75-5095 - Mod. #3
(40 FR 32635 - August 1, 1975)
Statewide (excluding the Nevada Test Site and Tonopah Test Range)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers:					
Clark, Esmeralda and Nye Counties	$12.51	.78	.87		
Bricklayers; Stonemasons; Terrazzo Workers and Tile Setters:					
Clark, Esmeralda, Lincoln; and Nye County South of Highway #6	10.87	.45	.50		.06
Plumbers; Steamfitters:					
Remaining Counties and N½ of Nye County	10.64	.73	.80	1.95	.10
Sheet Metal Workers:					
Clark, Esmeralda, Lincoln; and S½ of Nye County	10.23	.83	1.60	1.00	.05
Add:					
Marble, Terrazzo and Tile Helpers:					
Clark, Esmeralda, Lincoln; and S½ of Nye County	9.10	.45			

DECISION #NV75-5096 - Mod. #2
(40 FR 32646 - August 1, 1975)
Clark (excluding the Nevada Test Site), Nevada

Change:					
Asbestos Workers	$12.51	.78	.87		
Bricklayers; Stonemasons; Marble Masons; Terrazzo Workers; Tile Setters	10.87	.45	.50		.06
Sheet Metal Workers	10.23	.83	1.60	1.00	.05
Terrazzo, Tile and Marble Helpers	9.10	.45			

MODIFICATIONS P. 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #NV75-5097 - Mod. #2 (40 FR 32650 - August 1, 1975) Washoe County, Nevada					
Change: Plumbers; Steamfitters	$10.64	.73	.80	1.95	.10
DECISION #ND75-5130 - Mod. #1 (40 FR 48866-October 17, 1975) Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Walsh and Ward Counties, North Dakota					
Change: Carpenters: Burleigh and Morton Counties					
Carpenters	$7.80				.02
Piledrivermen	7.925				.02
Ward County					
Carpenters	7.28				.02
Millwrights	7.76				.02
Piledrivermen	7.51				.02
DECISION #AR-3042 - Mod. #3 (39 FR 30790 - August 23, 1974) Mahoning County, Ohio					
Change: Electricians: Remainder of County	$10.98	.40	5%		3/10%
DECISION #OR75-5122 - Mod. #1 (40 FR 45989 - October 3, 1975) Lane, Linn and Marion Counties, Oregon					
Change: Carpenters	$7.29	.55	.65	.35	.03
DECISION #OR75-5042 - Mod. #2 (40 FR 15312 - April 4, 1975) Clackamas, Multnomah, and Washington Counties, Oregon					
Change: Carpenters: Carpenters	7.29	.55	.65	.35	.03

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TN75-1072 - Mod. #3 (40 FR 31567 - July 25, 1975) Hamilton County, Tennessee					
CHANGE:					
Sheet metal workers	$ 8.91	.35	.50		.04
Sprinkler fitters	9.35	.50	.80		.08
Truck Drivers:					
Up to 3 tons	5.67	g	e		
3 to 5 tons	5.82	g	e		
5 to 7 tons	5.97	g	e		
Helpers and warehousemen	5.62	g	e		
Special equipment	6.17	g	e		
Footnote: e. $7.00 per week for each employee.					
ADD: Footnote: g. $14.00 per week for each employee.					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX75-4088 - Mod. #2 (40 FR 21677 - May 15, 1975) Tom Green County, Texas					
Change:					
Electricians:					
Zone 1	$7.40		1%		1/4%
Zone 2	7.75		1%		1/4%
Ironworkers:					
Ironworkers	7.38	.55	.60		.10
On jobs 30 miles or more from the city of San Angelo	7.505	.55	.60		.10
DECISION #TX75-4098 - Mod. #2 (40 FR 22786 - May 23, 1975) Taylor County, Texas					
Change:					
Asbestos workers	8.78	.30	.51		.025
DECISION #TX75-4103 - Mod. #3 (40 FR 22795 - May 23, 1975) Harrison County, Texas					
Change:					
Asbestos workers	8.78	.30	.51		.025

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX75-4117 - Mod. #3 (40 FR 29527 - July 11, 1975) Jefferson & Orange Cos., Texas					
Change:					
Asbestos workers:					
Jefferson County	$8.95	.70	.70		.06
Bricklayers & stonemasons	9.86	.275	.30		.04
Carpenters:					
Carpenters:					
Commercial	8.785		.30		.05
Laborers:					
Group 1	5.69	.28	.30		.02
Group 2	5.74	.28	.30		.02
Group 3	5.79	.28	.30		.02
Group 4	5.94	.28	.30		.02
Group 5	6.065	.28	.30		.02
Lathers	8.785	.30			.01
Pipefitters	9.04	.35	.62		.08
Plasterers	8.72	.42	.30		.02
Sheet metal workers	9.01	.40	.15		.10
Tile setters	8.20	.275	.30		.04
DECISION #TX75-4154 - Mod. #2 (40 FR 36996 - August 22, 1975) Galveston & Harris Cos., Texas					
Change:					
Asbestos workers	8.95	.70	.70		.06
Bricklayers & stonemasons	9.21	.38	.40		.05
Lathers (Harris Co. only)	8.87	.50	.35		.02
Line Construction:					
Lineman & cable splicer	9.72	.40	1%		1/2%
Groundmen	5.94	.40	1%		1/2%
Groundmen (1st year)	4.30	.40	1%		1/2%

MODIFICATIONS P. 11

DECISION NO. TX75-4154 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Marble masons:					
Harris County	$8.41			.25	
Painters:					
Remainder of Harris County:					
Group 1	8.345	.365	.35	.40	.04
Group 2	8.72	.365	.35	.40	.04
Group 3	8.47	.365	.35	.40	.04
Group 4	8.97	.365	.35	.40	.04
Pipefitters:					
Harris Co. & that part of Galveston Co. west of the Trinity River	9.35	.40	.60		.045
That part of Galveston Co. east of the Trinity River:					
Commercial work up to $50,000	9.38	.375	.40		.03
Commercial work $50,000 & over	9.81	.375	.40		.03
Plasterers:					
Harris County	8.72	.42	.30		.02
Plumbers:					
Galveston County:					
Commercial work up to $50,000	9.38	.375	.40		.03
Commercial work $50,000 & over	9.81	.375	.40		.03
Soft floor layers	8.42	.35	.20		.09
Terrazzo workers:					
Harris County	8.41			.25	
Tile setters:					
Harris County	8.41			.25	
Power Equipment Operators:					
Group 1	8.88	.35	.65		.06
Group 2	7.52	.35	.65		.06
Group 3	7.03	.35	.65		.06
Group 4	6.87	.35	.65		.06

MODIFICATIONS P. 12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX75-4163 - Mod. #1 (40 FR 49956 - October 24, 1975) Bexar County, Texas					
Change:					
Carpenters:					
Carpenters	$7.12	.38	.30	.40	.04
Millwrights	7.42	.38	.30	.40	.04
DECISION #TX75-4166 - Mod. #1 (40 FR 49967 - October 24, 1975) Brazos County, Texas					
Change:					
Plasterers	$8.72	.42	.30		.02
Power Equipment Operators:					
Group 1	8.88	.35	.65		.06
Group 2	7.52	.35	.65		.06
Group 3	7.03	.35	.65		.06
Group 4	6.87	.35	.65		.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #MD-75-3100 - Mod. # 1 (40 FR 44447 - September 26, 1975) Montgomery and Prince Georges Counties, Maryland, Arlington and Fairfax Counties, the City of Alexandria and Dulles International Airport, Virginia					
Change:					
Asbestos workers	$10.21	.49	.60		.03
Roofers:					
Composition	8.21	.42	.20		
Slate, tile, mopmen, waterproofers, sprayers, spandrel and ironite	8.77	.42	.20		
Helpers	5.93	.42	.20		
Decision #DC-75-3099 - Mod. # 1 (40 FR 44449 - September 26, 1975 (Washington, D. C.					
Change:					
Asbestos Workers	$10.21	.49	.60		.03
Roofers:					
Composition	8.21	.42	.20		
Slate, tile, mopmen, waterproofers, sprayers, spandrel and ironite	8.77	.42	.20		
Helpers	5.93	.42	.20		

SUPERSEDEAS DECISION

STATE: Alaska
DECISION NUMBER: AK75-5134
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision No. AK75-5099 dated August 8, 1975, in 40 FR 33581
DESCRIPTION OF WORK: Building (including residential construction consisting of single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction and Dredging.

AREA I (North of the 63rd Parallel) AREA II (South of the 63rd Parallel and West of the 141st Meridian) AREA III (East of the 141st Meridian)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.26	.51	.75		
BOILERMAKERS	13.01	.65	1.00	.50	.02
BRICKLAYERS; Blocklayers; Stonemasons	14.03	.55	1.75		.09
CARPENTERS:					
Area 1					
Carpenters	13.53	.60	1.50		.15
Powder actuated tool operator	13.75	.60	1.50		.15
DeWalt or similar type saw operator; Marlite and Acoustical; Fire or Floor Repair work Applicators; Nailing Machine Operator; Saw Filer	13.81	.60	1.50		.15
Millwrights	13.92	.60	1.50		.15
Piledrivermen	13.17	.60	1.50		.15
Areas II and III					
Journeyman Carpenters	12.96	.60	1.50		.15
Acoustical and Marlite Applicators; Floor Workers; Radial air saw operators; Fire and Flood Workers	13.34	.60	1.50		.15
Millwrights	13.49	.60	1.50		.15
Piledrivermen	13.17	.60	1.50		.15
CEMENT MASONS:					
Cement Masons, paving (concrete) curb, cutter and sidewalks	12.38	.60	1.85		.15
Operating, Screeding and Rodding Machines	12.73	.60	1.85		.15
Application of all Composition, Mastic; Plastic Material; Hand powered Grinder	12.91	.60	1.85		.15
Form Setters	12.53	.60	1.85		.15

DECISION NO. AK75-5134 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CULINARY WORKERS:					
Baker of Combination Cook-baker; Head Cook; Working Camp Manager	$10.63	.50	1.50		.04
Cook	10.27	.50	1.50		.04
Butcher	10.21	.50	1.50		.04
Head Waiter or Head Waitress	9.72	.50	1.50		.04
Head Bullcook	9.62	.50	1.50		.04
Camp Worker (waiter, waitress, bullcook, general helper, miscellaneous worker); Bartender	9.46	.50	1.50		.04
ELECTRICIANS:					
Electricians; Equipment Operator	14.70	.70	1%+2.00		.15
Cable Splicers	16.20	.70	1%+2.00		.15
ELEVATOR CONSTRUCTORS	13.835	.445	.29	2%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	2%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Area I	13.00	.50	.50		
Areas II and III	12.00	.50	1.00		.10
IRONWORKERS:					
Bender Operator; Bridge; Fence Erector; Machinary Mover; Ornamental; Reinforcing; Sheeters; Structural	13.80	.80	1.75		.18
LATHERS	14.16	.60		1.08	.04
LINE CONSTRUCTION:					
Groundmen	12.70	.70	1%+2.00		.15
Equipment Operators; Linemen; Technicians	14.70	.70	1%+2.00		.15
Cable Splicers	16.20	.70	1%+2.00		.15
MARBLE SETTERS; Terrazzo Workers	14.03	.55	1.75		.09
PAINTERS:					
Area 1					
Zone 1 (Within a 10 mile radius of the Fairbanks P. O. including Ft. Wainwright)					
Zone 2 (Beyond 10 miles and up to 40 miles radius of the Fairbanks P. O. including Eielson Air Force Base and all the Sites within this territory)					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Zone 3 (Beyond 40 miles radius of the Fairbanks P. O.)					
Zone 1 and 3:					
Brush; Paperhangers	$12.75	.75	1.00		.05
Carpet and Tile	12.77	.75	1.00		.05
Swing Stage, Sign Painters; Utilidors	13.00	.75	1.00		.05
Hand Tapers	12.02	.75	1.00		.05
Structural Steel; Sand Blasters; Spray Painters	13.25	.75	1.00		.05
Buffer Operator	13.28	.75	1.00		.05
Machine Tapers	13.52	.75	1.00		.05
Hardwood Floor Finishers	13.50	.75	1.00		.05
Epoxy Applicators and Spray Steel	13.75	.75	1.00		.05
Swing and Boom Spray	14.00	.75	1.00		.05
Zone 2:					
Brush; Paperhangers	13.60	.75	1.00		.05
Swing Stage; Sign Painters; Utilidors	13.85	.75	1.00		.05
Tapers, Hand	13.87	.75	1.00		.05
Structural Steel, Sand Blasters; Spray Painters	14.10	.75	1.00		.05
Hardwood Floor Finishers	14.35	.75	1.00		.05
Tapers, machine	14.37	.75	1.00		.05
Spray Steel; Epoxy Applicator	14.00	.75	1.00		.05
Swing and Boom Sptay	14.85	.75	1.00		.05
Buffer Operator	14.13	.75	1.00		.05
Areas II and III					
Hardwood Floor Sander or Finisher; Paperhangers; Sign, Brush and Roller Painters	12.55	.50	1.00		.10
Swing Stage	12.95	.50	1.00		.10
Structural Steel; Tapers and Drywall Sander	12.95	.50	1.00		.10
Pot Tenders; Sandblasters; Spray	13.15	.50	1.00		.10
Epoxy and Tar Applicator	13.55	.50	1.00		.10
Steeplejack; Towers Painters	14.35	.50	1.00		.10
PLASTERERS	13.75	.60	1.60		.15
PLUMBERS; Steamfitters:					
Area I	15.32	.85	1.30		.45
Area II	14.80	.73	1.40		.15
Area III	14.32	.73	.20		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Area I	$14.10	.65	1.25		.10
Areas II and III	13.80	.65	1.25		.10
SHEET METAL WORKERS:					
Area I	14.76	.52	.50		
Areas II and III	15.62	.56	.75		.15
SOFT FLOOR LAYERS:					
Area I	12.77	.75	1.00		.05
Areas II and III	11.50	.45	1.00	4%	.10
SPRINKLER FITTERS	13.72	.60	.90		.08
TERRAZZO WORKERS' & TILE SETTERS'					
HELPERS	11.18	.55	1.75		.09
TILE SETTERS	11.36	.55	1.75		.09
RIGGERS; Welder: Receive rates for craft performing operation to which rigging or welding is incidental.					

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for over 5 yrs.' service and 2% basic hourly rate for 6 months to 5 yrs.' setvice as Vacation Pay Credit.
Six Paid Holidays: A through F.
PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

LABORERS					
Group 1	11.10	.60	2.00		.09
Group 2	11.27	.60	2.00		.09
Group 3	11.31	.60	2.00		.09
Group 4	11.34	.60	2.00		.09
Group 5	11.38	.60	2.00		.09
Group 6	11.39	.60	2.00		.09
Group 7	11.44	.60	2.00		.09
Group 8	11.52	.60	2.00		.09
Group 9	11.77	.60	2.00		.09
Group 10	11.80	.60	2.00		.09
Group 11	11.88	.60	2.00		.09
Group 12	11.90	.60	2.00		.09
Group 13	11.91	.60	2.00		.09
Group 14	12.02	.60	2.00		.09
Group 15	12 14	.60	2.00		.09
Group 16	12.27	.60	2.00		.09
Group 17:					
Class A	11.10	.60	2.00		.09

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cont'd)					
Group 17: (Cont'd)					
Class B	$11.29	.60	2.00		.09
Class C	11.60	.60	2.00		.09
Class D	12.16	.60	2.00		.09
Class E	12.31	.60	2.00		.09
Class F	12.55	.60	2.00		.09
POWER EQUIPMENT OPERATORS					
Group 1	12.48	.75	2.00		.15
Group 2	13.37	.75	2.00		.15
Group 3	12.41	.75	2.00		.15
Group 4	12.54	.75	2.00		.15
Group 5	13.43	.75	2.00		.15
Group 6	14.21	.75	2.00		.15
Group 7	12.80	.75	2.00		.15
Group 8	11.97	.75	2.00		.15
Group 9	12.86	.75	2.00		.15
Group 10	13.13	.75	2.00		.15
Group 11	12.62	.75	2.00		.15
Group 12	14.96	.75	2.00		.15
Group 13	12.49	.75	2.00		.15
Group 14	12.89	.75	2.00		.15
Group 15	12.39	.75	2.00		.15
Group 16	12.92	.75	2.00		.15
Group 17	13.22	.75	2.00		.15
Group 18	11.31	.75	2.00		.15
Group 19	11.86	.75	2.00		.15
Group 20	12.81	.75	2.00		.15
Group 21	12.13	.75	2.00		.15
Group 22	11.46	.75	2.00		.15
Group 23	11.90	.75	2.00		.15
Group 24	12.07	.75	2.00		.15
Group 25	15.73	.75	2.00		.15
Group 26	16.40	.75	2.00		.15
Group 27	13.06	.75	2.00		.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS DREDGING					
Group 1	$11.78	.75	2.00		
Group 2	11.91	.75	2.00		
Group 3	12.84	.75	2.00		
Group 4	12.90	.75	2.00		
Group 5	12.96	.75	2.00		
Group 6	13.47	.75	2.00		
Group 7					
(a)	14.25	.75	2.00		
(b)	15.00	.75	2.00		
TRUCK DRIVERS					
Group 1	11.82	.93	2.00		.10
Group 2	11.88	.93	2.00		.10
Group 3	11.35	.93	2.00		.10
Group 4	12.20	.93	2.00		.10
Group 5	12.60	.93	2.00		.10
Group 6	12.91	.93	2.00		.10
Group 7	13.20	.93	2.00		.10
Group 8	13.51	.93	2.00		.10
Group 9	13.82	.93	2.00		.10
Group 10	14.13	.93	2.00		.10
Group 11	14.44	.93	2.00		.10
Group 12	14.75	.93	2.00		.10
Group 13	16.05	.93	2.00		.10
Group 14	12.34	.93	2.00		.10
Group 15	11.07	.93	2.00		.10
Group 16	11.50	.93	2.00		.10
Group 17	12.18	.93	2.00		.10
Group 18	12.44	.93	2.00		.10
Group 19	12.71	.93	2.00		.10
Group 20	12.98	.93	2.00		.10
Group 21	13.15	.93	2.00		.10
Group 22	12.12	.93	2.00		.10
Group 23	11.24	.93	2.00		.10

LABORERS

Group 1: Building Laborers, Carpenters Tenders, Material Handlers and Hook Tenders; Form Strippers; Signalmen; Riggers; Sandblast Pot Tender; Saw Tenders; General Labor Dump Man; Pitman; Brush Cutters; Ditch Diggers; Monolithic Workers; Dryerman

Group 2: Base and Floor Machine Man

Group 3: Choke Setters

Group 4: Concrete Labor including Vibrationman, Power Buggy and Concrete Power Saw; Curb and Gutterman; General Crew (including Plant Crew); Asphalt

Group 5: Pneumatic or Power Tools

Group 6: Stake Hopper; Grademan; Steampoint or Water Jet Operator

Group 7: Tank Cleaner

Group 8: Jackhammer Operatot and Pavement Breaker; Chuck Tender (Wagon and air Track Drills)

Group 9: Mason Tender and Mud Mixers

Group 10: Gunnite Operatof; Pipelayers; Culvert and Multiplate; High Scaler; Sloper (over 20 feet); Chain and Power Saws; Sack or Bulk; Sewer Pipelayer; Sewer Caulkers; Timberman; All Monolithic Crews; Pipe Builders; Sandblasters

Group 11: Asphalt Rakers

Group 12: Tenders; Plasterers; Bricklayers; Cement Finisher; Burning and Cutting Torch (except intermittent torch work)

Group 13: Wagon Driller

Group 14: Timber Faller; Air Track Wagon Driller

Group 15: Chain Saw Filer

Group 16: High Riggers and Tree Topper, Powderman

Group 17: Tunnel or Shaft
Class A: Topman and Bull Gang; Brakeman
Class B: Muckers, Laborers; Nippers
Class C: Chuck Tender
Class D: Retimberman
Class E: Miners, Shafts and Raises
Class F: Powderman

POWER EQUIPMENT OPERATORS

Group 1: Batch Plant Operator: Batch and Mixer, 200 yards per hour and under; Loader; Elevating - Athey, Barber Greene and similar types; Overhead and Front-end under 2 yards; Mixers: Concrete Mixers and Batch, 200 yards per hour and under; Pumps: Fuller Kenyon, Pumpcrete and Concrete, Rollers, Tampers and Vibrators: On Plant or Road Mix materials; Tractors, Farmall type, 50 h.p. and over; Trenching Machines, under 16 inches

Group 2: Batch Plant Operator: Batch and Mixer, over 200 yards; Derrick all, Drilling Machines, Core, Cable Rotary and Exploration; Mixers: Mobile type with hoist combination; Mucking Machines, Mole, Tunnel Drill and/or Shield

Group 3: Brooms, Power Wayne, Saginaw and similar types; Bulldozers, under D6 or similar; Post Hole Diggers, mechanical; Saws, concrete; Scrapers; Carryall type, single

Group 4: Bulldozers: D6 through D9 or similar; Bump Cutter (Concut Christenson or similar types); Conveyors

Group 5: Bulldozers: TC 12,,Quad 9, Pay Dozers, Linked Pusher, H.D. 41 and/or similar; Bulldozers engaged in Yo Yo Operation; Cableways and Highlines, 3 yards and under; Cranes: "A" Frame Trucks, Deck Winches, single power drum; "A" Frame Trucks Helicopter (Deck Winches, double power drum); Crawler, Truck type, Floating Locomotive, Whirley, either 3 yards and under or 150 boom including jibs and under 45 tons and under; Hydralifts or Transporter, Hyster Cat Carnes and attachments, Sidebooms 45 tons and under; Loaders: Overhead and Front End 2½ yards and under 4 yards; Motor Patrol Graders: Over Model 14 or similar types; Piledrivers Engineers, L. B. Foster Puller or similar Paving Breaker; Power Plant Turbine Operators; 300 K. W. on highway or airfield construction projects or Quarry Operations); Sauerman-Bagley; Shovels: Crawler and truck type, all attachments, 3 yards and under; Sub Grader (Curries, C.M.I. and similar types); Tractors Farmall type, used as Backhoes, Rubber-tired (Ford, Ferguson, Case and similar types); Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment over 25 yards through 40 yards; Hover Craft, Flex Craft, Loadmaster, Air Cushion, Terrain Vehicle, Helicopter Transporter, Cableways, Rollagon, Dredge Barge Cable, Highline or Cable Car, Camp Maintenance Engineer, Boat Coxswain

Group 6: Cableways and Highlines, over 3 yards; Cranes: Crawler, Truck type, Floating, Locomotive, Whirley, either over 3 yards and under 5 yards, or over 150' boom, including jibs or over 45 tons; Tower Cranes, Pecos, Lorraine, Bucyrus and similar types; Hyster Cat Cranes and attachments, Sidebooms over 45 tons thru 100 tons; Loaders: Overhead and Front-end 4 yards up to and including 10 yards; Shovels: Crawler and truck type, all attachments, 3 yards and under 6 yards; Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment over 40 yards through 55 yards; Slip Form Paver, C.M.I. and similar types

POWER EQUIPMENT OPERATORS (Cont'd)

Group 7: Cement Hogs; Locomotives: Rod and Geared Engines

Group 8: Compressors: Excavating; Locomotives: Dinkey (air, steam, gas, and electric) Speeders

Group 9: Compressors: Steel Erection including Sand Blasting, Painting of same, Pile Driving, Hoists on Steel Erection; Loaders: Fork Lifts with Tower; Scrapers: Carryall type, Tandem

Group 10: Conveyors, Beltcrete with power pack and similar types; Loaders: Elevating Belt type, Euclid and similar types

Group 11: Cranes: "A" Frame Trucks, Deck Winches, single power drum; Crushers, rock, washing and screening plants; Hoist Air Tuggers, Elevators; Motor Patrol Graders: Model 14 or similar types and under; Power Plant Turbine Operators: under 300 K. W.; Shovels; Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment 25 yards and under

Group 12: Cranes: Crawler, truck type, Floating, Locomotive, Whirley, either 6 yards or over 200' of boom including jibs or over 150 tons; Hyster Cat Cranes and attachments, Sidebooms over 100 tons; Loaders: Overhead and Front-end over 10 yards; Shovels: Crawler and truck type, all attachments, 6 yards and over; Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment over 55 yards through 70 yards

Group 13: Finishing Machine Operator, Concrete Paving, Sidewalk Curb and Gutter Machine; Screen Man or Slurry Operator; Spreaders - Blaw Knox, Cedarapids, Barber Greene, Railroad Wing Spreader or similar types

Group 14: Loaders: Elevating Grader type, Dumor and similar types

Group 15: Loaders: Fork Lifts or Lumber Carrier (on construction job site)

Group 16: Mechanics, Welders, Machinists, heavy duty

Group 17: Mechanic; Leadman

Group 18: Mechanics' Helpers, heavy duty shop; Stake Hopper; Grademan

Group 19: Mechanic, light duty; Rollers, Tampers and Vibrators: Others than plants or road mix (where towed, to pay rate of equipment used to pull); Tractors, Farmall type less than 50 h.p.

Group 20: Mixers: Asphalt Mixer

Group 21: Oil, Blower Distributors

Group 22: Safety Observer or Oiler Rigger

POWER EQUIPMENT OPERATORS (Cont'd)A

Group 23: Journeyman Equipment Service Oilers and Firemen; Oiler, either over 3 yards or over 150' boom or over 45 tons

Group 24: Pumps: Water

Group 25: Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment over 70 yards through 85 yards

Group 26: Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment over 85 yards through 100 yards

Group 27: Trenching Machines: 16 inches and over or Remote Controlled Underwater Trenching

POWER EQUIPMENT OPERATORS - DREDGING

Group 1: Assistant Mate (Deckhand)

Group 2: Fireman; Oiler

Group 3: Assistant Engineer (electric, diesel, steam or booster pumps); Mates and Boatmen

Group 4: Engineer Welder; Craneman

Group 5: Assistant Engineer (electric generator operator for primary pump, power barge, or dredge)

Group 6: Leverman, Hydraulic

Group 7: Leverman, Dipper
(a) 5 yards and under
(b) Over 5 yards

TRUCK DRIVERS

Group 1: Buggymobile; Hyster Operators (handling bulk aggregate), Lumber Carrier

Group 2: Semi or truck and trailer; Dumpsters; Batch Trucks over 5 yards, Batch Trucks 5 yards up to and including 10 yards; Fuel Truck; Greasers or Grease Trucks; Flat Beds, dual rear axle, Ready Mix: Over 3 yards up to and including 5 yards; Water Wagon, Semi; Water Wagon, Dual Axle; Winch Trucks, Flat Bed including "A" Frame manufactured rating over 5 tons; Bull Lifts and Fork Lifts over 5 tons; Front End Loader with Forks; Partsman and Outside Expeditor; Bus Operator, over 30 passengers, Truck Equipment; All Terrain Vehicles, Foam Distributor Truck Double Axle; Hydro Seeder Double Axle; Vacuum Trucks and Truck Sweeper-double axle; Loadmaster (air and water operations); Air Cushion or similar type vehicle; Pree Trucks - double axle

TRUCK DRIVERS (Cont'd)

Group 3: Batch Trucks up to and including 5 yards; Dump Trucks (including Rockbuggy and Trucks with pups) up to and including 5 yards; Flat Beds, single rear axle; Water Wagon, single axle; Winch Truck, Flat Bed including "A" Frame manufactured rating 5 tons and under; Bull Lifts and Fork Lifts up to and including 5 tons, Bus Operator, up to 30 passengers, single axle; Team Drivers (Horses, Mules and similar equipment); Fire Trucks, single axle

Group 4: Dump Trucks over 10 yards up to and including 20 yards; Tireman; Lowbed Heavy-duty Trailer; Oil Distributor Drivers; Ready Mix: Compactor (when pulled by rubber-tired equipment)

Group 5: Dump Trucks over 20 yards up to and including 30 yards

Group 6: Dump Trucks over 30 yards up to and including 40 yards

Group 7: Dump Trucks over 40 yards up to and including 50 yards

Group 8: Dump Trucks over 50 yards up to and including 60 yards

Group 9: Dump Trucks over 60 yards up to and including 70 yards

Group 10: Dump Trucks over 70 yards up to and including 80 yards

Group 11: Dump Trucks over 80 yards up to and including 90 yards

Group 12: Dump Trucks over 90 yards up to and including 100 yards

Group 13: Dump Trucks over 100 yards (above scales to be paid on actual water level measurements)

Group 14: Turn-O-Wagoner Dw-10 when not self-loading

Group 15: Gravel Spreader Box Operator on Truck; Pickup (pilot cars and all light-duty vehicles); Warehouseman Class 2; Farm type rubber-tired tractor (material hauling)

Group 16: Ready Mix: Up to and including 3 yards

Group 17: Ready Mix: Over 5 yards up to and including 7 yards

Group 18: Ready Mix: Over 7 yards up to and including 9 yards

Group 19: Ready Mix: Over 9 yards up to and including 12 yards

Group 20: Ready Mix: 13 yards and over

Group 21: Ready Mix, semi with double bowl mixer

Group 22: Water Wagon, when pulled by Euclid or similar type equipment

Group 23: Warehouseman - Class 1

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Bristol
DECISION NO.: MA75-2119 DATE: Date of Publication
Supersedes Decision No. MA75-2071 dated May 2, 1975 in 40 FR 19335
DESCRIPTION OF WORK: Building Construction (Including Residential), Heavy and Highway Construction and Marine Construction.

3-MASS-1-2-3-2 (1-4)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Easton	$ 9.66	.65	.80		.01
Remainder of County	9.32	.71	.83		
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS: Cement Masons Plasterers & Stonemasons; Easton, N. Easton & S. Easton Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Somerset, Swansea, S. Dartmouth, & Westport	9.55	.75	1.05		.05
Remainder of County	9.75	.80	.80		.05
CARPENTERS: Soft Floor Layers	9.20	.80	.65		.05
Easton, N. Easton & S. Easton	8.95	.50	.65		.02
Attleboro, N. Attleboro & S. Attleboro	10.00	.60	.65		.07
Remainder of County: All work over $1½ million including residential	9.30	.50	.65		.02
Work from $1 million - 1½ million	8.83	.50	.65		.02
Work from $5,000 - 1 million	8.37	.50	.65		.02
Work from $2,000 - 500,000	7.44	.50	.65		.02
Residential up to 4 stories & commercial up to $200,000	6.97	.50	.65		.03
ELECTRICIANS: Attleboro, N. Attleboro, & Seekonk	9.40	.48	1%+.90		.02
Residential	6.00	.38	1%		.02
Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth, & S. Dartmouth (electrical contracts $12,000 & over)	9.75	.40	1%+.50		a
Electrical contracts less than $12,000	7.80	.40	1%+.50		a
Residential	5.70	.40	1%+.50		a
Easton: Electrical contracts less than $20,000.00	8.30	4%	5%		.5%
Electrical contracts $20,000.00 or more	10.05	4%	5%		.5%
Residential	6.00	.35	5%		.5%
Fall River, Freetown, Somerset, Swansea, & Westport	9.70	4%	1%+.25	4%	½%

ELECTRICIANS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fall River, Freetown, Somerset, Swansea, & Westport (Cont) Residential	5.25	.31	1%+.25	.21	½%
Remainder of County	10.20	.55	1%		.1%
Residential	6.50	.50	1%		.1%
ELEVATOR CONSTRUCTORS	10.665	.495	.32	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.32	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	.495	.32	4%+b+c	.02
GLAZIERS: Easton	9.20	.45	.56		.03
Remainder of County	8.68	.47	.40+.25		.01
IRONWORKERS: Easton, Mansfield, N. Easton	9.29	.55	1.40		.06
Remainder of County	9.43	.55	1.40		.05
LABORERS (BUILDING): Laborers; Carpenter tenders; Cement finisher tenders; wrecking laborers	7.50	.50	.45		.10
Jackhammer Op.; Pavement breakers; Wagon drills; Asphalt rakers; Carbide core drilling machine; Chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy	7.75	.50	.45		.10
Air Track; Block pavers; Rammers; curb setters	8.00	.50	.45		.10
Blasters; Powdermen	8.37	.50	.45		.10
Open air caisson; Cylindrical work & boring crew; Laborer; Top man	7.50	.50	.45		.10
Helper	8.63	.50	.45		.10
Bottom men	8.25	.50	.45		.10
Driller	8.37	.50	.45		.10
LATHERS	9.25	.45	.55		
LEADBURNERS	9.25	.35		d	.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	$11.54	.45	1%	e	3/8of1%
Equipment Operators	10.85	.45	1%	e	3/8of1%
Driver groundman	8.68	.45	1%	e	3/8of1%
Groundman	7.38	.45	1%	e	3/8of1%
MARBLE SETTERS; Terrazzo Workers	9.05	.70	.80		
MARBLE SETTERS' HELPERS	8.65	.60	.45		
MILLWRIGHTS	9.30	.60	.65		.07
PAINTERS					
Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth & S. Dartmouth:					
Brush; Roller	8.30	.60	.20		
Steel (1' to 50') & Spray	9.30	.60	.20		
Remainder of County:					
Brush; Taper	8.48	.72	.45		.04
Steel	11.58	.72	.45		.04
Spray; Sandblasting	9.48	.72	.45		.04
PILEDRIVERMEN	9.50	.50	.50		
PLASTERERS' TENDERS	7.25	.50	.45		.10
PLUMBERS; Steamfitters:					
Easton	9.50	.45	.70		.05
Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Somerset, S. Dartmouth, Swansea, & Westport	9.15	.76	1.16		.15
Remainder of County	8.97	.60	.73		
ROOFERS:					
Attleboro, Taunton, Mansfield, Easton, Norton, Raynham, & N. Attleboro	9.20	.55	.80		.05
Remainder of County: Roofers & Kettlemen	8.80	.50	.05		
Helpers, Class "A"	8.10	.50	.05		
SHEET METAL WORKERS:					
Acushnet, Assonet, Dartmouth, Dighton, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Rehoboth, Seekonk, Somerset, Swansea, & Westport	9.48	.45	.45		
Remainder of County	9.63	.71	.75		.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$10.53	.50	.80		.08
TERRAZZO WORKERS' HELPERS	8.65	.60	.25		.05
TILE SETTERS	9.05	.70	.50		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contribution of 1.00 per journeyman Electrician per week

b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

c. 6 paid holidays: A through F.

d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. 7 paid holidays: A through F, & Bunker Hill Day, provided the employee is employed 10 days prior to the listed holidays.

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HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Class I	$7.50	.50	.45		.10
Class II	7.75	.50	.45		.10
Class III	8.00	.50	.45		.10
Class IV	8.25	.50	.45		.10

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Power Equipment Operators:					
CLASS I	$10.46	.75	.80	a	.02
CLASS II	10.34	.75	.80	a	.02
CLASS III	8.71	.75	.80	a	.02
CLASS IV	9.52	.75	.80	a	.02
CLASS V	7.69	.75	.80	a	.02
CLASS VI	8.17	.75	.80	a	.02

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumporete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib - additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single disphragm pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day, and Patriots Day.

MASS-1-PED-2-3 F

HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
POWER EQUIPMENT OPERATORS		H & W	Pensions	Vacation	App. Tr.
Group 1	$10.46	.75	.80	a	.02
Hourly premium for boom lenghts including jib					
Over 150 feet +	$ .46				
Over 185 feet +	.80				
Over 210 feet +	1.15				
Over 250 feet +	1.75				
Over 295 feet +	2.50				
Group 2	10.34	.75	.80	a	.02
Group 3	8.71	.75	.80	a	.02
Group 4	9.52	.75	.80	a	.02
Group 5	7.65	.75	.80	a	.02
Group 6	8.17	.75	.80	a	.02

FOOTNOTE: a. 10 Paid Holidays - New Years' Day, Memorial Day, Independence Day, Labo Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day, & Patriots Day

CLASSIFICATIONS:

GROUP 1
Power Shovels, Cranes, Truck Cranes, Derricks, Pile Drivers, Trenching Machines, Mechanical Hoist Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumperete Machines, Uke Loaders, Shovel Dozers, Front End Loaders, Mucking Machines, Shaft Hoists, Steam Engines, Backhoe, Gradalls, Cable Ways, Fork Lifts, Cherry Pickers, Boring Machines, Rotary Drills, Post Hole Hammers, Post Hole Diggers, Asphalt Plant on Job Sute, Concrete Batching and/or Mixing Plant on Job Site, Crusher Plant on Job Site, Paving Concrete Mixers, Timber Jacks

GROUP 2
Sonic or Vibratory Hammers, Greders, Scrapers, Tanden Scrapers, Bulldozers, Tractors, Mechanic Maintenance, York Rakes, Mulching Machines Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Grout Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreaders, Asphalt Pavers, Locomotives or Machines Used in Place Thereof, Tampers, Self Propelled or Tractor Drawn, Cal Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tampers

GROUP 3
Pump (1-3 groups), Compressors, Welding Machine (1-3 grouped), Generators, Lighting Plants, Heaters (Power Driven) (1-5), Syphonn-Pulsometers, Concrete Mixers, Valves Controlling Permanent Plant Air Steam, Conveyors, Wellpoint Systems (Operating and Installing)

GROUP 4
Assistant Engineers (Firemen)

GROUP 5
Oilers (other than truck cranes & gradalls)

GROUP 6
Oilers (on truck cranes & gradalls)

MARINE CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
POWER EQUIPMENT OPERATORS		H & W	Pensions	Vacation	App. Tr.
GROUP I	$10.46	.75	.80	a	.02
GROUP II	11.46	.75	.80	a	.02
GROUP III	10.41	.75		a	.02
GROUP IV	10.34	.75		a	.02
GROUP V	8.71	.75	.80	a	.02
GROUP VI	9.52	.75	.80	a	.02
GROUP VII	7.65	.75	.80	a	.02
GROUP VIII	8.17	.75	.80	a	.02
GROUP IX	8.605	.75	.80	a	.02

CLASSIFICATIONS

GROUP I Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers, two or more drum machines, lighters, derricks boats, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumperete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site), paving concrete mixers; Booms over 150' including jib - additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Booms over 210' including jib - additional $1.00 per hour; Booms over 250' including jib - additional $1.50 per hour; Booms over 295' including jib - additional $2.00 per hour

GROUP II Master Mechanic

GROUP III Swinger Engines

GROUP IV Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanic - maintenance, cal tracks, ballast regulator, switch tampers, rail anchor machines tire trucks

GROUP V Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, wellpoint systems, augers - powered by independent engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

GROUP VI Assistant engineers (firemen)

GROUP VII Oilers and apprentices (other than truck cranes and gradalls)

GROUP VIII Oilers and apprentices on truck cranes and gradalls

GROUP IX Oilers on scows

PAID HOLIDAYS: A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day E- Thnaksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Patroits' Day; Columbus Day; & Veterans' Day.

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 1-2-3 D

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Station wagons, panel trucks and pick-up trucks	$7.24	.545	.575	a+b	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	7.39	.545	.575	a+b	
Three axle equipment and tiremen	7.44	.545	.575	a+b	
Four and five axle equipment	7.54	.545	.575	a+b	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, wachaul, mechanics, paving restoration equipment, Mechanics	7.64	.545	.575	a+b	
Specialized earth moving equipment over 35 tons	7.89	.545	.575	a+b	
Trailers for earth moving equipment, (double hookup)	8.14	.545	.575	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDAS DECISION

STATE: Massachusetts COUNTY: Essex
DECISION NO.: MA75-2121 DATE: Date of publication
Supersedes Decision No. MA75-2072, dated April 25, 1975 in 40 FR 18305.
DESCRIPTION OF WORK: Building construction,(excluding single family homes and garden type apartments up to and including 4 stories), heavy, highway, and marine construction.

BUILDING, HEAVY, & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Asbestos workers	$9.66	.65	.80		.01
Boilermakers	10.00	.60	10%		.01
Bricklayers; Stonemasons:					
Andover, Boxford, Danvers, Lawrence, Lynn, Lynnfield, Marblehead, Methuen, Middleton, Nahant, N.Andover, Peabody, Salem, Saugus, Swampscott, & Topsfield	9.60	.70	1.05		.05
Remainder of County	10.10	.60	.65		.05
Carpenters; Soft floor layers:					
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Newbury, Newburyprot, Rowley, Salisbury, W.Newbury, Lynn, Lynnfield, Nahant, Saugus, and Swampscott	10.00	.60	.65		.07
Andover, Lawrence, Methuen, N. Andover, and W. Andover:					
On contracts over $1,500,000	9.90	.60	.65		.02
Contracts from $1,000,000 to $1,500,000	9.40	.60	.65		.02
From $500,000-$1,000,000	8.80	.60	.65		.02
From $200,000-$500,000	7.91	.60	.65		.02
Up to $200,000	7.39	.60	.65		.02
Remainder of County	9.60	.35	.65		
Cement masons; plasterers:					
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, N.Andover, Salisbury, &.West Salisbury	8.05	.385	.30		
Danvers, Lynn, Lynnfield, Marblehead, Middleton, Nahant, Peabody, Salem, Saugus, Swampscott, and Topsfield	9.30	.50	.85		.05
Remainder of County	9.45	.60	.60		.05
Electricians:					
Andover, Lawrence, Methuen, and North Andover	9.72	.25	1%+.20		.02
Lynn, Lynnfield, Nahant, Saugus, and Swampscott	10.10	.50	1%+1.35		.05
Amesbury, Boxford, Georgetown, Groveland, Haverhill, Merrimac, Newbury, Newburyport, Rowley, Salisbury, & W.Newbury	9.93	.45	1%+.20		.02
Remainder of County	9.80	.60	1%+.20		.02

DECISION NO. MA75-2121

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Elevator constructors	10.665	.495	.32	1%+a+b	.02
Elevator constructors' helpers	70%JR	.495	.32	1%+a+b	.02
Elevator constructors' helpers(prob)	50%JR	.495	.32	1%+a+b	.02
Glaziers	9.20	.45	.56		.03
Ironworkers	9.99	.55	1.40		.06
Laborers (Building):					
Laborers; carpenter tenders; cement finisher tenders; wrecking laborers	7.50	.50	.45		.10
Jackhammer ops; pavement breakers; wagon drills, asphalt rakers; carbide core drilling machines; chain saw ops; pipelayers; barco type jumping tampers; laser beam ops; concrete pump ops; mason tenders; mortar mixers; ride-on motorized buggy ops	7.75	.50	.45		.10
Air track; block pavers; rammers; curb setters	8.00	.50	.45		.10
Blaster; powdermen	8.25	.50	.45		.10
Open air caisson; cylindrical work and boring crew:					
Laborers; top man	7.50	.50	.45		.10
Helper	7.62	.50	.45		.10
Bottom man	8.25	.50	.45		.10
Driller	8.37	.50	.45		.10
Lathers	9.25	.45	.55		.05
Leadburners	9.25	.35		c	.01
Line Construction:					
Linemen	11.54	.45	1%	d	3/8of1%
Equipment operators	10.85	.45	1%	d	3/8of1%
Driver groundman	8.68	.45	1%	d	3/8of1%
Groundman	7.38	.45	1%	d	3/8of1%
Marble setter; terrazzo workers	9.05	.70	.80		
Marble setters' helpers	8.65	.60	.25		
Millwrights	9.93	.60	.65		.07
Painters:					
Essex, Gloucester, Manchester, & Rockport:					
Brush	6.20	.30			
Spray	6.65	.30			
Roller	6.50	.30			
Amesbury, Andover, Beverly, Boxford, Danvers, Georgetown, Groveland, Hamilton, Haverhill, Ipswich, Lawrence, Lynn, Lynnfield, Marblehead, Merrimac, Methuen,					

-continued-

DECISION NO. MA75-2121

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Middleton, Newbury, Newburyport, N.Andover, Peabody, Rowley, Salem, Salisbury, Saugus, Swampscott, Topsfield, Wenham, W.Newbury:					
New construction:					
Brush; tpaers	$9.46	.72	.85		.04
Sandblasters; Spray	10.46	.72	.85		.04
Steel	11.58	.72	.85		.04
Repaint	8.61	.72	.85		.04
Piledriverman	9.50	.50	.50		
Plasterers' Tenders:					
Lynn, Lynnfield, Nahant, Saugus, and Swampscott	7.25	.50	.45		.10
Plumbers; Steamfitters:					
Andover, Georgetown, Groveland, Lawrence, Methuen, & N.Andover	9.54	.53	.50		.05
Lynn, Lynnfield, Nahant, Saugus, and Swampscott:					
Plumbers	10.25	.70	.60		.03
Steamfitters	10.36	.66	.85		.05
Remainder of County	9.50	1.05	.47		.05
Roofers:					
Haverhill and Lawrence	6.70			e	
Remainder of County	9.20	.55	.80		.05
Sheet metal workers	9.63	.71	.75		.06
Sprinkler fitters	10.53	.50	.80		.08
Terrazzo workers' helpers	8.65	.60	.25		.05
Tile setters	9.05	.70	.80		
Tile setters' helpers	7.94	.40	.25		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. 6 Paid Holidays: A through F

c. 9 Paid Holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve provided the employee has worked 45 full days during the 120 calendar days prior to the holiday & the regular scheudled work days immediately preceding and following the holiday.

d. 7 Paid Holidays: A through F, & Bunker Hill Day provided the employee has been employed 10 working days prior to any 1 of the listed holidays.

e. 9 Paid Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day.

BUILDING CONSTRUCTION

Power Equipment Operators:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$10.46	.75	.80	a	.02
CLASS II	10.34	.75	.80	a	.02
CLASS III	8.71	.75	.80	a	.02
CLASS IV	9.52	.75	.80	a	.02
CLASS V	7.69	.75	.80	a	.02
CLASS VI	8.17	.75	.80	a	.02

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumporete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib - additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single disphragm pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day, and Patriots Day.

MASS-1-PEO-2-3 F

HEAVY & HIGHWAY CONSTRUCTION:

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
Group 1	$10.46	.75	.80	a	.02
Hourly premium for boom lenghts including Jib					
Over 150 feet + $ .85					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
Group 2	10.34	.75	.80	a	.02
Group 3	8.71	.75	.80	a	.02
Group 4	9.52	.75	.80	a	.02
Group 5	7.69	.75	.80	a	.02
Group 6	8.17	.75	.80	a	.02

FOOTNOTE: a. 10 Paid Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day, & Patriots Day.

CLASSIFICATIONS:

GROUP 1
Power Shovels, Cranes, Truck Cranes, Derricks, Pile Drivers, Trenching Machines, Mechanical Hoist Pavement Breakers, Cement Concrete Pavers, Draglines, Hoisting Engines, Three Drum Machines, Pumporete Machines, Uke Loaders, Shovel Dozers, Front End Loaders, Mucking Machines, Shaft Hoists, Steam Engines, Backhoe, Gradalls, Cable Ways, Fork Lifts, Cherry Pickers, Boring Machines, Rotary Drills, Post Hole Hammers, Port Hole Diggers, Asphalt Plant on Job Sute, Concrete Batching and/or Mixing Plant on Job Site, Crusher Plant on Job Site, Paving Concrete Mixers, Timber Jacks

GROUP 2
Sonic or Vibratory Hammers, Graders, Scrapers, Tandem Scrapers, Bulldozers, Tractors, Mechanic Maintenance, York Rakes, Mulching Machines Paving Screed Machines, Stationary Steam Boilers, Paving Concrete Finishing Machines, Grout Pumps, Portable Steam Boilers, Portable Steam Generators, Rollers, Spreaders, Asphalt Pavers, Locomotives or Machines Used in Place Thereof, Tampers, Self Propelled or Tractor Drawn, Cal Tracks, Ballast Regulators, Rail Anchor Machines, Switch Tampers

GROUP 3
Pump (1-3 groupd), Compressors, Welding Machine (1-3 grouped), Generators, Lighting Plants, Heaters (Power Driven) (1-5), Syphons-Pulsometers, Concrete Mixers, Valves Controlling Permanent Plant Air Steam, Conveyors, Wellpoint Systems (Operating and Installing)

GROUP 4
Assistant Engineers (Firemen)

GROUP 5
Oilers (other than truck cranes & gradalls)

GROUP 6
Oilers (on truck cranes & gradalls)

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

MASS - 1 - TD - 1-2-3 b

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Station wagons, panel trucks and pick-up trucks	$7.24	.545	.575	a+b	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	7.39	.545	.575	a+b	
Three axle equipment and tiremen	7.44	.545	.575	a+b	
Four and five axle equipment	7.54	.545	.575	a+b	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.64	.545	.575	a+b	
Specialized earth moving equipment over 35 tons	7.85	.545	.575	a+b	
Trailers for earth moving equipment, (double hookup)	8.14	.545	.575	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

HEAVY & HIGHWAY CONSTRUCTION

MASS-1 - 2-3 L

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class I	$7.50	.50	.45		.10
Class II	7.75	.50	.45		.10
Class III	8.00	.50	.45		.10
Class IV	8.25	.50	.45		.10

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

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MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
GROUP I	$10.46	.75	.80	a	.02
GROUP II	11.46	.75	.80	a	.02
GROUP III	10.41	.75		a	.02
GROUP IV	10.34	.75		a	.02
GROUP V	8.71	.75	.80	a	.02
GROUP VI	9.52	.75	.80	a	.02
GROUP VII	7.65	.75	.80	a	.02
GROUP VIII	8.17	.75	.80	a	.02
GROUP IX	8.605	.75	.80	a	.02

CLASSIFICATIONS

GROUP I Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers, two or more drum machines, lighters, derricks boats, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumprete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site), paving concrete mixers; Booms over 150' including jib - additional $.35 per hour; Booms over 185' including jib - additional $.70 per hour; Booms over 210' including jib - additional $1.00 per hour; Booms over 250' including jib - additional $1.50 per hour; Booms over 295' including jib - additional $2.00 per hour

GROUP II Master Mechanic

GROUP III Swinger Engines

GROUP IV Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractor york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast regulator, switch tampers, rail anchor machines, tire trucks

GROUP V Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, wellpoint systems, augers - powered by independent engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

GROUP VI Assistant engineers (firemen)

GROUP VII Oilers and apprentices (other than truck cranes and gradalls)

GROUP VIII Oilers and apprentices on truck cranes and gradalls

GROUP IX Oilers on mows

PAID HOLIDAYS: A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day E- Thnaksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Patroits' Day; Columbus Day; & Veterans' Day.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Hampden
DECISION NO.: MA75-2122 DATE: Date of Publication
Supersedes Decision No. MA75-2053 dated March 14, 1975 in 40 FR 12051
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

T-MASS

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.00	.5%	.75		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS: Cement masons; Marble masons; Plasterers; Stone masons; Terrazzo workers; & Tile setters	9.55	.55	.80		.03
CARPENTERS: Soft floor layers	9.15	.45	.65		.02
ELECTRICIANS: Chester, Holyoke, & that portion of Chicopee Township north of the following line: McKinstry Avenue from the Connecticut River to Grattan Street; South on Grattan to Lafayette Street; east on Lafayette to York Street; north on York to McKinstry; east on McKinstry to Grady Road & projected to the Westover Air Force fence & that area north of Westover field	9.76	.45	1%+.20		.01
Remainder of County	8.29	.48	1%+.15	.43	a
ELEVATOR CONSTRUCTORS	9.505	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	.445	.29	3%+a+b	.02
GLAZIERS	8.05		.45		.005
IRONWORKERS: Ornamental; Reinforcing; Structural	9.11	.55	1.40		.09
LABORERS (BUILDING) Laborers; Wrecking, carpenter & cement finisher tenders	7.50	.50	.45		
Asphalt rakers, Carbide Core Driller Ops, Saw Ops, Pipelayers, Jackhammer & Paving Breaker Ops, Barco-type jumping tampers, Laser Beams ops, concrete pump ops, & vagco drill ops, mason tenders, mortar mixers & ride-on motorized buggy ops.	7.75	.50	.45		
Air track ops, Block pavers, Rammers & curb setters	8.00	.50	.45		

LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Blasters & powdermen	$ 8.25	.50	.45		
Open air caisson; Cylindrical work & boring crew:					
Bottom man	8.25	.50	.45		
Top man	7.50	.50	.45		
Test Boring:					
Driller	8.37	.50	.45		
Helper	7.62	.50	.45		
LATHERS	8.45	.45	.25		.01
LEAD BURNERS	9.25	.35		d	.01
LINE CONSTRUCTION:					
Linemen	10.16	.40	1%	e	3/8of1%
Groundmen, Driver Equipment Operator	9.48	.40	1%	e	3/8of1%
MARBLE, MOSAIC, & TERRAZZO WORKERS' HELPERS	8.00				
MILLWRIGHTS	9.85	.60	.65		.07
PAINTERS:					
Brush	8.82	.50	.35		.03
Spray	11.76	.6667	.4667		.04
Swing stage under 40' steel	9.007	.50	.35		.03
Swing stage over 40' & steel	9.32	.50	.35		.03
PILEDRIVERMEN	9.50	.50	.50		.05
PLUMBERS	9.68	.68	.85	g	.05
ROOFERS:					
Composition, damp & waterproofing	8.945	.64	.66		
Slate, tile, precast & concrete	9.60	.64	.66		
SHEET METAL WORKERS	9.11	.75	.97		.02
SPRINKLER FITTERS	10.5	.50	.80		.08
STEAMFITTERS	9.98	.57	.70	.08	.02

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. $.30 per man per week

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

c. 6 paid holidays: A through F.

d. 9 paid holidays: A through F, Washington's Brithday, Good Friday, & Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. 9 paid holidays: A through F, provided the employee has been employed for at least 5 days prior to the holiday and is available for work the day before and after the holiday, plus one floating holiday, Washington's Birthday, and Patiots Day.

f. 1 paid holiday: Fourth of July

g. 1 paid holiday: Independence day & Labor Day provided the employee has been employed 7 days prior to the holiday for the same employer

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS: --	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.35	.60	.75	a	.05
CLASS II	9.15	.60	.75	a	.05
CLASS III	8.95	.60	.75	a	.05
CLASS IV	8.58	.60	.75	a	.05
CLASS V	7.90	.60	.75	a	.05
CLASS VI	7.45	.60	.75	a	.05
CLASS VII	6.72	.60	.75	a	.05

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 90 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Bolt-type Loaders, Front End Loader-5½ yards or over, Dual Drum Paver, Automatic Grader (i. e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Gunner Consols.

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (struck Load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps, and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton.

CLASS IV Asphalt Roller-under 10 ton

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts up to 15 feet.

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding.

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day.

HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
CLASS I	$ 9.35	.60	.75	a	.05
CLASS II	9.15	.60	.75	a	.05
CLASS III	8.95	.60	.75	a	.05
CLASS IV	8.58	.60	.75	a	.05
CLASS V	7.90	.60	.75	a	.05
CLASS VI	7.45	.60	.75	a	.05
CLASS VII	6.72	.60	.75	a	.05

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Bruglino, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Graders-Excavator (C.M.I. or equal), Acrapurs towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (Struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over,, Sonic Hammer Console.

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Firemen, Pumps-16 inches or over total discharge, Compressors (1 or 2) 900 cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant.

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat.

FOOTNOTES:

a. Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day.

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HEAVY & HIGHWAY CONSTRUCTION LABORERS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Apr. Tr.
Class 1	$7.50	.50	.45		.10
Class II	7.75	.50	.45		.10
Class III	8.00	.50	.45		.10
Class IV	8.25	.50	.45		.10

CLASSIFICATIONS:

CLASS I
[illegible] tender, cement finisher tenders, laborers, wrecking laborers

CLASS II
[illegible] rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
[illegible] track op., block pavers, rammers, curb setters

CLASS IV
[illegible], powdermen

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TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Station wagons, panel trucks and pick-up trucks	7.24	.545	.575	a+b	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	7.39	.545	.575	a+b	
Three axle equipment and tiremen	7.64	.545	.575	a+b	
Four and five axle equipment	7.54	.545	.575	a+b	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics	7.84	.545	.575	a+b	
Specialized earth moving equipment over 35 tons	7.85	.545	.575	a+b	
Trailers for earth moving equipment, (double hookup)	8.14	.545	.575	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts
COUNTY: Hampshire
DECISION NO: MA75-2123
DATE: Date of Publication
Supersedes Decision No. MA75-2006, dated January 17, 1975 in 40 FR 3121
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.60	.54	.75		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, Plasterers, Cement mason, stone masons, marble, tile & terrazzo workers, caulker cleaner, pointers	9.55	.55	.80		.03
CARPENTERS	9.15	.45	.65		.02
ELECTRICIANS:					
Belchertown, Ware	8.29	.48	1%+.15	.43	a
Middlefield, Cummington & Plainfield	9.14	.45	1%+.49		.02
Remainder of County	9.76	.45	1%+.49		.01
ELEVATOR CONSTRUCTORS	9.505	.445	.29	2%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	2%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR	.445	.29	2%+b+c	.02
GLAZIERS	9.45	.47	.45		
IRONWORKERS, STRUCTURAL, ORNAMENTAL AND REINFORCING	9.11	.45	1.40		.09
LABORERS (BUILDING):					
Laborers, wrecking laborers, carpenter & cement finisher tenders	7.50	.50	.45		.10
Asphalt rakers, Carbide core driller ops, chain saw opers., pipelayers, jackhammer & paving breaker ops., barco-type jumping tampers, laser beams ops., concrete pumps ops., & wagon drill ops., mason tenders, morter mixers & ridge on motorized buggy ops.	7.75	.50	.45		.10
Air track ops., block pavers, rammers & curb setters	8.00	.50	.45		.10
Powdermen and blasterers	8.25	.50	.45		.10
Open air caisson, underpinning work and boring crew: (entire county)					
Bottom man	8.25	.50	.45		.10
Top man	7.50	.50	.45		.10
Test boring:					
Driller	8.37	.50	.45		.10
Helper	7.62	.50	.45		.10

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$ 8.45	.45	.65		.01
LINE CONSTRUCTION					
Lineman	10.16	.40	1%	d	3/8of1%
Equipment Operator	9.48	.40	1%	d	3/8of1%
Driver Groundman	7.32	.40	1%	d	3/8of1%
MARBLE & TILE SETTERS HELPERS & TERRAZZO WORKERS' HELPERS	8.00				
MILLWRIGHTS	9.85	.60	.65		.07
PAINTERS:					
Brush & Roller	8.82	.50	.35		.03
Spray	11.76	.6667	.4667		.04
Swing stage under 40' and steel	9.07	.50	.35		.03
Swing stage over 40' and steel	9.32	.50	.35		.03
PILEDRIVERMEN	9.50	.50	.50		
PLUMBERS & STEAMFITTERS:					
Belchertown, Granby, Huntington, Middlefield, South Hadley, Ware					
Plumbers	9.68	.68	.85	e	.05
Steamfitters	9.88	.57	.70	f	.02
Remainder of County:					
Plumbers and Steamfitters	9.95	.60	.60		.02
ROOFERS:					
Composition, damp, waterproof	8.945	.64	.66		
Slate, tile, precast concrete	9.60	.64	.66		
SHEET METAL WORKERS	9.11	.75	.97		.02
SPRINKLER FITTERS	10.53	.50	.80		.08
Welders - rate for craft.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. $.30 per man per week.
b. Employer contributes 4% of basic hourly rate for 5 months or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay credit.
c. Holidays: A through F.
d. Paid Holidays: A through F, Washington's Birthday and Patriots Day providing employee has been employed for a period of five (5) working days prior to the holiday and the regular scheduled working dys preceding and following the holiday.
e. July 4th and Labor Day provided worker employed 7 days before holiday
f. July 4th and Labor Day - $.08 per hour employer contribution to make two paid holidays.

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.35	.60	.75	a	.05
CLASS II	9.15	.60	.75	a	.05
CLASS III	8.95	.60	.75	a	.05
CLASS IV	8.58	.60	.75	a	.05
CLASS V	7.90	.60	.75	a	.05
CLASS VI	7.45	.60	.75	a	.05
CLASS VII	6.72	.60	.75	a	.05

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yards or over, Dual Drum Paver, Automatic Grader (i. e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5½ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console.

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (struck load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps, and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton.

CLASS IV Asphalt Roller-under 10 ton

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors, Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts up to 15 feet.

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding.

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day.

HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	App. Tr.
CLASS I	$ 9.35	.60	.75	a	.05
CLASS II	9.15	.60	.75	a	.05
CLASS III	8.95	.60	.75	a	.05
CLASS IV	8.58	.60	.75	a	.05
CLASS V	7.90	.60	.75	a	.05
CLASS VI	7.45	.60	.75	a	.05
CLASS VII	6.72	.60	.75	a	.05

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Hunking Machines, Front End Loader-5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, Scraper-21 yards and over (Struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over,, Sonic Hammer Console.

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) 900 cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant.

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot roller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat.

FOOTNOTES:
a. Paid Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day.

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HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LABORERS:					
Class I	$7.50	.50	.45		.10
Class II	7.75	.50	.45		.10
Class III	8.05	.50	.45		.10
Class IV	8.25	.50	.45		.10

CLASSIFICATIONS:

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

MASS - 1 - TD - 1-2-3 D

TRUCK DRIVERS: BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Station wagons, panel trucks and pick-up trucks	$7.24	.545	.575	a+b	
Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers.	7.39	.545	.575	a+b	
Three axle equipment and tirmen	7.44	.545	.575	a+b	
Four and five axle equipment	7.54	.545	.575	a+b	
Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vactual, mechanics, paving restoration equipment, Mechanics	7.64	.545	.575	a+b	
Specialized earth moving equipment over 35 tons	7.85	.545	.575	a+b	
Trailers for earth moving equipment, (double hookup)	8.14	.545	.575	a+b	

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day, and Patriots' Day, provided an employee works two days of the calendar week in which the holiday falls.

STATE: Texas

COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler

DECISION NO.: TX75-4183

DATE: Date of Publication

Supersedes Decision No. TX75-4160, dated October 17, 1975, in 40 FR 48882

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$9.03	.35	.30		.02
BOILERMAKERS	8.00	.50	.76		.02
BRICKLAYERS & STONEMASONS	8.65		.20		
CARPENTERS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:					
Carpenters	8.45				
Millwrights	8.80				
ZONE 2 - Childress County:					
Carpenters	7.90	.30	.40		.07
Millwrights	8.39	.30	.40		.07
CEMENT MASONS:					
Cement masons	7.80				
Machine operators	8.05				
ELECTRICIANS:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:					
Electricians	8.53	.40	1%		1/2%
Cable splicers	9.38	.40	1%		1/2%
ZONE 2 - Childress County:					
Electricians	9.25	.20	1%		1/4%
Cable splicers	9.50	.20	1%		1/4%
ELEVATOR CONSTRUCTORS	4.06	.175	.20	2%+a+b	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.175	.20	2%+a+b	
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

FOOTNOTES: a-1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate. b-Paid Holidays: New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day

DECISION NO. TX75-4183

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GLAZIERS	$5.75				
IRONWORKERS	8.75	.55	.60		.10
LABORERS:					
GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, wrecking buildings & all structures & all unskilled laborers	4.51	.30	.10		
GROUP 2 - Air tool operator (jackhammer, tamper, brush hammer, chipping hammer, air or electric), sand blasterer, power buggy man, pipelayer (concrete & clay & all non-metallic pipe), & pipe wrappers; mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders, asphalt rakers, tampers, well drillers, bell hole men, dumpers, spotters	4.66	.30	.10		
LATHERS	8.00				.01
LINE CONSTRUCTION:					
ZONE 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos.:					
Lineman	8.53	.40	1%		1/2%
Cable splicers	9.38	.40	1%		1/2%
Groundman, more than 1 year experience	5.61	.40	1%		1/2%
Groundman, less than 1 year experience	4.90	.40	1%		1/2%
Operator-hole digger, line truck	6.50	.40	1%		1/2%
Flat bed truck driver	4.90	.40	1%		1/2%

DECISION NO. TX75-4183

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
LINE CONSTRUCTION (CONT'D):					
ZONE 7 - Childress County:					
Lineman; Operator	$9.86		1%		1/2%
Cable splicer	10.85		1%		1/2%
Groundman, 1st 6 months	5.92		1%		1/2%
Groundman, 2nd 6 months	8.41		1%		1/2%
Groundman, 1 year & over	6.90		1%		1/2%
MARBLE MASONS (EXTERIOR)	8.65		.20		
MARBLE MASONS (INTERIOR)	4.60				
PAINTERS:					
GROUP 1 - Brush & roller; paperhangers; perfa-tapers	6.60		.20		
GROUP 2 - Structural steel painters; swinging stage or chair below 50 ft.	6.725		.20		
GROUP 3 - Spray painters & sandblasters	7.35		.20		
GROUP 4 - Perfa-tape machine operator	6.85		.20		
PLASTERERS	8.00				.01
PLUMBERS & PIPEFITTERS	8.18	.25	.55	.30	
ROOFERS	4.50				
SHEET METAL WORKERS	8.75	.35	.20		.10
SPRINKLER FITTERS	10.10	.50	.80		.08
TERRAZZO WORKERS	4.60				
TILE SETTERS	4.60				
TRUCK DRIVERS:					
1/2 ton to 3 tons	2.88				
3 to 5 tons	3.13				
5 tons and over	3.38				
Ready mix concrete to 3 yds.	2.88				
Ready mix concrete over 3 yds.	3.13				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX75-4183

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$7.75	.30	.50		.10
GROUP 2	7.25	.30	.50		.10
GROUP 3	6.40	.30	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Blade Grader, self-propelled; Clam Shells; Cable Ways; Cranes, power operated (all types); Air Compressors, Pumps, Welding Machines & Light Plants (7 to 12 Machines); Derricks, power operated (all types); Draglines; Elevating Graders, self-propelled; Hoist, 2 drum or more; Locomotive; Mixermobiles; Paving Mixers, all types; Pile Drivers; Scrapers; Bulldozers; Side Boom; Cherry Pickers-12½ ton & over; Shovels; Heavy Duty Mechanics; All Welders; All Tractors with power attachments; Ditching Machines-crawler type; Farm type Tractor (Loader, 1 yd. & over) with Backhoe; All other equipment of similar nature coming within the Heavy Equipment Classification, when power operated

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 Machines); Cherry Pickers-under 12½ tons; Ditch Witch-J30 and under; Farm type Tractor (Loader under 1 yd.) with Backhoe; Co-Duvil; Mixers, 14 cu. ft. or over; Rollers over 10 tons; Air Compressor and one Tugger; Boilers, 2 or more; Winch Trucks; Front End Scoopmobile, Loader and Payloader; Blade Grader, towed; Elevators, Building; Fork Lifts; Hoists, single drum on 1 line hoisting (1 tugger) Mixers, less than 15 cu. ft.; Rollers; Screening Plants; Crushing Plants; Tractors-Wheel type except when hauling material; All other equipment of similar nature coming within the Light Equipment Classification, when power operated

GROUP 3 - Oiler; Fireman; Greasers

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Howard
DECISION NO.: TX75-4184 DATE: Date of Publication
Supersedes Decision No. TX75-4095, dated May 16, 1975, in 40 FR 21587.
DESCRIPTION OF WORK: Building (including Residential) Construction.
(See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
BRICKLAYERS	$7.00				
CARPENTERS	6.10				
CEMENT MASONS	5.00				
ELECTRICIANS	7.40	.30	1%		1/10%
IRONWORKERS, STRUCTURAL & ORNAMENTAL	7.38	.55	.60		.10
LABORERS:					
Laborer:	3.05				
Mason tenders	3.50				
PAINTERS	4.50				
PLUMBERS	4.26				
ROOFERS	4.00				
SHEET METAL WORKERS	5.25				
TILE SETTERS	4.00				
TRUCK DRIVERS	2.50				

DECISION NO. TX75-4184

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Air Tool Man	$2.90				
Asphalt Rosterman	3.00				
Asphalt Raker	3.25				
Asphalt Shoveler	2.50				
Batching Plant Scaleman	3.55				
Batterboard Setter	3.65				
Carpenter	3.50				
Carpenter Helper	2.75				
Concrete Finisher (Paving)	3.50				
Concrete Finisher Helper (Paving)	3.00				
Concrete Finisher (Structures)	3.75				
Concrete Finisher Helper(Structures)	3.00				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.00				
Form Setter (Paving and Curb)	3.75				
Form Setter Helper (Paving & Curb)	2.75				
Form Setter (Structures)	4.00				
Form Setter Helper (Structures)	2.75				
Laborer, Common	2.50				
Laborer, Utility Man	2.75				
Manhole Builder, Brick	3.00				
Mechanic	3.95				
Mechanic Helper	3.10				
Oiler	3.25				
Serviceman	3.30				
Pipelayer	3.50				
Pipelayer Helper	2.90				
Powderman	4.00				
Powderman Helper	3.10				
Reinforcing Steel Setter(Structures)	4.00				
Reinforcing Steel Setter Helper	2.75				
Spreader Box Man	3.00				
Power Equipment Operators:					
Asphalt Distributor	3.35				
Asphalt Paving Machine	3.50				
Broom or Sweeper Operator	3.25				
Bulldozer, 150 HP and Less	3.50				
Bulldozer, over 150 HP	3.95				

DECISION NO. TX75-4184

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr
Power Equipment Operators (Cont'd):					
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.90				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & Over)	4.25				
Crusher or Screening Plant op.	3.50				
Elevating Grader	4.10				
Foundation Drill Operator (Truck Mounted)	4.60				
Front End Loader (2½ CY and Less)	3.50				
Front End Loader (Over 2½ CY)	3.75				
Motor Grader Operator, Fine Grade	4.40				
Motor Grader Operator	4.00				
Roller, Steel Wheel (Plant-Mix Pavements)	3.25				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.90				
Roller, Pneumatic (Self-Propelled)	2.50				
Scrapers (17 CY and Less)	3.45				
Scrapers (Over 17 CY)	3.50				
Side Boom	3.70				
Tractor (Crawler Type) over 150 HP	3.25				
Tractor (Pneumatic) 80 HP & Less	2.50				
Tractor (Pneumatic) over 80 HP	3.25				
Trenching Machine, Light	3.70				
Trenching Machine, Heavy	3.80				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.50				
Truck Drivers:					
Single Axle, Light	2.95				
Single Axle, Heavy	3.00				
Tandem Axle or Semitrailer	3.00				
Lowboy-Float	3.35				
Transit-Mix	2.60				
Winch	3.40				
Weighman (Truck Scales)	2.75				
Welder	4.00				

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX75-4185
COUNTIES: Kleberg & Nueces
DATE: Date of Publication
Supersedes Decision No. TX75-4099, dated May 23, 1975, in 40 FR 22787
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$8.37	.35	.40		
BOILERMAKERS	8.00	.50	.76		.02
BRICKLAYERS	7.28	.18	.15		.02
CARPENTERS:					
Carpenters	6.74	.27	.30		.03
Millwrights	7.55				1%
CEMENT MASONS	7.30				
ELECTRICIANS:					
Electricians	7.85	.35	1%		1/2%
Cable splicers	7.975	.35	1%		1/2%
GLAZIERS (excluding Kleberg Co.)	5.34		.20		
IRONWORKERS	6.44	.55	.40		.04
LABORERS:					
GROUP 1 - General laborer (any work not specifically defined herein)	4.15	.28	.10		
GROUP 2 - Craft tenders: Bricklayers, plasterers, tile setters, concrete & mortar mixers, pipelayers, lathers, finish carpenters, slip form operators, scaffolding water proofers, cement finishers; Power tool operators-includes paving buster, jackhammer, chipping gun, air tamper, barie tamper, electric vibrator, air or gasoline driven vibrator or drills, sump pumps and any and all power driven equipment operated by laborers	4.35	.28	.10		
GROUP 3 - Pipe wrappers & dopers	4.50	.28	.10		
GROUP 4 - Gunnite nozzlemen; Powderman or blaster	4.60	.28	.10		
LATHERS	7.30	.30	.20	1.00	.01
LINE CONSTRUCTION:					
Lineman	8.40	.40	1%		1/2%
Cable splicer	8.525	.40	1%		1/2%
Groundman (1st year)	4.20	.40	1%		1/2%
Groundman	5.23	.40	1%		1/2%

DECISION NO. TX75-4185

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
MARBLE SETTERS	$6.73				.02
MARBLE SETTERS' HELPERS	4.87				
PAINTERS:					
Brush	6.48	.25	.25		2/10%
Spray	6.88	.25	.25		2/10%
Sign	6.73	.25	.25		2/10%
PLASTERERS	8.20				.01
PLUMBERS & STEAMFITTERS	7.75	.25	.25		.035
ROOFERS:					
Roofers	5.925		.20		
Kettlemen	5.925		.20		
Waterproofers	5.925		.20		
Deckmen	5.925		.20		
SHEET METAL WORKERS	6.72	.15	.25		.01
SOFT FLOOR LAYERS	6.74	.27	.30		.03
SPRINKLER FITTERS	10.10	.50	.80		.08
TERRAZZO WORKERS	6.73				.02
TERRAZZO WORKERS' HELPERS:					
Terrazzo helpers	4.87				
Floor machine operators	5.07				
Base machine operators	5.22				
TILE SETTERS	6.73				.02
TILE SETTERS' HELPERS	4.87				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX75-4185

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Apr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	$6.65	.18	.45		
Group 2	5.825	.18	.45		
Group 3	5.225	.18	.45		
Group 4	5.375	.18	.45		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Asphalt Plant Mixer; Back Filler; Back Hoe; Batch Plant (concrete); Blade Grader; Boring Machine (foundation, horizontal or waterwell); Bull Clam; Bull Dozer; Cableway; Clamshell; Crane, power operated, all types; Crusher; Derrick, power operated, all types; Dragline; Elevating Grader; Elevator, outside the building; Euclids and similar type machines; Forklift (on construction except in warehouses); Grade-All; Hi-Lift; Hoist (2 drums or more); Locomotive and Switch Engines; Mixer (paving); Mixer (concrete); Pile Driver; Pumps (2) over 3 inches; Pumcrete Machine; Push Cat or Pull Cat; Roller (pneumatic, flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench Machine; Tugboat (on Construction); Turn-a-pulls and similar machines; Welding Machines (7 to 13) other than electric; Wellpoint; Winch Truck; All other equipment of similar nature coming within Heavy Equipment Class when power operated; Mechanic; Lubrication Engineer (required on grease racks and service trucks)

GROUP 2 - Air Compressor (1 or 2) 125 C/M or less, gasoline or diesel powered; Blade Grader (towed); Conveyor; Elevator, inside the building, permanent type; Fireman (required on any boiler, steam locomotive, steam crane, etc.); Finplane; Form Grader; Generator (gas, diesel over 1500 watts); Hoist (1 drum); Mixer (less than 14 cu. ft.); Pulsometer; Pumps (1) over 3 inches; Pumps (1 or 2) 3 inches or under; Roller (towed); Tractor (wheel type); Driver-oiler (required on tractor or truck cranes on which controls of crane and those of tractor or truck are operated from different seats or stations, mobile type grade all, etc.); Wagon drill; Welding Machines (3 to 6) other than electric All other equipment of similar nature coming within Light Equipment Class when power operated

GROUP 3 - Oiler, 1st year

GROUP 4 - Oiler, 2nd year

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX75-4186
COUNTY: Lubbock
DATE: Date of Publication
Supersedes Decision No. TX75-4094, dated May 16, 1975, in 40 FR 21685.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$9.00	.35	.30		.02
BOILERMAKERS	8.00	.50	.75		.02
BRICKLAYERS & STONEMASONS	8.20		.20		
CARPENTERS	7.10	.30	.40		.01
CEMENT MASONS	6.50				
ELECTRICIANS:					
Electricians	8.10	.40	1%		1/10%
Cable splicers	8.35	.40	1%		1/10%
IRONWORKERS:					
Structural; Ornamental; Reinforcing	7.38	.55	.60		.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	7.505	.55	.60		.10
LABORERS:					
GROUP 1	4.275	.275	.10		
GROUP 2	4.55	.275	.10		
GROUP 3	4.475	.275	.10		
GROUP 4	4.625	.275	.10		
GROUP 5	4.875	.275	.10		

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading and unloading materials, wrecking buildings and all structures and all construction laborers except those named below
GROUP 2 - Air tool operator (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete and clay and all non-metallic pipe); handling, laying and cleaning pumpcrete pipe
GROUP 3 - Mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders
GROUP 4 - Wagon drill
GROUP 5 - Blasters and powder make-up men

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LATHERS	$6.75	.20			.01

DECISION NO. TX75-4186

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
LINE CONSTRUCTION:					
Linemen	$8.10	.40	1%		
Operators	80%JR	.40	1%		
Groundmen (more than 1 year experience)	55%JR	.40	1%		
Groundmen (less than 1 year experience)	50%JR	.40	1%		
Flat bed truck operator	70%JR	.40	1%		
PAINTERS:					
Brush	5.85	.30	.20		.04
Spray	6.50	.30	.20		.04
PLASTERERS	7.00				
PLUMBERS & STEAMFITTERS	7.90		.40		.04
ROOFERS	3.50				
SHEET METAL WORKERS	8.75	.35	.20		.10
SOFT FLOOR LAYERS	5.85	.30	.20		.04
SPRINKLER FITTERS	10.10	.50	.80		.08
TRUCK DRIVERS	3.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. TX75-4186

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$5.95	.30	.50		.10
GROUP 2	6.85	.30	.50		.10
GROUP 3	7.25	.30	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear); All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoists, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 feet of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX75-4187
COUNTY: Travis
DATE: Date of Publication
Supersedes Decision No. TX75-4101, dated May 23, 1975, in 40 FR 22789.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$8.43	.35	.45		.08
BOILERMAKERS	8.00	.50	.76		.02
BRICKLAYERS & STONEMASONS	8.58	.40	.30		.04
CARPENTERS:					
Carpenters	8.41	.38	.40		.04
Millwrights	8.66	.38	.40		.04
CEMENT MASONS	7.59	.30	.20		
ELECTRICIANS & CABLE SPLICERS	9.30		1%		.8%
ELEVATOR CONSTRUCTORS	7.775	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	6.80		.20		.01
IRONWORKERS	8.44	.55	.60		.12
LABORERS:					
GROUP 1 - General laborer and pier hole men	4.905	.275	.20		.02
GROUP 2 - Mason tender; Pipelayer (concrete & clay); Cement finisher tender; scaffold builder; gunnite & cement work mixer & power tool operator	5.055	.275	.20		.02
GROUP 3 - Plaster tender; Hod carrier; Mortar mixers; Lather tender; Water or damp proofers	5.23	.275	.20		.02
GROUP 4 - Gunnite over 1½" thick; Nozzlemen; Machine operator; Powderman & blaster	5.305	.275	.20		.02
LATHERS	9.325				.01
LINE CONSTRUCTION:					
Linemen	8.90	.40	1%		1/2%
Groundmen	4.90	.40	1%		1/2%
Groundmen (1st year)	4.45	.40	1%		1/2%
MARBLE SETTERS	7.15				
MARBLE SETTERS' HELPERS	4.87				

DECISION NO. TX75-4187

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
PAINTERS:					
Brush; Taping & floating of sheetrock	$6.90				
Paperhangers; Chipper, burner, torch; Skeleton steelwork erected	7.15				
Spray; Steam cleaning, sand blast & other powered equipment	7.40				
Swinging stage, bosun chair, window jack or scaffold (above 2nd floor) - 25¢ per hour above all base rates					
PLASTERERS	9.00	.25	.10		.01
PLUMBERS & STEAMFITTERS	8.90	.30	.30		.05
ROOFERS:					
Roofers	5.23				.01
Kettlemen	5.08				.01
SHEET METAL WORKERS	8.30	3%+.30	.35		.07
SOFT FLOOR LAYERS	8.42	.35	.20		.09
SPRINKLER FITTERS	10.10	.50	.80		.08
TERRAZZO WORKERS	7.15				
TERRAZZO WORKERS' HELPERS:					
Terrazzo helpers	4.87				
Floor machine operators	5.07				
Base machine operators	5.22				
TILE SETTERS	7.15				
TILE SETTERS' HELPERS	4.87				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate
b - Following Paid Holidays: New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

DECISION NO. TX75-4187

	Basic Hourly Rates	Fringe Benefits Payments			
		H&W	Pensions	Vacation	Apr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$7.38		.40		
GROUP 2	6.46		.40		
GROUP 3	5.43		.40		
GROUP 4	5.33		.40		

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Heavy Duty Mechanic; Blade Grader - Self-propelled; Bull Clam; Back Filler; Derricks, power operated (all types); Dragline; Push Cat Operator; Euclid Operator; Bull Dozer and all types of Cat Tractors; Cable-Way; Back Hoe; Crane, Power Operated (all types); Elevating Grader, self-propelled; Hoist, Motor Driven, two drums or more; Mix Mobile; High-Lifts & loaders, over 1/3 cu. yd. capacity; Winch Truck; Locomotive; Mixer, 14 cu. ft. or over; Paving Mixer (all sizes); Scraper; Trenching Machine (all sizes); Gradall; Foundation Boring Machine; Scoopmobile; Shovel, Power Operated; Pump Crete Machine; Clam Shell Operator; Rock Crusher Operated on Job; Welding Machine, 6 to 12, Two 125 cu. ft. Compressors; Well points, including installations

GROUP 2 - Blade Grader, Towed; Flex Plane; Form Grader; Mixer, less than 14 cu. ft.; Pulsometer; Truck Crane Driver & Oiler, Combination man; Gasoline or Diesel Driven Welding Machine, 3 to 6; Hoist, Single Drum; Pump, 2½ in. or larger; Pneumatic Roller; High-Lifts & Loaders, 1/3 cu. yd. or less; Forklift, 1500 lbs. capacity or less; Air Compressors, anytime there are two or more attachments operating on a 125 cu. ft. compressor, a light equipment operator shall be employed. One 125 cu. ft. air compressor and one welding machine requires no operator. One 125 cu. ft. compressor and two welding machine or any 2 air compressors equivalent to a 125 cu. ft. air compressor requires a light equipment operator

GROUP 3 - Fireman

GROUP 4 - Oiler

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Wichita
DECISION NO.: TX75-4188 DATE: Date of Publication
Supersedes Decision No. TX75-4147, dated August 8, 1975, in 40 FR 33646.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories). (See current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

DECISION NO. TX75-4188

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
ASBESTOS WORKERS	$8.78	.30	.51		.025
BOILERMAKERS	8.00	.58	.76		.02
BRICKLAYERS & STONEMASONS	8.74		.30		.05
CARPENTERS:					
Carpenters	7.90	.30	.40		.07
Millwrights	8.30	.30	.40		.07
CEMENT MASONS	7.15				
ELECTRICIANS:					
ZONE 1 - Worked performed within a road mile radius from the Local Union 681 business office up to 30 miles:					
Electricians	8.90	.20	1%		1/4%
Cable splicers	9.15	.20	1%		1/4%
ZONE 2 - All worked performed beyond Zone 1:					
Electricians	9.25	.20	1%		1/4%
Cable splicers	9.50	.20	1%		1/4%
ELEVATOR CONSTRUCTORS	8.21	.445	.29	3%a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	4.97				
IRONWORKERS:					
Structural; Ornamental; Reinforcing	7.38	.55	.60		.10
Ironworkers on jobs 30 miles or more from the city of Wichita Falls	7.505	.55	.60		.10
LABORERS:					
GROUP 1 - General laborers	4.275	.275	.20		
GROUP 2 - Pipelayer (concrete & clay); Power buggy operator; Gunite mixer; Cement work mixer; Power tool operator; Bell hole man (piers)	4.40	.275	.20		
GROUP 3 - Mason tender; Mason mortar mixer; Plasterer tender; Hod carrier; Plasterer mortar mixer	4.525	.275	.20		
GROUP 4 - Gunite over 1½" thick; Nozzleman & machine operator	4.525	.275	.20		
GROUP 5 - Powderman, blaster	4.775	.275	.20		
LATHERS	$7.65				.01
LINE CONSTRUCTION:					
Lineman; Lineman operator	9.86		1%		1/2%
Cable splicer	10.85		1%		1/2%
Groundman, 1st 6 months	5.92		1%		1/2%
Groundman, 2nd 6 months	6.41		1%		1/2%
Groundman, 1 year & over	6.90		1%		1/2%
MARBLE SETTERS	8.61				
PAINTERS:					
Brush	5.00				
Spray	6.50				
PLASTERERS	8.67				.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Within 25 miles of Wichita Falls City limits	7.05	.25	.35		.02
ZONE 2 - Between 25 and 40 miles of Wichita Falls City limits	7.30	.25	.35		.02
ZONE 3 - Between 40 and 70 miles of Wichita Falls City limits	7.45	.25	.35		.02
ZONE 4 - Between 70 and 100 miles of Wichita Falls City limits	7.60	.25	.35		.02
ZONE 5 - Over 100 miles of Wichita Falls City limits	7.75	.25	.35		.02
ROOFERS	5.42				
SHEET METAL WORKERS	8.57				.03
SOFT FLOOR LAYERS	5.50				
TERRAZZO WORKERS	7.50				
TILE SETTERS	6.50				
TRUCK DRIVERS	2.25				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate.
b - Following Paid Holidays: New Years' Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day.

DECISION NO. TX75-4188

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	55.95	.30	.50		.10
GROUP 2	6.25	.30	.50		.10
GROUP 3	7.25	.30	.50		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler-Fireman

GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear); All other equipment of similar nature coming under the Light Equipment Class, when power operated

GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoists, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 feet of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air compressor & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Wichita
DECISION NO.: TX75-4189 DATE: Date of Publication
Supersedes Decision No. TX75-4087, dated May 16, 1975, in 40 FR 21675.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$7.00				
CARPENTERS	5.65				
CEMENT MASONS	4.50				
ELECTRICIANS	5.55				
LABORERS:					
Laborers	3.00				
Mason tenders	3.55				
PAINTERS, BRUSH	4.32				
PLUMBERS & PIPEFITTERS	5.53				
ROOFERS	4.00				
SHEET METAL WORKERS	5.30				
SOFT FLOOR LAYERS	5.00				

DECISION NO. TX75-4189

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Heaterman	$3.50				
Asphalt Raker	3.90				
Batching Plant Scaleman	4.30				
Carpenter	4.70				
Carpenter Helper	3.25				
Concrete Finisher (Paving)	4.15				
Concrete Finisher Helper (Paving)	3.40				
Concrete Finisher (Structures)	4.65				
Concrete Finisher Helper(Structures)	3.25				
Form Liner (Paving and Curb)	5.00				
Form Setter (Paving and Curb)	4.90				
Form Setter Helper (Paving & Curb)	3.50				
Form Setter (Structures)	4.80				
Form Setter Helper (Structures)	4.20				
Laborer, Common	2.75				
Laborer, Utility Man	3.00				
Mechanic	4.50				
Mechanic Helper	3.55				
Oiler	3.55				
Serviceman	3.80				
Painter (Structures)	5.00				
Pipelayer	3.25				
Powderman	4.20				
Reinforcing Steel Setter(Structures)	4.50				
Sign Erector	3.25				
Spreader Box Man	3.75				
Swamper	3.10				
Power Equipment Operators:					
Asphalt Distributor	4.65				
Asphalt Paving Machine	4.65				
Broom or Sweeper Operator	3.00				
Bulldozer, 150 HP and Less	3.95				
Bulldozer, over 150 HP	4.20				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.60				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.80				

DECISION NO. TX75-4189

INCIDENTAL PAVING & UTILITIES & SITE PREPARATION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Crusher or Screening Plant Op.	$4.15				
Foundation Drill Operator (Truck Mounted)	3.90				
Front End Loader (2½ CY & Less)	3.75				
Front End Loader (Over 2½ CY)	4.30				
Motor Grader Operator, Fine Grade	4.80				
Motor Grader Operator	4.45				
Roller, Steel Wheel (Plant-Mix Pavements)	3.40				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.45				
Roller, Pneumatic (Self-Propelled)	3.25				
Scrapers (17 CY and Less)	3.50				
Scrapers (Over 17 CY)	4.20				
Tractor (Crawler Type) 150 HP and Less	3.00				
Tractor (Crawler Type) over 150 HP	3.70				
Tractor (Pneumatic) over 80 HP	3.30				
Traveling Mixer	3.75				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.55				
Truck Drivers:					
Single Axle, Light	3.00				
Single Axle, Heavy	3.40				
Tandem Axle or Semitrailer	3.00				
Lowboy-Float	3.50				
Weighman (Truck Scales)	2.75				
Welder	4.80				

[FR Doc.75-29686 Filed 11-6-75;8:45 am]

INDEX TO GENERAL WAGE DETERMINATION DECISIONS AND MODIFICATIONS AS OF OCTOBER 3, 1975

There is set forth below an index to general wage determination decisions and modifications as published in the FEDERAL REGISTER pursuant to the Davis-Bacon and related Acts. The index lists general wage determination decisions and modifications by State and County. An updated index is published on the first Friday of each month.

The index is published for the convenience of the public and the Department of Labor will endeavor to keep it accurate and up to date. In the event the data in the index and published general decisions do not coincide, the published general decisions shall control.

ABBREVIATIONS

(B)—Building Construction
(D)—Dredging
(F)—Flood Control Construction
(H)—Heavy Construction
(Hw)—Highway Construction
(R)—Residential Construction
Mod.—Modification
(HE)—Heavy Engineering
(LE)—Light Engineering
(U)—Utility
(W&S)—Water and Sewer

Signed at Washington, D.C. this 31st day of October 1975.

RAY J. DOLAN,
Assistant Administrator
Wage and Hour Division.

ALABAMA

STATEWIDE
Decision #AR-4013 (D)
39 FR 27397 - 7/26/74
Decision #AQ-4088 (Hw)(Excluding Airport Construction)
39 FR 10085 - 3/15/74
Mod. #1 - 40 FR 2373 - 1/10/75
AUTAUGA COUNTY
(D,Hw) - See Statewide
BALDWIN COUNTY
Decision #AL75-1043 (R)
40 FR 15286 - 4/4/75
(Hw) - See Statewide
BARBOUR COUNTY
(D,Hw) - See Statewide
BIBB COUNTY
(D,Hw) - See Statewide
BLOUNT COUNTY
Decision #AL75-1047 (R)
40 FR 17474 - 4/18/75
(D,Hw) - See Statewide
BULLOCK COUNTY
(D,Hw) - See Statewide
BUTLER COUNTY
(D,Hw) - See Statewide
CALHOUN COUNTY
(D,Hw) - See Statewide
CHAMBERS COUNTY
(D,Hw) - See Statewide
CHEROKEE COUNTY
(D,Hw) - See Statewide
CHILTON COUNTY
(D,Hw) - See Statewide
CHOCTAW COUNTY
(D,Hw) - See Statewide
CLARKE COUNTY
(D,Hw) - See Statewide

ALABAMA (Cont'd.)

CLAY COUNTY
(D,Hw) - See Statewide
CLEBURNE COUNTY
(D,Hw) - See Statewide
COFFEE COUNTY
(D,Hw) - See Statewide
COLBERT COUNTY
Decision #AL75-1046 (R)
40 FR 17451 - 4/18/75
Decision #AL75-1061 (B)
40 FR 24462 - 6/6/75
Mod. #1 - 40 FR 29439 - 7/11/75
(D,Hw) - See Statewide

CONECUH COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
COOSA COUNTY
(D,Hw) - See Statewide
COVINGTON COUNTY
(D,Hw) - See Statewide
CRENSHAW COUNTY
(D,Hw) - See Statewide
CULLMAN COUNTY
(D,Hw) - See Statewide
DALE COUNTY
(D,Hw) - See Statewide
DALLAS COUNTY
(D,Hw)- See Statewide
DE KALB COUNTY
(D,Hw) - See Statewide
ELMORE COUNTY
(D,Hw)- See Statewide
ESCAMBIA COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
ETOWAH COUNTY
(D,Hw)-See Statewide

ALABAMA (Cont'd.

FAYETTE COUNTY
(D,Hw) - See Statewide
FRANKLIN COUNTY
(D,Hw) - See Statewide
(R) - See Colbert County
GENEVA COUNTY
(D,Hw) - See Statewide
GREENE COUNTY
(D,Hw) - See Statewide
HALE COUNTY
(D,Hw) - See Statewide
HENRY COUNTY
(D,Hw) - See Statewide
HOUSTON COUNTY
(D,Hw) - See Statewide
JACKSON COUNTY
(D,Hw) - See Statewide
JEFFERSON COUNTY
Decision #AL75-1086 (B)
40 FR 44447 - 9/26/75
(D) - See Statewide
(R) - See Blount County
(Hw) - See Statewide
LAMAR COUNTY
(D,Hw) - See Statewide
LAUDERDALE COUNTY
(B,R) - See Colbert County
(D,Hw) - See Statewide
LAWRENCE COUNTY
Decision #AL75-1027 (B)
40 FR 8701 - 2/28/75
Mod. #1 - 40 FR 27403 - 6/27/75
Mod. #2 - 40 FR 29439 - 7/11/75
Mod. #3 - 40 FR 40003 - 8/29/75
(D,Hw) - See Statewide
(R) - See Colbert County
LEE COUNTY
(D,Hw) - See Statewide
LIMESTONE COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide

ALABAMA (cont'd)

LOWNDES COUNTY
(D,Hw) - See Statewide
MACON COUNTY
(D,Hw) - See Statewide
MADISON COUNTY
Decision #AL75-1063 (B)
40 FR 26188 - 6/20/75
Mod. #1 - 40 FR 29440 - 7/11/75
Mod. #2 - 40 FR 40003 - 8/29/75
(D,Hw) - See Statewide
MARENGO COUNTY
(D,Hw) - See Statewide
MARION COUNTY
(R) - See Colbert County
(D,Hw) - See Statewide
MARSHALL COUNTY
(D,Hw) - See Statewide
MOBILE COUNTY
Decision #AL75-1069 (B)
40 FR 30389 - 7/18/75
Mod. #1 - 40 FR 36893 - 8/22/75
(D,Hw) - See Statewide
(R) - See Baldwin County
MONROE COUNTY
(D,Hw) - See Statewide
MONTGOMERY COUNTY
Decision #AL75-1071 (R)
40 FR 30392 - 7/18/75

Decision #AL75-1073 (B)
40 FR 33580 - 8/8/75
Mod. #1 - 40 FR 42483 - 9/12/75
(D,Hw) - See Statewide
MORGAN COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide
PERRY COUNTY
(D,Hw) - See Statewide
PICKENS COUNTY
(D,Hw) - See Statewide

ARIZONA

STATEWIDE
Decision #AZ75-5076 (B,H,Hw)
40 FR 28313 - 7/3/75
Mod. #1 - 40 FR 33571 - 8/8/75
Mod. #2 - 40 FR 43417 - 9/19/75
APACHE COUNTY
Decision #AZ75-5003 (R)
(Navajo and Hopi Indian
Reservations in Apache, Coconino, Navajo Cos.)
40 FR 3868 - 1/24/75
(B,H,Hw) - See Statewide
COCHISE COUNTY
(B,H,Hw) - See Statewide
COCONINO COUNTY
(B,H,Hw) - See Statewide
((R) - See Apache County
GILA COUNTY
(B,H,Hw) - See Statewide
GRAHAM COUNTY
(B,H,Hw) - See Statewide
GREENLEE COUNTY
(B,H,Hw) - See Statewide
MARICOPA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ75-5077 (R)
40 FR 28322 - 7/3/75
Mod. #1 - 40 FR 33572 - 8/8/75
Mod. #2 - 40 FR 43417 - 9/19/75
MOHAVE COUNTY
(B,H,Hw) - See Statewide
NAVAJO COUNTY
(B,H,Hw) - See Statewide
(R) - See Apache County
PIMA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ75-5078 (R)
40 FR 28328 - 7/3/75
Mod. #1 - 40 FR 33572 - 8/8/75
Mod. #2 - 40 FR 43417 - 9/19/75
PINAL COUNTY
(B,H,Hw) - See Statewide
SANTA CRUZ COUNTY
(B,H,Hw) - See Statewide
YAVAPAI COUNTY
(B,H,Hw) - See Statewide
YUMA COUNTY
(B,H,Hw) - See Statewide

ALABAMA (Cont'd)

PIKE COUNTY
(D,Hw) - See Statewide
RANDOLPH COUNTY
(D,Hw) - See Statewide
RUSSELL COUNTY
(D,Hw) - See Statewide
SAINT CLAIR COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
SHELBY COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
SUMTER COUNTY
(D,Hw) - See Statewide
TALLADEGA COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
TALLAPOOSA COUNTY
(D,Hw) - See Statewide
TUSCALOOSA COUNTY
Decision #AL75-1048 (B)
40 FR 17475 - 4/18/75
Mod. #1 - 40 FR 27403 - 6/27/75
(D,Hw) - See Statewide
WALKER COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
WASHINGTON COUNTY
(D,Hw) - See Statewide
(R) - See Baldwin County
WILCOX COUNTY
(D,Hw) - See Statewide
WINSTON COUNTY
(D,Hw) - See Statewide
(R) - See Colbert County

ALASKA

STATEWIDE
Decision #AK75-5099 (B,H,Hw,R)
40 FR 33581 - 8/8/75

ARKANSAS

STATEWIDE
Decision #AR-71 (Construction, -- Alteration, and/or repair of streets, highways, runways, and water & sewer utilities)
39 FR 40409 - 11/15/74
Decision #AR-4013 (D)
39 FR 27397- 7/26/74
ARKANSAS COUNTY
(D,H,Hw) - See Statewide
Decision #AR75-5074 (F)
40 FR 26189 - 6/20/75
ASHLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BAXTER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BENTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BOONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BRADLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CALHOUN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CARROLL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CHICOT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLARK COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.

CLAY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEBURNE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEVELAND COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
COLUMBIA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CONWAY COUNTY
Decision #AR75-4084 (B)
40 FR 19321 - 5/2/75
Mod. #1 - 40 FR 25319 - 6/13/75
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAIGHEAD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAWFORD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
Decision #AR75-4082 (B)
40 FR 17452 - 4/18/75
Mod. #1 - 40 FR 25319 - 6/13/75
Mod. #2 - 40 FR 45951 - 10/3/75
CRITTENDEN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CROSS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DALLAS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DESHA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

DREW COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FAULKNER COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FRANKLIN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FULTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GARLAND COUNTY
Decision #AR75-4083 (B)
40 FR 18271 - 4/25/75
Mod. #1 -40 FR 25319 - 6/13/75
Mod. #2 - 40 FR 45951 - 10/3/75
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GRANT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GREENE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HEMPSTEAD COUNTY
(D,H,Hw) - See Statewide
(F(- See Arkansas County
HOT SPRING COUNTY
(B) - See Garland County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HOWARD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
INDEPENDENCE COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County
IZARD COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.)

JACKSON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
JEFFERSON COUNTY
(D,H,Hw) - See Statewide
(F)- See Arkansas County
JOHNSON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LAFAYETTE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LAWRENCE COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LEE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LINCOLN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LITTLE RIVER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LOGAN COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LONOKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MADISON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
MARION COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

MILLER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MISSISSIPPI COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONROE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONTGOMERY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEVADA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEWTON COUNTY
(D,H,Hw) - See Statewide
(F) - Arkansas County
OUACHITA COUNTY
(B) - See Union County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PERRY COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PHILLIPS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PIKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POINSETT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POLK COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POPE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

PRAIRIE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PULASKI COUNTY
(D,H,Hw)- See Statewide
(F) - See Arkansas County
Decision #AR75-4134 (B)
40 FR 31455 - 7/25/75
Mod. #1 - 40 FR 43418 - 9/19/75
Mod. #2 - 40 FR 45951 - 10/3/75
Decision #AR75-4068 (R)
40 FR 14218 - 3/28/75
RANDOLPH COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
ST. FRANCIS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SALINE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SCOTT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEARCY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEBASTIAN COUNTY
(F) - See Arkansas County
(D,H,Hw) - See Statewide
(D) - See Crawford County
SEVIER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SHARP COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

STONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
UNION COUNTY
Decision #AR75-4073 (B)
40 FR 15287 - 4/4/75
Mod. #1 - 40 FR 19323 - 5/2/75
Mod. #2 - 40 FR 25319 - 6/13/75
Mod. #3 - 40 FR 45951 - 10/3/75
(F) - See Arkansas County
(D,H,Hw) - See Statewide
VAN BUREN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WASHINGTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WHITE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WOODRUFF COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
YELL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

CALIFORNIA

ALAMEDA COUNTY
Decision #CA75-5085 (B,H,Hw,D)
40 FR 31457 - 7/25/75
Mod. #1 - 40 FR 40003 - 8/29/75
Mod. #2 - 40 FR 44439 - 9/26/75
Decision #CA75-5086 (R)
40 FR 31474 - 7/25/75
Mod. #1 - 40 FR 40005 - 8/29/75
Mod. #2 - 40 FR 44440 - 9/26/75
(B,D,H,Hw,R) - See Alameda County
AMADOR COUNTY
(B,D,H,Hw,R) - See Alameda County
BUTTE COUNTY
(B,H,Hw,D) - See Alameda County
CALAVERAS COUNTY
(B,H,Hw,D,R) - See Alameda County
COLUSA COUNTY
(B,H,Hw,D) - See Alameda County
CONTRA COSTA COUNTY
(B,D,H,Hw,R) - See Alameda County
DELNORTE COUNTY
(B,D,H,Hw,R) - See Alameda County
ELDORADO COUNTY
(B,D,H,Hw,R) - See Alameda County
FRESNO COUNTY
(B,D,H,Hw,R) - See Alameda County
GLENN COUNTY
(B,H,Hw,D) - See Alameda County
HUMBOLDT COUNTY
(B,D,H,Hw,R) - See Alameda County
IMPERIAL COUNTY
Decision #CA75-5087 (B,D,H,Hw)
40 FR 31487 - 7/25/75
Mod. #1 - 40 FR 41349 - 9/5/75
Mod. #2 - 40 FR 45952 - 10/3/75
Decision #CA75-5088 (R)
40 FR 31498 - 7/25/75
Mod. #1 - 40 FR 41350 - 9/5/75
Mod. #2 - 40 FR 45952 - 10/3/75
INYO COUNTY
(B,H,Hw,D) - See Imperial County
KERN COUNTY
(B,D,H,Hw,R) - See Imperial County

CALIFORNIA (Cont'd)

KING COUNTY
(B,H,Hw,D) - See Alameda County
LAKE COUNTY
(B,H,Hw,D) - See Alameda County
LASSEN COUNTY
(B,H,Hw,D) - See Alameda County
LOS ANGELES COUNTY
(B,D,H,Hw,R) - See Imperial County
MADERA COUNTY
(B,H,Hw,D) - See Alameda County
MARIN COUNTY
(B,H,Hw,D,R) - See Alameda County
MARIPOSA COUNTY
(B,D,H,Hw,R) - See Alameda County
MENDOCINO COUNTY
(B,H,Hw,D) - See Alameda County
MERCED COUNTY
(B,D,H,Hw,R) - See Alameda County
MODOC COUNTY
(B,H,Hw,D) - See Alameda County
MONO COUNTY
(B,H,Hw,D) - See Imperial County
MONTEREY COUNTY
(B,D,H,Hw,R) - See Alameda County
NAPA COUNTY
(B,D,H,Hw,R) - See Alameda County
NEVADA COUNTY
(B,D,H,Hw,R) - See Alameda County
ORANGE COUNTY
(B,D,H,Hw,R) - See Imperial County
PLACER COUNTY
(B,D,H,Hw,R)- See Alameda County
PLUMAS COUNTY
(B,H,Hw,D) - See Alameda County
RIVERSIDE COUNTY
(B,D,H,Hw,R) - See Imperial County
SACRAMENTO COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN BENITO COUNTY
(B,H,Hw,D,R) - See Alameda County
SAN BERNARDINO COUNTY
(B,D,H,Hw,R) - See Imperial County
SAN DIEGO COUNTY
Decision #CA75-5071 (B,H,Hw,D)
40 FR 25337 - 6/13/75
Mod. #1 - 40 FR 29442 - 7/11/75
Mod. #2 - 40 FR 30383 - 7/18/75
Mod. #3 - 40 FR 41349 - 9/5/75

CALIFORNIA (CONT'D).

SAN DIEGO COUNTY (Cont'd.)
Decision #CA75-5072 (R)
40 FR 25343 - 6/13/75
Mod. #1 - 40 FR 29442 - 7/11/75
Mod. #2 - 40 FR 30383 - 7/18/75
Mod. #3 - 40 FR 41349 - 9/5/75
SAN FRANCISCO COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN JOAQUIN COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN LUIS OBISPO COUNTY
(B,D,H,Hw,R) - See Imperial County
SAN MATEO COUNTY
(B,D,H,Hw,R) - See Alameda County
SANTA BARBARA COUNTY
(B,D,H,Hw,R) - See Imperial County
SANTA CLARA COUNTY
(B,D,H,Hw,R) - See Alameda County
SANTA CRUZ COUNTY
(B,D,H,Hw,R) - See Alameda County
SHASTA COUNTY
(B,D,H,Hw,R) - See Alameda County
SIERRA COUNTY
(B,H,Hw,D) - See Alameda County
SISKIYOU COUNTY
(B,H,Hw,D) - See Alameda County
SOLANO COUNTY
(B,D,H,Hw,R) - See Alameda County
SONOMA COUNTY
(B,D,H,Hw,R) - See Alameda County
STANISLAUS COUNTY
(B,H,Hw,D) - See Alameda County
SUTTER COUNTY
(B,D,H,Hw,R) - See Alameda County
TEHAMA COUNTY
(B,D,H,Hw,R) - See Alameda County
TRINITY COUNTY
(B,H,Hw,D) - See Alameda County
TULARE COUNTY
(B,H,Hw,D) - See Alameda County
TUOLUMNE COUNTY
(B,D,H,Hw,R) - See Alameda County
VENTURA COUNTY
(B,D,H,Hw,R) - See Imperial County

CALIFORNIA (Cont'd.)

YOLO COUNTY
(B,H,Hw,D,R) - See Alameda County
YUBA COUNTY
(B,H,Hw,D,R) - See Alameda County

COLORADO

STATEWIDE
Decision #CO75-5118 (Hw)
40 FR 43449 - 9/19/75
ADAMS COUNTY
Decision #CO75-5115 (B,H)
40 FR 43426 - 9/19/75
(Hw) - See Statewide
Decision #CO75-5061 (R)
40 FR 22744 - 5/23/75
(Hw) - See Statewide
ALAMOSA COUNTY
(Hw) - See Statewide
ARAPAHOE COUNTY
(Hw) - See Statewide
(B,H,R) - See Adams County
ARCHULETA COUNTY
(Hw) - See Statewide
BACA COUNTY
(Hw) - See Statewide
BENT COUNTY
(Hw) - See Statewide
BOULDER COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
CHAFFEE COUNTY
(Hw) - See Statewide
CHEYENNE COUNTY
(Hw) - See Statewide

COLORADO (cont'd)

CLEAR CREEK
(B,H) - See Adams County
(Hw) - See Statewide
CONEJOS COUNTY
(Hw) - See Statewide
COSTILLA COUNTY
(Hw) - See Statewide
CROWLEY COUNTY
(Hw) - See Statewide
CUSTER COUNTY
(Hw) - See Statewide
DELTA COUNTY
Decision #CO75-5116 (B,H)
40 FR 43435 - 9/19/75
(Hw) - See Statewide
DENVER COUNTY
(Hw) - See Statewide
(B,H,R) - See Adams County
DOLORES COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
EAGLE COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
ELBERT COUNTY
(Hw) - See Statewide
(B,H) - See Adams County
EL PASO COUNTY
Decision #CO75-5101 (B,H)
40 FR 33595 - 8/8/75
Mod. #1 - 40 FR 43418 - 9/19/75
(Hw) - See Statewide
FREMONT COUNTY
(Hw) - See Statewide
GARFIELD COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
GILPIN COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
GRAND COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
GUNNISON COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
HINDSDALE COUNTY
(Hw) - See Statewide
HUERFANO COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(Hw) - See Statewide

COLORADO (Cont'd.)

JEFFERSON COUNTY
(Hw) - See Statewide
(B,H,R) - See Adams County
KIOWA COUNTY
(Hw) - See Statewide
KIT CARSON COUNTY
(Hw) - See Statewide
LAKE COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
LA PLATA COUNTY
(Hw) - See Statewide
LARIMER COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
LAS ANIMAS COUNTY
Decision #CO75-5117 (B,H)
40 FR 43442 - 9/19/75
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
MESA COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
MINERAL COUNTY
(Hw) - See Statewide
MOFFAT COUNTY
(Hw) - See Statewide
MONTEZUMA COUNTY
(Hw) - See Statewide
MONTROSE COUNTY
(B,H) - See Delta County
(H,Hw) - See Statewide
MORGAN COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
OTERO COUNTY
(B,H) - See Las Animas County
(Hw) - See Statewide
OURAY COUNTY
(Hw) - See Statewide
PARK COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
PHILLIPS COUNTY
(Hw) - See Statewide
PITKIN COUNTY
(B,H) - See Delta County
(Hw) - See Statewide
PROWERS COUNTY
(Hw) - See Statewide
PUEBLO COUNTY
(Hw) - See Statewide
(B,H) - See Las Animas County

COLORADO (Cont'd)

RIO BLANCO COUNTY
(Hw) - See Statewide
RIO GRANDE COUNTY
(Hw) - See Statewide
ROUTT COUNTY
(Hw) - See Statewide
SAGUACHE COUNTY
(Hw) - See Statewide
SAN JUAN COUNTY
(Hw) - See Statewide
SAN MIGUEL COUNTY
(Hw) - See Statewide
SEDGWICK COUNTY
(Hw) - See Statewide
SUMMIT COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
TELLER COUNTY
(Hw) - See Statewide
WASHINGTON COUNTY
(Hw) - See Statewide
WELD COUNTY
(B,H) - See Adams County
(Hw) - See Statewide
YUMA COUNTY
(Hw) - See Statewide

CONNECTICUT

FAIRFIELD COUNTY
Decision #CT75-2113 (B,H,Hw,R)
40 FR 45962 - 10/3/75
Decision #CT75-5045 (D)
40 FR 15294 - 4/4/75
HARTFORD COUNTY
Decision #CT75-2114 (B,H,Hw)
40 FR 45970 - 10/3/75
Decision #CT75-2067 (R)
40 FR 18304 - 4/25/75
LITCHFIELD COUNTY
(B,H,Hw,R) - See Fairfield County
MIDDLESEX COUNTY
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW HAVEN COUNTY
(B,H,Hw) - Hartford County
(D) - See Fairfield County
NEW LONDON COUNTY
(B,H,Hw,D,R) - See Fairfield County
TOLLAND COUNTY
(B,H,Hw) - See Hartford County
WINDHAM COUNTY
(B,H,Hw,D,R) - See Fairfield County

DELAWARE

STATEWIDE
Decision #CT75-5045 (D)
40 FR 15294 - 4/4/75
Decision #DE75-3092 (B,H,Hw)
40 FR 36903 - 8/2/75
Mod. #1 - 40 FR 34539 - 8/15/75
Mod. #2 - 40 FR 42483 - 9/12/75
KENT COUNTY
(B,H,Hw,D) - See Statewide
NEW CASTLE COUNTY
(B,H,Hw,D) - See Statewide
SUSSEX COUNTY
(B,H,Hw,D) - See Statewide

FLORIDA

ALACHUA COUNTY
Decision #FL75-1089 (B)
40 FR 42489 - 9/12/75
(Hw) - See Bay County
BAKER COUNTY
Decision #FL75-1081 (Hw)
40 FR 41359 - 9/5/75
BAY COUNTY
Decision #FL75-1012 (B)
40 FR 4805 - 1/31/75
Decision #AR-4013 (D)
39 FR 27397 - 7/26/74
Decision #FL75-1080 (Hw)
40 FR 41358 - 9/5/75

FLORIDA (Cont'd.)

BRADFORD COUNTY
(Hw) - See Alachua County
BREVARD COUNTY (Cape Kennedy -- Kennedy Space Flight Center & Patrick AFB only)
Decision #FL75-1087 (B,H,Hw)
40 FR 41364 - 9/5/75
Decision #AR-4068 (D)
39 FR 44915 - 12/27/74
(Remainder of County)
Decision #FL75-1082 (Hw)
40 FR 41360 - 9/5/75
BROWARD COUNTY
Decision #FL75-1084 (Hw)
40 FR 41362 - 9/5/75
Decision #FL75-1011 (B,H)
40 FR 3886 - 1/24/75
Mod. #1 - 40 FR 8694 - 2/28/75
Mod. #2 - 40 FR 12952 - 3/21/75
(D) - See Brevard County
CALHOUN COUNTY
(Hw) - See Bay County
CHARLOTTE COUNTY
(Hw) - See DeSoto County
(D) - See Brevard County
CITRUS COUNTY
Decision #AR-4000 (R)
39 FR 24775 - 7/5/74
Mod. #1 - 40 FR 12003 - 3/14/75
(Hw) - See Bay County
(D) - See Brevard County
CLAY COUNTY
(Hw) - See Baker County
COLLIER COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
COLUMBIA COUNTY
(B) - See Alachua County
DADE COUNTY
Decision #FL75-1090 (B)
40 FR 42491 - 9/12/75
Decision #AR-4050 (R)
39 FR 38077 - 10/25/74
(D) - See Brevard County
(Hw) - See Broward County

FLORIDA (cont'd)

DESOTO COUNTY
Decision #AR-4065 (R)
40 FR 43468 - 12/13/74
Decision #FL75-1083 (Hw)
40 FR 41361 - 9/5/75
DIXIE COUNTY
(D) - See Brevard County
(B) - See Alachua County
DUVAL COUNTY
Decision #FL75-1091 (B)
40 FR 42493 - 9/12/75
(D) - See Brevard County
(Hw) - See Baker County
ESCAMBIA COUNTY
Decision #FL75-1024 (B)
40 FR 7801 - 2/21/75
Mod. #1 - 40 FR 12953 - 3/21/75
Mod. #2 - 40 FR 18275 - 4/25/75
Mod. #3 - 40 FR 25324 - 6/13/75
Decision #AP-178 (R)
38 FR 11259 - 5/4/73
Mod. #1 - 39 FR 12002 - 3/14/75
Decision #FL75-1030 (Hw)
40 FR 10891 - 3/7/75
Mod. #1 - 40 FR 14196 - 3/28/75
(D) - See Bay County
FLAGLER COUNTY
(D) - See Brevard County
(Hw) - See Baker County
FRANKLIN COUNTY
(D) - See Bay County
(Hw) - See Bay County
GADSDEN COUNTY
Decision #AP-179 (R)
38 FR 11260 - 5/4/73
Mod. #1 - 39 FR 15604 - 5/3/74
Mod. #2 - 40 FR 12003 - 3/14/75
(Hw) - See Bay County
GILCHRIST COUNTY
(B) - See Alachua County
GLADES COUNTY
(Hw) - See Charlotte County
GULF COUNTY
(D) - See Bay County
(Hw) - See Alachua County
HAMILTON COUNTY
(B) - See Alachua County
HARDEE COUNTY
(Hw, R) - See DeSoto County
HENDRY COUNTY
(Hw) - See Charlotte County
HERNANDO COUNTY
(D) - See Brevard County
(Hw, R) - See Citrus County

FLORIDA (cont'd)

HIGHLANDS COUNTY
(R) - See Citrus County
(Hw) - See De Soto County
HILLSBOROUGH COUNTY
Decision #FL75-1075 (B)
40 FR 34556 - 8/15/75
(Hw) - See Brevard County
(D) - See Brevard County
(R) - See Citrus County
HOLMES COUNTY
(Hw) - See Bay County
INDIAN RIVER COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
JACKSON COUNTY
(Hw) - See Bay County
JEFFERSON COUNTY
(D,Hw) - See Bay County
(R) - See Gadsden County
LAFAYETTE COUNTY
(B,H) - See Alachua County
LAKE COUNTY
Decision #FL75-1066 (R)
40 FR 28332 - 7/3/75
(Hw) - See Brevard Co. (Remainder of Co.)
LEE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
LEON COUNTY
Decision #FL75-1036 (B)
40 FR 14221 - 3/28/75
Mod. #1 - 40 FR 32551 - 8/1/75
(Hw) - See Bay County
(R) - See Gadsden County
LEVY COUNTY
(D) - See Brevard County
(Hw) - See Citrus County
LIBERTY COUNTY
(Hw) - See Bay County
MADISON COUNTY
(R) - See Gadsden County
(B) - See Alachua County
MANATEE COUNTY
(D) - See Brevard County
(Hw) - See Hillsborough County
MARION COUNTY
(Hw) - See Citrus County
MARTIN COUNTY
Decision #FL75-1033 (B)
40 FR 14219 - 3/28/75
Mod. #1 - 40 FR 19327 - 5/2/75
Mod. #2 - 40 FR 25342 - 6/13/75
Mod. #3 - 40 FR 32551 - 8/1/75
(D) - See Brevard County
(Hw) - See Broward County

FLORIDA (cont'd)

MONROE COUNTY
(D) - See Brevard County
(Hw) - See Broward County
NASSAU COUNTY
(D) - See Brevard County
(Hw) - See Baker County
OKALOOSA COUNTY
(B) - See Escambia County
(D) - See Bay County
(Hw) - See Escambia County
Decision #AP-180 (R)
38 FR 11260 - 5/4/73
Mod. #1 - 39 FR 15604 - 5/3/74
Mod. #2 - 40 FR 12002 - 3/14/75
OKEECHOBEE COUNTY
(Hw) - See DeSoto County
ORANGE COUNTY
Decision #FL75-1009 (B)
40 FR 3082 - 1/24/75
Mod. #1 - 40 FR 12952 - 3/21/75
Mod. #2 - 40 FR 25324 - 6/13/75
(Hw) - See Brevard Co. (Remainder of Cr
(R) - See Lake County
OSCEOLA COUNTY
(Hw) - See Brevard Co. (Remainder of Cr
(R) - See Lake County
PALM BEACH COUNTY
(D) - See Brevard County
(B) - See Martin County
(Hw) - See Broward County
PASCO COUNTY
(D) - See Brevard County
(Hw) - See Hillsborough County
(R) - See Citrus County
PINELLAS COUNTY
Decision #FL75-1034 (B)
40 FR 12970 - 3/21/75
Mod. #1 - 40 FR 16477 - 4/11/75
Mod. #2 - 40 FR 25324 - 6/13/75
Mod. #3 - 40 FR 32551 - 8/1/75
(R) - See Citrus County
(D) - See Brevard County
(Hw) - See Hillsborough County
POLK COUNTY
(Hw) - See DeSoto County
(R) - See DeSoto County
PUTNAM COUNTY
(Hw) - See Baker County
ST. JOHNS COUNTY
(D) - See Brevard County
(Hw) - See Baker County
ST. LUCIE COUNTY
(D) - See Brevard County
(Hw) - See Broward County
SANTA ROSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County

FLORIDA (Cont'd)

SANTA ROSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County
SARASOTA COUNTY
(D) - See Brevard County
(Hw) - See Hillsborough County
SEMINOLE COUNTY
(Hw) - See Brevard Co. (Remainder of Co.)
(R) - See Lake County
SUMTER COUNTY
(Hw, R) - See Citrus County
SUWANNEE COUNTY
(B) - See Alachua County
TAYLOR COUNTY
(D) - See Brevard County
(R) - See Gadsden County
(B) - See Alachua County
UNION COUNTY
(B) - See Alachua County
VOLUSIA COUNTY (Except Cape Kennedy, Kennedy Space Flight Center & Patrick Air Force Base only and including Melabar Radar Site)
Decision #FL75-1040 (B)
40 FR 14223 - 3/28/75
Mod. #1 - 40 FR 25324 - 6/13/75
(B,H,Hw) - See Brevard Co. (Cape Kennedy,Etc)
(D) - See Brevard County
(Hw) - See Brevard County (Remainder of Co.)
WAKULLA COUNTY
(D) - See Bay County
(Hw) - See Bay County
WALTON COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County
WASHINGTON COUNTY
(Hw) - See Bay County

GEORGIA

STATEWIDE
Decision #AR-4038 (Hw)
39 FR 34984 - 9/27/74
Mod. #1 - 39 FR 36711 - 10/11/74
Mod. #2 - 40 FR 23629 - 5/30/75
APPLING COUNTY
(Hw) - See Statewide
ATKINSON COUNTY
(Hw) - See Statewide
BACON COUNTY
(Hw) - See Statewide

GEORGIA

BAKER COUNTY
Decision #AQ-4089 (R)
39 FR 10067 - 3/15/74
Mod. #1 - 40 FR 3083 - 1/17/75
(Hw) - See Statewide
BALDWIN COUNTY
(Hw) - See Statewide
BANKS COUNTY
(Hw) - See Statewide
BARROW COUNTY
Decision #AQ-4108 (R)
39 FR 14841 - 4/26/74
(Hw) - See Statewide
BARTOW COUNTY
(Hw) - See Statewide
BEN HILL COUNTY
(Hw) - See Statewide
BERRIEN COUNTY
(Hw) - See Statewide
BIBB COUNTY
(Hw) - See Statewide
BLECKLEY COUNTY
(Hw) - See Statewide
BRANTLEY COUNTY
(Hw) - See Statewide
BROOKS COUNTY
(Hw) - See Statewide
BRYAN COUNTY
(Hw) - See Statewide
Decision #AQ-4058 (R)
39 FR 3394 - 1/25/74
Decision #MD75-3008 (D)
40 FR 3094 - 1/17/75
Mod. #1 - 40 FR 14204 - 3/28/75
BULLOCH COUNTY
(R) - See Bryan County
(Hw) - See Statewide
BURKE COUNTY
Decision #AQ-4085 (R)
39 FR 9333 - 3/8/74
(Hw) - See Statewide
BUTTS COUNTY
(Hw) - See Statewide
CALHOUN COUNTY
(Hw) - See Statewide
(R) - See Baker County
CAMDEN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
CANDLER COUNTY
(Hw) - See Statewide
CARROLL COUNTY
(Hw) - See Statewide
CATOOSA COUNTY
(Hw) - See Statewide
CHARLTON COUNTY
Decision #AR-4037 (R)
39 FR 33919 - 9/20/75
Mod. #1 - 40 FR 3088 - 1/17/75
(Hw) - See Statewide

GEORGIA (Cont'd.)

CHATHAM COUNTY
Decision #AR-4064 (B)
39 FR 42817 - 12/6/74
Mod. #1 - 40 FR 16478 - 4/11/75
Mod. #2 - 40 FR 25325 - 6/13/75
Mod. #3 - 40 FR 32552 - 8/1/75
Mod. #4 - 40 FR 34539 - 8/15/75
(R) - See Bryan County
(D,R) - See Bryan County
CHATTAHOOCHEE COUNTY
Decision #GA75-1039 (B)
40 FR 16471 - 4/11/75
Mod. #1 - 40 FR 24455 - 6/6/75
Decision #AQ-4086 (R)
39 FR 9334 - 3/8/74
Mod. #1 - 40 FR 3083 - 1/17/75
(Hw) - See Statewide
CHATTOOGA COUNTY
(Hw) - See Statewide
CHEROKEE COUNTY
(Hw) - See Statewide
CLARKE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
CLAY COUNTY
(R) - See Baker County
(Hw) - See Statewide
CLAYTON COUNTY
Decision #GA75-1092 (B)
40 FR 42495 - 9/12/75
Decision #AQ-4052 (R)
39 FR 2328 - 1/18/74
Mod. #1 - 40 FR 3861 - 1/24/75
Decision #AR-4051 (H)
39 FR 38797 - 11/1/74
(B) - See Fulton County
(Hw) - See Statewide
CLINCH COUNTY
(Hw) - See Statewide
COBB COUNTY
(B,H,R) - See Fulton County
(Hw) - See Statewide
COFFEE COUNTY
(Hw) - See Statewide
COLQUITT COUNTY
(Hw) - See Statewide
COLUMBIA COUNTY
(R) - See Burke County
(Hw) - See Statewide
COOK COUNTY
(Hw) - See Statewide
COWETA COUNTY
(Hw) - See Statewide
CRAWFORD COUNTY
(Hw) - See Statewide
CRISP COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.)

DEKALB COUNTY
(B,R) - See Clayton County
(Hw) - See Statewide
DODGE COUNTY
(Hw) - See Statewide
DOOLY COUNTY
(Hw) - See Statewide
DOUGHERTY COUNTY
(Hw) - See Statewide
(R) - See Baker County
DOUGLAS COUNTY
(Hw) - See Statewide
EARLY COUNTY
(Hw) - See Statewide
(R) - See Baker County
ECHOLS COUNTY
(Hw) - See Statewide
EFFINGHAM COUNTY
(R) - See Bryan County
(Hw) - See Statewide
ELBERT COUNTY
(Hw) - See Statewide
(R) - See Barrow County
EMANUEL COUNTY
(Hw) - See Statewide
EVANS COUNTY
(R) - See Bryan County
(Hw) - See Statewide
FANNIN COUNTY
(Hw) - See Statewide
FAYETTE COUNTY
(Hw) - See Statewide
FLOYD COUNTY
(Hw) - See Statewide
FORSYTH COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
FULTON COUNTY
(Hw) - See Statewide
(B,R) - See Clayton County
(Hw) - See Statewide
GILMER COUNTY
(Hw) - See Statewide
GLASCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
GLYNN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
GORDON COUNTY
(Hw) - See Statewide
GRADY COUNTY
(Hw) - See Statewide
(R) - See Baker County
GREENE COUNTY
(R) - See Barrow County
(Hw) - See Statewide

GEORGIA (Cont'd.)

GWINNETT COUNTY
(R) - See Clayton County
(Hw) - See Statewide
HABERSHAM COUNTY
(Hw) - See Statewide
HALL COUNTY
Decision #GA75-1025 (B)
40 FR 8691 - 2/26/75
Mod. #1 - 40 FR 12003 - 3/14/75
(Hw) - See Statewide
HANCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
HARALSON COUNTY
(Hw) - See Statewide
HARRIS COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
HART COUNTY
(Hw) - See Statewide
(R) - See Barrow County
HEARD COUNTY
(Hw) - See Statewide
HENRY COUNTY
(Hw) - See Statewide
HOUSTON COUNTY
(Hw) - See Statewide
IRWIN COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
JASPER COUNTY
(Hw) - See Statewide
JEFF DAVIS COUNTY
(Hw) - See Statewide
JEFFERSON COUNTY
(Hw) - See Statewide
(R) - See Burke County
JENKINS COUNTY
(Hw) - See Statewide
(R) - See Burke County
JOHNSON COUNTY
(Hw) - See Statewide
JONES COUNTY
(Hw) - See Statewide
LAMAR COUNTY
(Hw) - See Statewide
LANIER COUNTY
(Hw) - See Statewide
LAURENS COUNTY
Decision #AQ-4124 (B)
39 FR 20912 - 6/14/74
(Hw) - See Statewide
LEE COUNTY
(Hw) - See Statewide
(R) - See Baker County
LIBERTY COUNTY
(D,R) - See Bryan County
(Hw) - See Statewide

GEORGIA (Cont'd.)

LINCOLN COUNTY
(Hw) - See Statewide
(R) - See Burke County
LONG COUNTY
(Hw) - See Statewide
(R) - See Bryan County
LOWNDES COUNTY
(Hw) - See Statewide
LUMPKIN COUNTY
(Hw) - See Statewide
MCDUFFIE COUNTY
(Hw) - See Statewide
(R) - See Burke County
McINTOSH COUNTY
(D) - See Bryan County
(Hw) - See Statewide
MACON COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MADISON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
MARION COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MERIWETHER COUNTY
(R) - See Chattahoochee County
(Hw) - See Statewide
MILLER COUNTY
(Hw) - See Statewide
(R) - See Baker County
MITCHELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
MONROE COUNTY
(Hw) - See Statewide
MONTGOMERY COUNTY
(Hw) - See Statewide
MORGAN COUNTY
(Hw) - See Statewide
(R) - See Barrow County
MURRAY COUNTY
(Hw) - See Statewide
MUSCOGEE COUNTY
(B,R) - See Chattahoochee County
(Hw) - See Statewide
NEWTON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OCONEE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OGLETHORPE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
PAULDING COUNTY
(Hw) - See Statewide
PEACH COUNTY
(Hw) - See Statewide
PICKENS COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(R) - See Charlton County
(Hw) - See Statewide

GEORGIA (Cont'd.)

PIKE COUNTY
(Hw) - See Statewide
POLK COUNTY
(Hw) - See Statewide
PULASKI COUNTY
(Hw) - See Statewide
PUTNAM COUNTY
(Hw) - See Statewide
QUITMAN COUNTY
(Hw) - See Statewide
(R) - See Baker County
RABUN COUNTY
(Hw) - See Statewide
RANDOLPH COUNTY
(Hw) - See Statewide
(R) - See Baker County
RICHMOND COUNTY
Decision #GA75-1005 (B)
40 FR 3091 - 1/17/75
Mod. #1 - 40 FR 6900 - 2/14/75
Mod. #2 - 40 FR 19328 - 5/2/75
Mod. #3 - 40 FR 28305 - 7/3/75
(Hw) - See Statewide
(R) - See Burke County
ROCKDALE COUNTY
(Hw) - See Statewide
SCHLEY COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SCREVEN COUNTY
(Hw) - See Statewide
SEMINOLE COUNTY
(Hw) - See Statewide
(R) - See Baker County
SPALDING COUNTY
(Hw) - See Statewide
STEPHENS COUNTY
(Hw) - See Statewide
STEWART COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SUMTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALBOT COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALIAFERRO COUNTY
(R) - See Burke County
(Hw) - See Statewide
TATTNALL COUNTY
(Hw) - See Statewide
TAYLOR COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TELFAIR COUNTY
(Hw) - See Statewide
TERRELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
THOMAS COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.)

TIFT COUNTY
(Hw) - See Statewide
TOOMBS COUNTY
(Hw) - See Statewide
TOWNS COUNTY
(Hw) - See Statewide
TREUTLEN COUNTY
(Hw) - See Statewide
TROUP COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TURNER COUNTY
(Hw) - See Statewide
TWIGGS COUNTY
(Hw) - See Statewide
UNION COUNTY
(Hw) - See Statewide
UPSON COUNTY
(Hw) - See Statewide
WALKER COUNTY
(Hw) - See Statewide
WALTON COUNTY
(Hw) - See Statewide
(R) - See Barron County
WARE COUNTY
Decision #GA75-1008 (B)
40 FR 3093 - 1/17/75
(R) - See Charlton County
(Hw) - See Statewide
WARREN COUNTY
(Hw) - See Statewide
(R) - See Burke County
WASHINGTON COUNTY
(Hw) - See Statewide
(R) - See Burke County
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
WHEELER COUNTY
(Hw) - See Statewide
WHITE COUNTY
(Hw) - See Statewide
WHITEFIELD COUNTY
(Hw) - See Statewide
WILCOX COUNTY
(Hw) - See Statewide
WILKES COUNTY
(R) - See Burke County
(Hw) - See Statewide
WILKINSON COUNTY
(Hw) - See Statewide
WORTH COUNTY
(Hw) - See Statewide

GUAM

GUAM
Decision #AR-1029 (B,R,Hw,R)
39 FR 32448 - 9/6/74

HAWAII

STATEWIDE
Decision #HI75-5098 (B,H,Hw,D,R)
40 FR 32555 - 8/1/75
Mod. #1 - 40 FR 44440 - 9/26/75

IDAHO

STATEWIDE
Decision #ID75-5120 (B,H,Hw)
40 FR 45978 - 10/3/75
ADA COUNTY
Decision #AQ-1029 (R)
38 FR 24513 - 9/7/73
Mod. #1 - 38 FR 26543 - 9/21/73
(B,H,Hw) - See Statewide
ADAMS COUNTY
(B,H,Hw) - See Statewide
BANNOCK COUNTY
(B,H,Hw) - See Statewide
BEAR LAKE COUNTY
(B,H,Hw) - See Statewide
BENEWAH COUNTY
(B,H,Hw) - See Statewide
BINGHAM COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BOISE COUNTY
(B,H,Hw) - See Statewide
BONNER COUNTY
(B,H,Hw) - See Statewide
BONNEVILLE COUNTY
(B,H,Hw) - See Statewide
BOUNDARY COUNTY
(B,H,Hw) - See Statewide
BUTTE COUNTY
(B,H,Hw) - See Statewide
CAMAS COUNTY
(B,H,Hw) - See Statewide
CANYON COUNTY
(B,H,Hw) - See Statewide
CARIBOU COUNTY
(B,H,Hw) - See Statewide
CASSIA COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
(B,H,Hw) - See Statewide
CLEARWATER COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
ELMORE COUNTY
(B,H,Hw) - See Statewide
FRANKLIN COUNTY
(B,H,Hw) - See Statewide
FREMONT COUNTY
(B,H,Hw) - See Statewide
GEM COUNTY
(B,H,Hw) - See Statewide
GOODING COUNTY
(B,H,Hw) - See Statewide
IDAHO COUNTY
(B,H,Hw) - See Statewide
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JEROME COUNTY
(B,H,Hw) - See Statewide

IDAHO (Cont'd)

KOOTENAI COUNTY
(B,H,Hw) - See Statewide
LATAH COUNTY
(B,H,Hw) - See Statewide
LEMHI COUNTY
(B,H,Hw) - See Statewide
LEWIS COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MINIDOKA COUNTY
(B,H,Hw) - See Statewide
NEZ PERCE COUNTY
(B,H,Hw) - See Statewide
ONEIDA COUNTY
(B,H,Hw) - See Statewide
OWYHEE COUNTY
(B,H,Hw) - See Statewide
PAYETTE COUNTY
(B,H,Hw) - See Statewide
POWER COUNTY
(B,H,Hw) - See Statewide
SHOSHONE COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TWIN FALLS COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

ILLINOIS

ADAMS COUNTY
Decision #IL75-2055 (B)
40 FR 15265 - 4/4/75
Mod. #1 - 40 FR 29444 - 7/11/75
Decision #IL75-2082 (H,Hw)
40 FR 26190 - 6/20/75
ALEXANDER COUNTY
Decision #IL75-2084 (H,Hw)
40 FR 27419 - 6/27/75
Mod. #1 - 40 FR 29445 - 7/11/75
Decision #IL75-2036 (D)
40 FR 5023 - 2/7/75
BOND COUNTY
Decision #IL75-2100 (H,Hw)
40 FR 32562 - 8/1/75
Mod. #1 - 40 FR 34539 - 8/15/75
Mod. #2 - 40 FR 36894 - 8/22/75

ILLINOIS (Cont'd.)

BOONE COUNTY
Decision #IL75-2044 (B)
40 FR 10893 - 3/7/75
Mod. #1 - 40 FR 31436 - 7/25/75
Decision #IL75-2078 (H,Hw)
40 FR 23637 - 5/30/75
Mod. #1 - 40 FR 26182 - 6/20/75
Mod. #2 - 40 FR 29444 - 7/11/75
Mod. #3 - 40 FR 31437 - 7/25/75
BROWN COUNTY
(B,H,Hw) - See Adams County
(D) - See Alexander County
BUREAU COUNTY
Decision #IL75-2035 (B)
40 FR 5961 - 2/7/75
Mod. #1 - 40 FR 8694 - 2/21/75
Mod. #2 - 40 FR 12004 - 3/14/75
Mod. #3 - 40 FR 19325 - 5/2/75
Mod. #4 - 40 FR 29443 - 7/11/75
Mod. #5 - 40 FR 30384 - 7/18/75
Mod. #6 - 40 FR 31435 - 7/25/75
Decision #IL75-2079 (H,Hw)
40 FR 25382 - 6/13/75
Mod. #1 - 40 FR 27403 - 6/27/75
Mod. #2 - 40 FR 29445 - 7/11/75
Mod. #3 - 40 FR 31437 - 7/25/75
Mod. #4 - 40 FR 43419 - 9/19/75
CALHOUN COUNTY
(H,Hw) - See Bond County
(D) - See Alexander County
CARROLL COUNTY
(H,Hw) - See Bureau County
CASS COUNTY
(H,Hw) - See Adams County
(D) - See Alexander County
CHAMPAIGN COUNTY
Decision #IL75-2105 (B)
40 FR 36907 - 8/22/75
Decision #IL75-2081 (H,Hw)
40 FR 25395 - 6/13/75
CHRISTIAN COUNTY
(H,Hw) - See Adams County
Decision #IL75-2041 (B)
40 FR 7769 - 2/21/75
Mod. #1 -29444 - 7/11/75
CLARK COUNTY
(H,Hw) - See Champaign County
CLAY COUNTY
Decision #IL75-2083 (H,Hw)
40 FR 26194 - 6/20/75
CLINTON COUNTY
(H,Hw) - See Bond County
COLES COUNTY
(H,Hw) - See Champaign County
COOK COUNTY
Decision #IL75-2092 (B,H,Hw,R)
40 FR 28343 - 7/3/75
Mod. #1 - 40 FR 31438 - 7/25/75
Decision #IL75-5051 (D)
40 FR 16529 - 4/11/75
Decision #IL75-2015 (H,Hw)
40 FR 6927 - 2/14/75

ILLINOIS

CRAWFORD COUNTY
(H,Hw) - See Clay County
CUMBERLAND COUNTY
(H,Hw) - See Champaign County
DEKALB COUNTY
(H,Hw) - See Boone County
DEWITT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
DOUGLAS COUNTY
(H,Hw) - See Champaign County
DU PAGE COUNTY
Decision #IL75-2050 (B,R)
40 FR 12029 - 3/7/75
Mod. #1 - 40 FR 18276 - 4/25/75
Mod. #2 - 40 FR 19325 - 5/2/75
Mod. #3 - 40 FR 29444 - 7/11/75
Mod. #4 - 40 FR 31436 - 7/25/75
(H,Hw) - See Boone County
EDGAR COUNTY
(H,Hw) - See Champaign County
EDWARDS COUNTY
(H,Hw) - See Clay County
EFFINGHAM COUNTY
(H,Hw) - See Clay County
FAYETTE COUNTY
(H,Hw) - See Clay County
FORD COUNTY
Decision #IL75-2052 (D)
40 FR 15261 - 4/4/75
Mod. #1 - 40 FR 19325 - 5/2/75
Mod. #2 - 40 FR 29443 - 7/11/75
Mod. #3 - 40 FR 30385 - 7/18/75
Mod. #4 - 40 FR 31436 - 7/25/75
Decision #IL75-2086 (H,Hw)
40 FR 28333 - 7/3/75
Mod. #1 - 40 FR 30385 - 7/18/75
Mod. #2 - 40 FR 31437 - 7/25/75
FRANKLIN COUNTY
(H,Hw) - See Alexander County
FULTON COUNTY
Decision #IL75-2080 (H,Hw)
40 FR 25389 - 6/13/75
Mod. #1 - 40 FR 27404 - 6/27/75
Mod. #2 - 40 FR 29445 - 7/11/75
Mod. #3 - 40 FR 30385 - 7/18/75
GALLATIN COUNTY
(H,Hw) - See Alexander County
(D) - See Alexander County
GREENE COUNTY
(H,Hw) - See Bond County
(D) - See Alexander County
GRUNDY COUNTY
(H,Hw) - See Ford County
HAMILTON COUNTY
(H,Hw) - See Clay County
HANCOCK COUNTY
(H,Hw) - See Fulton County
HARDIN COUNTY
(H,Hw) - See Alexander County
(D) - See Alexander County
HENDERSON COUNTY
(H,Hw) - See Fulton County

ILLINOIS (Cont'd)

HENRY COUNTY
(H,Hw) - See Bureau County
IROQUOIS COUNTY
(B,H,Hw) - See Ford County
JACKSON COUNTY
(H,Hw) - See Alexander County
(D) - See Alexander County
JASPER COUNTY
(H,Hw) - See Clay County
JEFFERSON COUNTY
(H,Hw) - See Clay County
JERSEY COUNTY
(H,Hw) - See Bond County
(D) - See Alexander County
JO DAVIESS COUNTY
(H,Hw) - See Bureau County
JOHNSON COUNTY
(H,Hw) - See Alexander County
KANE COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
KANKAKEE COUNTY
(B,H,Hw) - See Ford County
KENDALL COUNTY
(H,Hw) - See Boone County
KNOX COUNTY
(H,Hw) - See Fulton County
LAKE COUNTY
(B,R) - See Du Page County
(D) - See Cook County
(H,Hw) - See Boone County
LA SALLE COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LAWRENCE COUNTY
(H,Hw) - See Clay County
LEE COUNTY
(H,Hw) - See Bureau County
LIVINGSTON COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LOGAN COUNTY
(H,Hw) - See Adams County
MCDONOUGH COUNTY
(H,Hw) - See Fulton County
MCHENRY COUNTY
(H,Hw) - See Fulton County
Mc LEAN COUNTY
(H,Hw) - See Ford County
MACON COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
MACAUPIN COUNTY
(H,Hw) - See Bond County
MADISON COUNTY
Decision #IL75-2099 (B,R)
40 FR 32559 - 8/1/75
(H,Hw) - See Bond County

ILLINOIS (Cont'd.)

MARION COUNTY
(H,Hw) - See Clay County
MARSHALL COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
MASON COUNTY
(H,Hw) - See Adams County
MASSAC COUNTY
(H,Hw) - See Alexander County
MENARD COUNTY
(H,Hw) - See Adams County
MERCER COUNTY
(H,Hw) - See Fulton County
MONROE COUNTY
(H,Hw) - See Bond County
(D) - See Alexander County
MONTGOMERY COUNTY
(H,Hw) - See Bond County
MORGAN COUNTY
(H,Hw) - See Adams County
(D) - See Alexander County
MOULTRIE COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
OGLE COUNTY
(H,Hw) - See Bureau County
PEORIA COUNTY
Decision #IL75-2106 (B,R,D)
40 FR 40010 - 8/29/75
(H,Hw) - See Fulton County
PERRY COUNTY
(H,Hw) - See Alexander County
PIATT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
PIKE COUNTY
(B,H,Hw) - See Adams County
(D) - See Alexander County
POPE COUNTY
(H,Hw,D) - See Alexander County
PULASKI COUNTY
(H,Hw,D) - See Alexander County
PUTNAM COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
RANDOLPH COUNTY
(H,Hw,D) - See Alexander County
RICHLAND COUNTY
(H,Hw) - See Clay County
ROCK ISLAND COUNTY
Decision #IL75-2051 (B)
40 FR 12976 - 3/21/75
Mod. #1 - 40 FR 29443 - 7/11/75
(H,Hw) - See Bureau County
SAINT CLAIR COUNTY
(B,R) - See Madison County
(H,Hw) - See Bond County
(D) - See Alexander County

ILLINOIS (Cont'd)

SALINE COUNTY
(H,Hw) - See Alexander County
SANGAMON COUNTY
Decision #IL75-2107 (B,R)
40 FR 40014 - 8/29/75
(H,Hw) - See Adams County
SCHUYLER COUNTY
(H,Hw) - See Adams County
SCOTT COUNTY
(H,Hw) - See Adams County
(D) - See Alexander County
SHELBY COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
STARK COUNTY
(H,Hw) - See Fulton County
STEPHENSON COUNTY
(H,Hw) - See Bureau County
TAZEWELL COUNTY
(B,R,D) - See Peoria County
(H,Hw) - See Fulton County
UNION COUNTY
(H,Hw,D) - See Alexander County
VERMILLION COUNTY
(H,Hw) - See Champaign County
(B) - See Champaign County
WABASH COUNTY
(H,Hw) - See Clay County
WARREN COUNTY
(H,Hw) - See Fulton County
WASHINGTON COUNTY
(H,Hw) - See Bond County
WAYNE COUNTY
(H,Hw) - See Clay County
WHITE COUNTY
(H,Hw) - See Clay County
WHITESIDE COUNTY
(H,Hw) - See Bureau County
WILL COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
WILLIAMSON COUNTY
Decision #IL75-2043 (B)
40 FR 8736 - 2/28/75
Mod. #1 - 40 FR 18276 - 4/25/75
(H,Hw) - See Alexander County
WINNEBAGO COUNTY
(B) - See Boone County
(H,Hw) - See Bureau County
WOODFORD COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County

INDIANA

ADAMS COUNTY
Decision #IN75-2093 (H,Hw)
40 FR 29491 - 7/11/75
Mod. #1 - 40 FR 33575 - 8/8/75
Mod. #2 - 40 FR 45953 - 10/3/75
ALLEN COUNTY
Decision #IN75-2088 (B)
40 FR 27422 - 6/27/75
Mod. #1 - 40 FR 33573 - 8/8/75
Mod. #2 - 40 FR 44441 - 9/26/75
Decision #AQ-3000 (R)
38 FR 22341 - 8/17/73
(H,Hw) - See Adams County
BARTHOLOMEW COUNTY
(B) - See Allen County
(H,Hw) - See Adams County
BENTON COUNTY
(B) - See Allen County
(H,Hw) - See Adams County
BLACKFORD COUNTY
(H,Hw) - See Adams County
BOONE COUNTY
Decision #AP-668 (R)
38 FR 13247 - 5/18/73
(H,Hw) - See Adams County
BROWN COUNTY
(H,Hw) - See Adams County
CARROLL COUNTY
(H,Hw) - See Adams County
CASS COUNTY
(H,Hw) - See Adams County
CLARK COUNTY
Decision #IL75-2036 (D)
40 FR 6023 - 2/7/75
(H,Hw) - See Adams County
CLAY COUNTY
(H,Hw) - See Adams County
CLINTON COUNTY
(H,Hw) - See Adams County
CRAWFORD COUNTY
(H,Hw) - See Adams County
(D) - See Clark County
DAVIESS COUNTY
(H,Hw) - See Adams County
DEARBORN COUNTY
(B) - See Allen County
(H,Hw) - See Adams County

INDIANA

ADAMS COUNTY
Decision #IN75-2093 (H,Hw)
40 FR 29491 - 7/11/75
Mod. #1 - 40 FR 33575 - 8/8/75
ALLEN COUNTY
Decision #IN75-2088 (B)
40 FR 27422 - 6/27/75
Mod. #1 - 40 FR 33573 - 8/8/75
Decision #AQ-3000 (R)
38 FR 22341 - 8/17/73
(H,Hw) - See Adams County
BARTHOLOMEW COUNTY
(H,Hw) - See Adams County
(B) - See Allen County
BENTON COUNTY
(B) - See Allen County
(H,Hw) - See Adams County
BLACKFORD COUNTY
(H,Hw) - See Adams County
BOONE COUNTY
Decision #AP-668 (R)
38 FR 13247 - 5/18/73
(H,Hw) - See Adams County
BROWN COUNTY
(H,Hw) - See Adams County
CARROLL COUNTY
(H,Hw) - See Adams County
CASS COUNTY
(H,Hw) - See Adams County
CLARK COUNTY
Decision #IL75-2036 (D)
40 FR 6023 - 2/7/75
(H,Hw) - See Adams County
CLAY COUNTY
(H,Hw) - See Adams County
CLINTON COUNTY
(H,Hw) - See Adams County
CRAWFORD COUNTY
(H,Hw) - See Adams County
(D) - See Clark County
DAVIESS COUNTY
(H,Hw) - See Adams County
DEARBORN COUNTY
(B) - See Allen County
(H,Hw) - See Adams County

INDIANA (cont'd)

DECATUR COUNTY
(H,Hw) - See Adams County
DEKALB COUNTY
(H,Hw) - See Adams County
DELAWARE COUNTY
(B) - See Allen County
(H,Hw) - See Adams County
DUBOIS COUNTY
(H,Hw) - See Adams County
ELKHART COUNTY
(H,Hw) - See Adams County
FAYETTE COUNTY
(H,Hw) - See Adams County
FLOYD COUNTY
(D) - See Clark County
(H,Hw) - See Adams County
FOUNTAIN COUNTY
(H,Hw) - See Adams County
FRANKLIN COUNTY
(H,Hw) - See Adams County
FULTON COUNTY
(H,Hw) - See Adams County
GIBSON COUNTY
(H,Hw) - See Adams County
GRANT COUNTY
(B) - See Allen County
(H,Hw) - See Adams County
GREENE COUNTY
(H,Hw) - See Adams County
HAMILTON COUNTY
(H,Hw) - See Adams County
(R) - See Boone County
HANCOCK COUNTY
(H,Hw) - See Adams County
(R) - See Boone County
HARRISON COUNTY
(D) - See Clark County
(H,Hw) - See Adams County
HENDRICKS COUNTY
(H,Hw) - See Adams County
(R) - See Boone County
HENRY COUNTY
(H,Hw) - See Adams County
HOWARD COUNTY
(H,Hw) - See Adams County
HUNTINGTON COUNTY
(H,Hw) - See Adams County
JACKSON COUNTY
(H,Hw) - See Adams County
JASPER COUNTY
(H,Hw) - See Adams County
JAY COUNTY
(H,Hw) - See Adams County

INDIANA (Cont'd)

JEFFERSON COUNTY
(D) - See Clark County
(H,Hw) - See Adams County
JENNINGS COUNTY
(H,Hw) - See Adams County
JOHNSON COUNTY
(H,Hw) - See Adams County
(R) - See Boone County
KNOX COUNTY
(H,Hw) - See Adams County
KOSCIUSKO COUNTY
(H,Hw) - See Adams County
LAGRANGE COUNTY
(H,Hw) - See Adams County
LAKE COUNTY
Decision #IN75-2089 (B,H,Hw)
40 FR 28346 - 7/3/75
Mod. #1 - 40 FR 33574 - 8/8/75
Mod. #2 - 40 FR 44442 - 9/26/75
Decision #AQ-3095 (D)
39 FR 5982 - 2/15/74
Mod. #1 - 39 FR 44161 - 12/20/74
LAPORTE COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County
LAWRENCE COUNTY
(H,Hw) - See Adams County
MADISON COUNTY
(H,Hw) - See Adams County
MARION COUNTY
(B) - See Allen County
(R) - See Boone County
(H,Hw) - See Adams County
MARSHALL COUNTY
(H,Hw) - See Adams County
MARTIN COUNTY
(H,Hw) - See Adams County
MIAMI COUNTY
(H,Hw) - See Adams County
MONROE COUNTY
(B) - See Allen County
(H,Hw) - See Adams County
MONTGOMERY COUNTY
(H,Hw) - See Adams County
MORGAN COUNTY
(R) - See Boone County
(H,Hw) - See Adams County
NEWTON COUNTY
(H,Hw) - See Adams County
NOBLE COUNTY
(H,Hw) - See Adams County

INDIANA (Cont'd.)

OHIO COUNTY
(D) - See Clark County
(H,Hw) - See Adams County
ORANGE COUNTY
(H,Hw) - See Adams County
OWEN COUNTY
(H,Hw) - See Adams County
PARKE COUNTY
(H,Hw) - See Adams County
PERRY COUNTY
(D) - See Clark County
(H,Hw) - See Adams County
PIKE COUNTY
(H,Hw) - See Adams County
PORTER COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County
POSEY COUNTY
(D) - See Clark County
(H,Hw) - See Adams County
PULASKI COUNTY
(H,Hw) - See Adams County
PUTNAM COUNTY
(H,Hw) - See Adams County
RANDOLPH COUNTY
(H,Hw) - See Adams County
RIPLEY COUNTY
(H,Hw) - See Adams County
RUSH COUNTY
(H,Hw) - See Adams County
SAINT JOSEPH COUNTY
(B,H,Hw) - See Lake County
SCOTT COUNTY
(H,Hw) - See Adams County
SHELBY COUNTY
(R) - See Boone County
(H,Hw) - See Adams County
SPENCER COUNTY
(D) - See Clark County
(H,Hw) - See Adams County
STARKE COUNTY
(H,Hw) - See Adams County
STEUBEN COUNTY
(H,Hw) - See Adams County
SULLIVAN COUNTY
(H,Hw) - See Adams County
SWITZERLAND COUNTY
(D) - See Clark County
(H,Hw) - See Adams County

INDIANA (Cont'd)

TIPPECANOE COUNTY
(H,Hw) - See Adams County
(B) - See Allen County
TIPTON COUNTY
(H,Hw) - See Adams County
UNION COUNTY
(H,Hw) - See Adams County
VANDERBURGH COUNTY
(B) - See Allen County
(D) - See Clark County
(H,Hw) - See Adams County
VERMILLION COUNTY
(H,Hw) - See Adams County
VIGO COUNTY
(B) - See Allen County
(H,Hw) - See Adams County
WABASH COUNTY
(H,Hw) - See Adams County
WARREN COUNTY
(H,Hw) - See Adams County
WARRICK COUNTY
(D) - See Clark County
(H,Hw) - See Adams County
WASHINGTON COUNTY
(H,Hw) - See Adams County
WAYNE COUNTY
(H,Hw) - See Adams County
WELLS COUNTY
(H,Hw) - See Adams County
WHITE COUNTY
(H,Hw) - See Adams County
WHITLEY COUNTY
(H,Hw) - See Adams County

IOWA

ADAIR COUNTY
None
ADAMS COUNTY
None
ALLAMAKEE COUNTY
None
APPANOOSE COUNTY
Decision #AR-73 (Hw)
39 FR 38797 - 11/1/74
Mod. #1 - 40 FR 4786 - 1/31/75
AUDUBON COUNTY
None
BENTON COUNTY
Decision #IA75-4081 (Hw)
40 FR 17507 - 4/18/75
BLACK HAWK COUNTY
Decision #IA75-4120 (B,H,Hw)(City of Waterloo & abutting Municipalities
40 FR 32567 - 8/1/75
Mod. #1 - 40 FR 34540 - 8/15/75
Mod. #2 - 40 FR 36895 - 8/22/75
BOONE COUNTY
None
BREMER COUNTY
None
BUCHANAN COUNTY
None
BUENA VISTA COUNTY
None
BUTLER COUNTY
None
CALHOUN COUNTY
None
CARROLL COUNTY
Decision #NW-6712 (H,Hw)
37 FR 7429 - 4/14/72
Mod. #1 - 39 FR 40404 - 11/15/74
CASS COUNTY
(H,Hw) - See Carroll County
CEDAR COUNTY
None
CERRO GORDO COUNTY (MASON CITY)
Decision #IA75-4121 (B,H,Hw)
40 FR 32570 - 8/1/75
Mod. #1 - 40 FR 34540 - 8/15/75
CHEROKEE COUNTY
None
CHICKASAW COUNTY
None
CLARKE COUNTY
None

IOWA (Cont'd)

CLAY COUNTY
(H,Hw) - See Carroll County
CLAYTON COUNTY
None
CLINTON COUNTY (City of Clinton and abbutting municipalities)
Decision #IA75-4122 (B,H,Hw)
40 FR 32573 - 8/1/75
Mod. #1 - 40 FR 34540 - 8/15/75
CRAWFORD COUNTY
(H,Hw) - See Carroll County
DALLAS COUNTY
None
DAVIS COUNTY
(Hw) - See Appanoose County
DECATUR COUNTY
None
DELAWARE COUNTY
None
DES MOINES COUNTY (City of Burlington and Abutting Municipalities; and Burlington Ordnance Plant)
Decision #IA75-4123 (B,H,Hw)
40 FR 32576 - 8/1/75
Mod. #1 - 40 FR 34540 - 8/15/75
DICKINSON COUNTY
None
DUBUQUE COUNTY (City of Dubuque and abutting municipalities)
Decision #IA75-4124 (B,H,Hw)
40 FR 32579 - 8/1/75
Mod. #1 - 40 FR 34541 - 8/15/75
EMMET COUNTY
None
FAYETTE COUNTY
None
FLOYD COUNTY
None
FRANKLIN COUNTY
None
FREMONT COUNTY
Decision #NE75-4054 (Channel Stabilization)
40 FR 8739 - 2/28/75
GREENE COUNTY
None
GRUNDY COUNTY
None

IOWA (Cont'd)

GUTHRIE COUNTY
None
HAMILTON COUNTY
None
HANCOCK COUNTY
None
HARDIN COUNTY
None
HARRISON COUNTY
(Chann. Stab.) - See Fremont Co.
HENRY COUNTY
None
HOWARD COUNTY
(H,Hw) - See Carroll County
HUMBOLDT COUNTY
None
IDA COUNTY
None
IOWA COUNTY
(Hw) - See Benton County
JACKSON COUNTY
None
JASPER COUNTY
None
JEFFERSON COUNTY
(Hw) - See Appanoose County
JOHNSON COUNTY (City of Iowa City and abutting municipalities)
Decision #IA75-4152 (B,H,Hw)
40 FR 36913 - 8/22/75
(Hw) - See Benton County
JONES COUNTY
None
KEOKUK COUNTY
(Hw) - See Benton County
KOSSUTH COUNTY
None
LEE COUNTY
None
LINN COUNTY
Decision #IA75-4126 (B,H,Hw)
40 FR 33625 - 8/8/75

IOWA (Cont'd.)

LOUISA COUNTY
None
LUCAS COUNTY
None
LYON COUNTY
None
MADISON COUNTY
None
MAHASKA COUNTY
(Hw) - See Benton County
MARION COUNTY
None
MARSHALL COUNTY
None
MILLS COUNTY
(Channel Stab.) - See Fremont Co.
MITCHELL COUNTY
None
MONONA COUNTY
(H,Hw) - See Carroll County
(Channel Stab.) - See Fremont Co.
MONROE COUNTY
None
MONTGOMERY COUNTY
None
MUSCATINE COUNTY
None
O'BRIEN COUNTY
(H,hw) - See Carroll County
OSCEOLA COUNTY
(H,Hw) - See Carroll County
PAGE COUNTY
None
PALO ALTO COUNTY
None
PLYMOUTH COUNTY
None
POCAHONTAS COUNTY
None
POLK COUNTY
Decision #IA75-4153 (B,H,Hw)
40 FR 36916 - 8/22/75
POTTAWATTAMIE COUNTY (City of Council Bluffs and the area within 3 miles from the City Limits)
Decision #IA75-4128 (B,H,Hw)
40 FR 34558 - 8/15/75
(Chann. Stab.) - See Fremont County

IOWA (Cont'd)

POWESHIEK COUNTY
(Hw) - See Benton County
RINGGOLD COUNTY
(H,Hw) - See Carroll County
SAC COUNTY
None
SCOTT COUNTY
Decision #IA75-4129 (B,H,Hw)
40 FR 36910 - 8/22/75
SHELBY COUNTY
None
SIOUX COUNTY
None
STORY COUNTY (City of Ames and abutting municipalities)
Decision #IA75-4130 (B,H,Hw)
40 FR 33631 - 8/8/75
Mod. #1 - 40 FR 36895 - 8/22/75
TAMA COUNTY
(Hw) - See Benton County
TAYLOR COUNTY
(H,Hw) - See Carroll County
UNION COUNTY
None
VAN BUREN COUNTY
(Hw) - See Appanoose County
WAPELLO COUNTY
(Hw) - See Appanoose County
WARREN COUNTY
None
WASHINGTON COUNTY
(Hw) - See Benton County
WAYNE COUNTY
None
WEBSTER COUNTY (City of Fort Dodge)
Decision #IA75-4131 (B,H,Hw)
40 FR 33634 - 8/8/75
Mod. #1 - 40 FR 36895 - 8/22/75
WINNEBAGO COUNTY
None
WINNESHIEK COUNTY
None

IOWA (Cont'd.)

WOODBURY COUNTY (City of Sioux City and abutting municipalities)
Decision #IA75-4132 (D)
40 FR 33637 - 8/8/75
Mod. #1 - 40 FR 36895 - 8/22/75
(Chann. Stab.) - See Fremont Co.
WORTH COUNTY
None
WRIGHT COUNTY
None

KANSAS

ALLEN COUNTY
Decision #KS75-4051 (Hw,W&S)
40 FR 6056 - 2/7/75
Mod. #1 - 40 FR 7775 - 2/21/75
ANDERSON COUNTY
(Hw, W&S) - See Allen County
ATCHISON COUNTY
Decision #MO75-4070 (D)
40 FR 14225 - 3/28/75
(Hw, W&S) - See Allen County
BARBER COUNTY
Decision #KS75-4053 (Hw, W&S)
40 FR 6058 - 2/7/75
Mod. #1 - 40 FR 7775 - 2/21/75
BARTON COUNTY
(Hw, W&S) - See Barber County
BOURBON COUNTY
(Hw, W&S) - see Allen County
BROWN COUNTY
(Hw, W&S) - See Allen County
BUTLER COUNTY
(Hw, W&S) - See Allen County
CHASE COUNTY
(Hw, W&S) - See Allen County
CHAUTAUQUA COUNTY
(Hw, W&S) - See Allen County
CHEROKEE COUNTY
(Hw, W&S) - See Allen County
CHEYENNE COUNTY
(Hw, W&S) - See Barber County
CLARK COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.)

CLAY COUNTY
(Hw, W&S) - See Allen County
CLOUD COUNTY
(Hw, W&S) - See Allen County
COFFEY COUNTY
(Hw, W&S) - See Allen County
COMANCHE COUNTY
(Hw, W&S) - See Barber County
COWLEY COUNTY
(Hw, W&S) - See Allen County
CRAWFORD COUNTY
(Hw, W&S) - See Allen County
DECATUR COUNTY
(Hw, W&S) - See Barber County
DICKINSON COUNTY
(Hw, W&S) - See Allen County
DONIPHAN COUNTY
(D) - See Atchison County
(Hw, W&S) - See Allen County
DOUGLAS COUNTY
Decision #KS75-4063 (Hw)
40 FR 12041 - 3/14/75
Mod. #1 - 40 FR 19326 - 5/2/75
EDWARDS COUNTY
(Hw, W&S) - See Barber County
ELK COUNTY
(Hw, W&S) - See Allen County
ELLIS COUNTY
(Hw, W&S) - See Barber County
ELLSWORTH COUNTY
(Hw, W&S) - See Barber County
FINNEY COUNTY
(Hw, W&S) - See Barber County
FORD COUNTY
(Hw, W&S) - See Barber County
FRANKLIN COUNTY
(Hw, W&S) - See Allen County
GEARY COUNTY
Decision #AO-88 (R)
38 FR 11791 - 3/29/74
(Hw, W&S) - See Allen County
GOVE COUNTY
(Hw, W&S) - See Barber County
GRAHAM COUNTY
(Hw, W&S) - See Barber County
GRANT COUNTY
(Hw, W&S) - See Barber County
GRAY COUNTY
(Hw, W&S) - See Barber County
GREELEY COUNTY
(Hw, W&S) - See Barber County
GREENWOOD COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.)

HAMILTON COUNTY
(Hw, W&S) - See Barber County
HARPER COUNTY
(Hw, W&S) - See Allen County
HARVEY COUNTY
(Hw, W&S) - See Allen County
HASKELL COUNTY
(Hw, W&S) - See Barber County
HODGEMAN COUNTY
(Hw, W&S) - See Barber County
JACKSON COUNTY
(Hw, W&S) - See Allen County
JEFFERSON COUNTY
(Hw) - See Douglas County
JEWELLCOUNTY
(Hw, W&S) - See Barber County
JOHNSON COUNTY
Decision #MD75-4144 (B,H,Hw)
40 FR 32611 - 8/1/75
Decision #MD75-4145 (R)
40 FR 32617 - 8/1/75
KEARNY COUNTY
(Hw, W&S) - See Barber County
KINGMAN COUNTY
(Hw, W&S) - See Allen County
KIOWA COUNTY
(Hw, W&S) - See Barber County
LABETTE COUNTY
(Hw, W&S) - See Allen County
LANE COUNTY
(Hw, W&S) - See Barber County
LEAVENWORTH COUNTY
Decision #KS75-4061 (B)
40 FR 12034 - 3/14/75
Mod. #1 - 40 FR 15271 - 4/4/75
(Hw) - See Douglas County
(D) - See Atchison County
LINCOLN COUNTY
(Hw, W&S) - See Barber County
LINN COUNTY
(Hw, W&S) - See Allen County
LOGAN COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.)

LYON COUNTY
(Hw, W&S) - See Allen County
McPHERSON COUNTY
(Hw, W&S) - See Allen County
MARION COUNTY
(Hw, W&S) - See Allen County
MARSHALL COUNTY
(Hw, W&S) - See Allen County
MEADE COUNTY
(Hw, W&S) - See Barber County
MIAMI COUNTY
(Hw) - See Douglas County
MITHCELL COUNTY
(Hw, W&S) - See Barber County
MONTGOMERY COUNTY
(Hw, W&S) - See Allen County
MORRIS COUNTY
(Hw, W&S) - See Allen County
MORTON COUNTY
(Hw, W&S) - See Barber County
NEMAHA COUNTY
(Hw, W&S) - See Allen County
NEOSHO COUNTY
(Hw, W&S) - See Allen County
NESS COUNTY
(Hw, W&S) - See Barber County
NORTON COUNTY
(Hw, W&S) - See Barber County
OSAGE COUNTY
(Hw, W&S) - See Allen County
OSBORNE COUNTY
(Hw, W&S) - See Barber County
OTTAWA COUNTY
(Hw, W&S) - See Allen County
PAWNEE COUNTY
(Hw, W&S) - See Barber County
PHILLIPS COUNTY
(Hw, W&S) - See Barber County
POTTAWATOMIE COUNTY
(Hw, W&S) - See Allen County
PRATT COUNTY
(Hw, W&S) - See Barber County
RAWLINS COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.)

RENO COUNTY
(Hw, W&S) - See Statewide
REPUBLIC COUNTY
)C (Hw, W&S) - See Allen County
RICE COUNTY
(Hw, W&S) - See Barber County
RILEY COUNTY
(Hw, W&S) - See Allen County
(R) - See Geary County
ROOKS COUNTY
(Hw, W&S) - See Barber County
RUSH COUNTY
(Hw, W&S) - See Barber County
RUSSELL COUNTY
(Hw, W&S) - See Barber County
SALINE COUNTY
(Hw, W&S) - See Allen County
SCOTT COUNTY
(Hw, W&S) - See Barber County
SEDGWICK COUNTY
Decision #AP-533 (R)
38 FR 16573 - 6/22/73
Decision #KS75-4149 (B)
40 FR 36919 - 8/22/75
Decision #KS75-4052 (Hw, W&S)
40 FR 6057 - 2/7/75
Mod. #1 - 40 FR 7775 - 2/21/75
SEWARD COUNTY
(Hw, W&S) - See Barber County
SHAWNEE COUNTY
Decision #KS75-4150 (B)
40 FR 36922 - 8/22/75
Decision #KS75-4151 (R)
40 FR 36925 - 8/22/75
(Hw) - See Douglas County

KANSAS (Cont'd.

SHERIDAN COUNTY
(Hw, W&S) - See Barber County
SHERMAN COUNTY
(Hw, W&S) - See Barber County
SMITH COUNTY
(Hw, W&S) - See Barber County
STAFFARD COUNTY
(Hw, W&S) - See Barber County
STANTON COUNTY
(Hw, W&S) - See Barber County
STEVENS COUNTY
(Hw, W&S) - See Barber County
SUMNER COUNTY
(Hw, W&S) - See Allen County
THOMAS COUNTY
(Hw, W&S) - See Barber County
TREGO COUNTY
(Hw, W&S) - See Barber County
WABAUNSEE COUNTY
(Hw, W&S) - See Allen County
WALLACE COUNTY
(Hw, W&S) - See Barber County
WASHINGTON COUNTY
(Hw, W&S) - See Allen County
WICHITA COUNTY
(Hw, W&S) - See Barber County
WILSON COUNTY
(Hw, W&S) - See Allen County
WOODSON COUNTY
(Hw, W&S) - See Allen County
WYANDOTTE COUNTY
(B,H,Hw,R) - See Johnson County
(D) - See Atchison County

KENTUCKY

ADIAR COUNTY
Decision #AR-4054 (H,Hw)
39 FR 39697 - 11/8/74
Mod. #1 - 39 FR 44907 - 12/27/74
Mod. #2 - 40 FR 3085 - 1/17/75
Mod. #3 - 40 FR 22734 - 5/3/75
ALLEN COUNTY
Decision #KY75-1093 (H,Hw)
40 FR 43456 - 9/19/75
ANDERSON COUNTY
Decision #KY75-1095 (H,Hw)
40 FR 43459 - 9/19/75
BALLARD COUNTY
Decision #AR-4013 (D)
39 FR 27397 - 7/26/74
(H,Hw) - See Allen County
BARREN COUNTY
(H,Hw) - See Adair County
BATH COUNTY
(H,Hw) - See Anderson County
Decision #AQ-4066 (R)
39 FR 4305 - 2/1/74
BELL COUNTY
(H,Hw) - See Adair County
Decision #AQ-4126 (B)
39 FR 22359 - 6/21/74
BOONE COUNTY
Decision #KY75-1096 (H,Hw)
40 FR 44457 - 9/26/75
Decision #AR-4034 (B)
39 FR 33158 - 9/13/74
Mod. #1 - 40 FR 10877 - 3/7/75
Mod. #2 - 40 FR 25325 - 6/13/75
Decision #IL75-2036 (D)
40 FR 6923 - 2/7/75
BOURBON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
BOYD COUNTY
Decision #KY75-1100 (B)
40 FR 44454 - 9/26/75
(H,Hw) - See Anderson County
(D) - See Boone County
BOYLE COUNTY
(H,Hw) - See Anderson County
BRACKEN COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
BREATHITT COUNTY
(H,Hw) - See Adair County

KENTUCKY (Cont'd.)

BRECKINRIDGE COUNTY
Decision #AP-183 (R)
38 FR 11278 - 5/4/73
(H,Hw) - See Anderson County
(D) - See Boone County
BULLITT COUNTY
(D) - See Boone County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
BUTLER COUNTY
(H,Hw) - See Allen County
CALDWELL COUNTY
(H,Hw) - See Allen County
CALLOWAY COUNTY
(H,Hw) - See Allen County
CAMPBELL COUNTY
(B,H,D,Hw) - See Boone County
CARLISLE COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
CARROLL COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
CARTER COUNTY
(H,Hw) - See Anderson County
CASEY COUNTY
(H,Hw) - See Adair County
CHRISTIAN COUNTY
(H,Hw) - See Allen County
CLARK COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
CLAY COUNTY
(H,Hw) - See Adair County
CLINTON COUNTY
(H,Hw) - See Adair County
CRITTENDEN COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
CUMBERLAND COUNTY
(H,Hw) - See Adair County
DAVIESS COUNTY
Decision #AQ-4122 (B)
39 FR 20281 - 6/7/74
(H,Hw) - See Allen County
(D) - See Boone County
EDMONSON COUNTY
(H,Hw) - See Allen County
ELLIOTT COUNTY
(H,Hw) - See Anderson County
ESTILL COUNTY
(H,Hw) - See Adair County

KENTUCKY (Cont'd)

FAYETTE COUNTY
Decision #AR-4018 (B)
39 FR 28836 - 8/9/74
Mod. #1 - 39 FR 32442 - 9/6/74
Mod. #2 - 39 FR 40406 - 11/15/74
Mod. #3 - 40 FR 10875 - 3/7/75
Mod. #4 - 40 FR 31438 - 7/25/75
(H,Hw) - See Anderson County
(R) - See Bath County
FLEMING COUNTY
(H,Hw) - See Anderson County
FLOYD COUNTY
Decision #AR-4002 (B)
39 FR 24777 - 7/5/74
(H,Hw) - See Adair County
FRANKLIN COUNTY
Decision #AQ-4101 (B)
39 FR 14113 - 4/19/74
Mod. #1 - 39 FR 30665 - 8/23/74
Mod. #2 - 39 FR 38803 - 11/1/74
Mod. #3 - 40 FR 10879 - 3/7/75
Mod. #4 - 40 FR 34541 - 8/15/75
(H,Hw) - See Anderson County
FULTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
GALLATIN COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
GARRARD COUNTY
(H,Hw) - See Adair County
GRANT COUNTY
(H,Hw) - See Anderson County
GRAVES COUNTY
(H,Hw) - See Allen County
GRAYSON COUNTY
(H,Hw) - See Anderson County
GREENE COUNTY
(H,Hw) - See Adair County
GREENUP COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
HANCOCK COUNTY
(H,Hw) - See Allen County
(D) - See Boone County

KENTUCKY (Cont'd)

HARDIN COUNTY
(B) - See Jefferson County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Boone County
HARLAN COUNTY
(H,Hw) - See Adair County
HARRISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
HART COUNTY
(H,Hw) - See Adair County
HENDERSON COUNTY
Decision #AR-4025 (B)
39 FR 31796 - 8/30/74
Mod. #1 - 40 FR 10877 - 3/7/75
Mod. #2 - 40 FR 31439 - 7/25/75
(H,Hw) - See Allen County
(D) - See Boone County
HENRY COUNTY
(H,Hw) - See Anderson County
HICKMAN COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HOPKINS COUNTY
(H,Hw) - See Allen County
JACKSON COUNTY
(H,Hw) - See Adair County
JEFFERSON COUNTY
Decision #KY75-1064 (B)
40 FR 26198 - 6/20/75
Mod. #1 - 40 FR 31439 - 7/25/75
(D) - See Boone County
(R) - See Breckinridge County
(H,Hw) - See Anderson County
JESSAMINE COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

KENTUCKY (Cont'd)

JOHNSON COUNTY
(H,Hw) - See Anderson County
KENTON COUNTY
(B,H,Hw,D) - See Boone County
KNOTT COUNTY
(H,Hw) - See Adair County
KNOX COUNTY
(H,Hw) - See Adair County
LARUE COUNTY
(H,Hw) - See Anderson County
LAUREL COUNTY
(H,Hw) - See Adair County
LAWRENCE COUNTY
(H,Hw) - See Anderson County
LEE COUNTY
(H,Hw) - See Adair cOunty
LESLIE COUNTY
(H,Hw) - See Adair County
LETCHER COUNTY
(H,Hw) - See Adair County
LEWIS COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
LINCOLN COUNTY
(H,Hw) - See Adair county
LIVINGSTON COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
LOGAN COUNTY
(H,Hw) - See Allen County
LYON COUNTY
(H,Hw) - See Allen County
McCRACKEN COUNTY
Decision #KY75-1065 (B)
40 FR 26201 - 6/20/75
(D) - See Boone County
(H,Hw) - See Allen County

KENTUCKY (Cont'd)

McCREARY COUNTY
(H,Hw) - See Adair County
McLEAN COUNTY
(H,Hw) - See Allen County
MADISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MAGOFFIN COUNTY
(H,Hw) - See Adair County
MARION COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
MARSHALL COUNTY
(H,Hw) - See Allen County
MARTIN COUNTY
(H,Hw) - See Adair County
MASON COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
MEADE COUNTY
(H,Hw) - See Anderson County
(B) - See Jefferson County
(R) - See Breckinridge County
(D) - See Boone County
MENIFEE COUNTY
(H,Hw) - See Adair County
MERCER COUNTY
(H,Hw) - See Anderson County
METCALFE COUNTY
(H,Hw) - See Adair County
MONROE COUNTY
(H,Hw) - See Adair County
MONTGOMERY COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MORGAN COUNTY
(H,Hw) - See Anderson County
MUHLENBERG COUNTY
(H,Hw) - See Allen County

KENTUCKY (Cont'd)

NELSON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
NICHOLAS COUNTY
(H,Hw) - See Anderson County
OHIO COUNTY
(H,Hw) - See Allen County
OLDHAM COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Boone County
OWEN COUNTY
(H,Hw) - See Anderson County
OWSLEY COUNTY
(H,Hw) - See Adair County
PENDLETON COUNTY
(B)(D) - See Boone County
(D) - See Boone County
PERRY COUNTY
(H,Hw) - See Adair County
PIKE COUNTY
(B) - See Floyd County
(H,Hw) - See Adair County
POWELL COUNTY
(H,Hw) - See Adair County
PULASKI COUNTY
(H,Hw) - See Adair County
ROBERTSON COUNTY
(H,Hw) - See Anderson County
ROCKCASTLE COUNTY
(H,Hw) - See Adair County
ROWAN COUNTY
(H,Hw) - See Anderson County
RUSSELL COUNTY
(H,Hw) - See Adair County
SCOTT COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
SHELBY COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County

KENTUCKY (Cont'd.)

SIMPSON COUNTY
(H,Hw) - See Allen County
SPENCER COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
TAYLOR COUNTY
(H,Hw) - See Allen County
TODD COUNTY
(H,Hw) - See Allen County
TRIGG COUNTY
(H,Hw) - See Allen County
TRIMBLE COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
UNION COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
WARREN COUNTY
Decision #AR-4023 (B)
39 FR 32449 - 9/6/74
Mod. #1 - 40 FR 10876 - 3/7/75
Mod. #2 - 40 FR 31438 - 7/25/75
(H,Hw) - See Allen County
WASHINGTON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
WAYNE COUNTY
(H,Hw) - See Adair County
WEBSTER COUNTY
(H,Hw) - See Allen County
WHITLEY COUNTY
(H,Hw) - See Adair County
WOLFE COUNTY
(H,Hw) - See Adair County
WOODFORD COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

LOUISIANA

STATEWIDE
Decision #AR-4013 (D)
39 FR 27397 - 7/26/74
Decision #LA75-4141 (B,Hw,R)
40 FR 32585 - 8/1/75
Mod. #1 - 40 FR 34541 - 8/15/75
Mod. #2 - 40 FR 36895 - 8/22/75
Mod. #3 - 40 FR 43419 - 9/19/75
ACADIA PARISH
Decision #AR75-5074 (F)
40 FR 26189 - 6/20/75
(B,D,Hw) - See Statewide
ALLEN PARISH
(F) - See Acadia Parish
(D,B,Hw) - See Statewide
ASCENSION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ASSUMPTION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
AVOYELLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BEAUREGARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BIENVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BOSSIER PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide
CADDO PARISH
(B,D,Hw,R) - See Statewide
CALCASIEU PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide

LOUISIANA (Cont'd)

CALDWELL PARISH
(F) - See Acadia Parish
(B,D,Hw)- See Statewide
CAMERON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CATAHOULA PARISH
(F) - See Acadia Parish
(D,B,Hw) - See Statewide
CLAIBORNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CONCORDIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
DE SOTO PARISH
(F) - See Acadia Parish
(B,D,Hw)-See Statewide
EAST BATON ROUGE PARISH
(B,D,Hw) - See Statewide
EAST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EVANGELINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
FRANKLIN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
GRANT PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
IBERIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

LOUISIANA (cont'd)

IBERVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JACKSON COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON PARISH
Decision #AR-3 (R)
39 FR 25777 - 7/12/74
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON DAVIS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFAYETTE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFOURCHE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LA SALLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LINCOLN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LIVINGSTON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MADISON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MOREHOUSE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
NATCHITOCHES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ORLEANS PARISH
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
OUACHITA PARISH
Decision #AQ-116 (R)
39 FR 22397 - 6/21/74
(B,D,Hw) - See Statewide

LOUISIANA (Cont'd)

PLAQUEMINES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
POINTE COUPEE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RAPIDES PARISH
(B,D,Hw) - See Statewide
RED RIVER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RICHLAND PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
SABINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. BERNARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
ST. CHARLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. HELENA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JAMES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JOHN THE BAPTIST PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. LANDRY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARTIN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARY PARISH
(F) - See Acadia Parish
(B,D) - See Statewide

LOUISIANA (Cont'd)

ST. TAMMANY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TANGIPAHOA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TENSAS PARISH
(F) - See Acadia Parish
(B,Hw,D) - See Statewide
TERREBONNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
UNION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
VERMILION PARISH
(F) - See Acadia Parish
(D,B,Hw) - See Statewide
VERNON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WASHINGTON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEBSTER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST BATON ROUGE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WINN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

MAINE

ANDROSCOGGIN COUNTY
None
AROOSTOOK COUNTY
None
CUMBERLAND COUNTY
Decision #CT75-5045 (D)
40 FR 15294 - 4/4/75
FRANKLIN COUNTY
None
HANCOCK COUNTY
(D) - See Cumberland County
KENNEBEC COUNTY
None
KNOX COUNTY
(D) - See Cumberland County
LINCOLN COUNTY
(D) - See Cumberland County
OXFORD COUNTY
None
PENOBSCOT COUNTY
None
PISCATAQUIS COUNTY
None
SAGADAHOC COUNTY
(D) - See Cumberland County
SOMERSET COUNTY
None
WALDO COUNTY
(D) - See Cumberland County
WASHINGTON COUNTY
(D) - See Cumberland County
YORK COUNTY
(D) - See Cumberland County

MARYLAND

ALLEGANY COUNTY
Decision #AR-2091 (B)
39 FR 41651 - 11/29/74
Mod. #1 - 40 FR 928 - 1/3/75
Decision #AR-2084 (H,Hw)
39 FR 41125 - 11/22/74
ANNE ARUNDEL COUNTY
Decision #MD75-3008 (D)
40 FR 3094 - 1/17/75
Mod. #1 - 40 FR 14204 - 3/28/75
Decision #AR-2086 (B,H)
39 FR 41127 - 11/22/74
Mod. #1 - 40 FR 928 - 1/3/75
Mod. #2 - 40 FR 14204 - 3/28/75
Mod. #3 - 40 FR 17460 - 4/18/75
Decision #AR-2085 (Hw)
39 FR 41100 - 11/22/74
Mod. #1 - 40 FR 42483 - 9/12/75
BALTIMORE CITY
Decision #MD75-3065 (Hw)
40 FR 30413 - 7/18/75
Decision #MD75-3064 (B,H)
40 FR 27431 - 6/27/75
Decision #AQ-2072 (R)
39 FR 8122 - 3/1/74
Decision #CT75-5045 (D)
40 FR 15294 - 4/4/75
BALTIMORE COUNTY
Decision #AR-2052 (Hw)
39 FR 34904 - 9/27/74
Mod. #1 - 40 FR 27405 - 6/27/75
(B,H,R) - See Baltimore City
CALVERT COUNTY
(D,Hw) - See Anne Arundel County
CARULINE COUNTY
Decision #MD75-3052 (Hw)
40 FR 20555 - 5/9/75
(Hw) - See Anne Arundel County
CARROLL COUNTY
(Hw) - See Anne Arundel County
CECIL COUNTY
(Hw) - See Caroline County
(R) - See Baltimore County
CHARLES COUNTY
(D,Hw) - See Anne Arundel County
DORCHESTER COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
FREDERICK COUNTY
Decision #AQ-2076 (R)
39 FR 10069 - 3/15/74
Mod. #1 - 40 FR 15272 - 4/4/75
(Hw) - See Anne Arundel County
GARRETT COUNTY
(B,H,Hw) - See Allegany County

MARYLAND (Cont'd.)

HARFORD COUNTY
(B,H,R) - See Baltimore City
(Hw) - See Anne Arundel County
HOWARD COUNTY
(B,H) - See Baltimore City
(R) - See Baltimore County
(Hw) - See Anne Arundel City
KENT COUNTY
(Hw) - See Caroline County
(D) - See Arundel County
MONTGOMERY COUNTY
Decision #MD75-3100 (B)
40 FR 44477 - 9/26/75
(Hw) - See Anne Arundel County
PRINCE GEORGES COUNTY
(B) - See Montgomery County
(D,Hw) - See Anne Arundel County
QUEEN ANNES COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
ST. MARYS COUNTY
(D,Hw) - See Anne Arundel County
SOMERSET COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
TALBOT COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
WASHINGTON COUNTY
(Hw) - See Anne Arundel County
WICOMICO COUNTY
Decision #AQ-2075 (R)
39 FR 10068 - 3/15/74
Mod. #1 - 39 FR 14849 - 4/26/74
(D) - See Anne Arundel County
(Hw) - See Caroline County
WORCESTER COUNTY
(D) - See Baltimore County
(Hw) - See Caroline County
Decision #AR-2012 (B)
39 FR 27991 - 8/2/74

MASSACHUSETTS

BARNSTABLE COUNTY
Decision #MA75-2069 (B,H,Hw, & Marine)
40 FR 20557 - 5/9/75
Mod. #1 - 40 FR 27407 - 6/27/75
Mod. #2 - 40 FR 34542 - 8/15/75
Decision #CT75-5045 (D)
40 FR 15294 - 4/4/75
BERKSHIRE COUNTY
Decision #MA75-2070 (B,H,Hw)
40 FR 20581 - 5/9/75
Mod. #1 - 40 FR 27408 - 6/27/75
Mod. #2 - 40 FR 34542 - 8/15/75
BRISTOL COUNTY
Decision #MA75-2071 (B,H,Hw,R, & Marine)
40 FR 19335 - 5/2/75
Mod. #1 - 40 FR 27409 - 6/27/75
Mod. #2 - 40 FR 34542 - 8/15/75
(D) - See Barnstable County
DUKES COUNTY
(D) - See Barnstable County
ESSEX COUNTY
Decision #MA75-2072 (B,H,Hw, & Marine)
40 FR 18305 - 4/25/75
Mod. #1 - 40 FR 27410 - 6/27/75
(D) - See Barnstable County
FRANKLIN COUNTY
Decision #MA75-2110 (B,H,Hw)
40 FR 42499 - 9/12/75
HAMPDEN COUNTY
Decision #MA75-2053 (B,H,Hw)
40 FR 12051 - 3/14/75
Mod. #1 - 40 FR 19327 - 5/2/75
Mod. #2 - 40 FR 28307 - 7/3/75
Mod. #3 - 40 FR 34543 - 8/15/75
Decision #MA75-2054 (R)
40 FR 15297 - 4/4/75
HAMPSHIRE COUNTY
Decision #MA75-2008 (B,H,Hw)
40 FR 3121 - 1/17/75
Mod. #1 - 40 FR 7778 - 2/21/75
Mod. #2 - 40 FR 19327 - 5/2/75
Mod. #3 - 40 FR 28305 - 7/3/75
Mod. #4 - 40 FR 36896 - 8/22/75
MIDDLESEX COUNTY
Decision #MA75-2073 (B,H,Hw,R, & Marine)
40 FR 19340 - 5/2/75
Mod. #1 - 40 FR 27412 - 6/27/75
Mod. #2 - 40 FR 36896 - 8/22/75
(D) - See Barnstable County
NANTUCKET COUNTY
(D) - See Barnstable County

MASSACHUSETTS

NORFOLK COUNTY
Decision #MA75-2074 (B,H,Hw,R)
40 FR 20586 - 5/9/75
Mod. #1 - 40 FR 27413 - 6/27/75
Mod. #2 - 40 FR 36896 - 8/22/75
(D) - See Barnstable County
PLYMOUTH COUNTY
Decision #MA75-2075 (B,H,Hw,R)
40 FR 20590 - 5/9/75
Mod. #1 - 40 FR 27413 - 6/27/75
Mod. #2 - 40 FR 36896 - 8/22/75
SUFFOLK COUNTY
Decision #MA75-2076 (B,H,Hw,D,R)
& Marine)
40 FR 20595 - 5/9/75
Mod. #1 - 40 FR 23630 - 5/30/75
Mod. #2 - 40 FR 27414 - 6/27/75
Mod. #3 - 40 FR 36897 - 8/22/75
WORCESTER COUNTY
Decision #MA75-2077 (B,H,Hw,R)
40 FR 21660 - 5/16/75
Mod. #1 - 40 FR 27415 - 6/27/75
Mod. #2 - 40 FR 36897 - 8/22/75

MICHIGAN

STATEWIDE
Decision #MI75-2098 (Hw, W&S)
40 FR 30415 - 7/18/75
ALCONA COUNTY
Decision #MI75-2103 (B,H)
40 FR 36928 - 8/22/75
Decision #IL75-5079 (D)
40 FR 29490 - 7/11/75
Mod. #1 - 40 FR 32552 - 8/1/75
Mod. #2 - 40 FR 40006 - 8/29/75
(Hw, W&S) - See Statewide
ALGER COUNTY
Decision #MI75-2104 (B,H)
40 FR 36932 - 8/22/75
(D) - See Alcona County
(Hw, W&S) - See Statewide
ALLEGAN COUNTY
Decision #MI75-2108 (B,H)
40 FR 40016 - 8/29/75
Decision #AM-398 (R)
36 FR 15891 - 8/18/71
(Hw, W&S) - See Statewide
(D) - See Alcona County
ALPENA COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
ANTRIM COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
ARENAC COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARAGA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARRY COUNTY
(Hw, W&S) - See Statewide
BAY COUNTY
Decision #MI75-2061 (B,H)
40 FR 17511 - 4/18/75
Mod. #1 - 40 FR 19328 - 5/2/75
(D) - See Alcona County
(Hw, W&S) - See Statewide
BENZIE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

BERRIEN COUNTY
(B,H) - See Allegan County
Decision #AM-399 (R)
36 FR 15892 - 8/18/71
(D) - See Alcona County
(Hw, W&S) - See Statewide
BRANCH COUNTY
Decision #AM-401 (R)
36 FR 15894 - 8/18/71
(Hw, W&S) - See Statewide
CALHOUN COUNTY
(B,H) - See Allegan County
Decision #AM-400 (R)
36 FR 15892 - 8/18/71
(Hw, W&S) - See Statewide
CASS COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
CHARLEVOIX COUNTY
(B,H) - See Allegan County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHEBOYGAN COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CLARE COUNTY
(Hw, W&S) - See Statewide
CLINTON COUNTY
(Hw, W&S) - See Statewide
(B,H) - See Allegan County
CRAWFORD COUNTY
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

DELTA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
DICKINSON COUNTY
(Hw, W&S) - See Statewide
EATON COUNTY
Decision #AM-8041 (R)
36 FR 24027 - 12/17/71
(Hw, W&S) - See Statewide
(B,H) - See Allegan County
EMMET COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GENESEE COUNTY
(B,H) - See Bay County
Decision #MI75-2062 (R)
40 FR 17515 - 4/18/75
(Hw, W&S) - See Statewide
GLADWIN COUNTY
(Hw) - See Statewide
GOGEBIC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRAND TRAVERSE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRATIOT COUNTY
(Hw, W&S) - See Statewide
HILLSDALE COUNTY
(Hw, W&S) - See Statewide
HOUGHTON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
HURON COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
INGHAM COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
(R) - See Eaton County

MICHIGAN (Cont'd.

IONIA COUNTY
(Hw, W&S) - See Statewide
IOSCO COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
IRON COUNTY
(Hw, W&S) - See Statewide
ISABELLA COUNTY
(Hw, W&S) - See Statewide
JACKSON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
KALAMAZOO COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
(R) - See Branch County
KALKASKA COUNTY
(Hw, W&S) - See Statewide
KENT COUNTY
Decision #AR-3054 (B,H)
39 FR 25858 - 7/12/74
Mod. #1 - 39 FR 33155 - 9/13/74
Mod. #2 - 39 FR 34920 - 9/27/74
Mod. #3 - 40 FR 3862 - 1/24/75
Decision #AM-402 (R)
36 FR 15895 - 8/18/71
(Hw, W&S) - See Statewide
KEWEENAW COUNTY
(B,H) - See Alger County
(Hw, W&S) - See Statewide
LAKE COUNTY
(Hw, W&S) - See Statewide

LAPEER COUNTY
(R) - See Genesee County
(B,H) - See Bay County
(Hw, W&S) - See Statewide
LEELANAU COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
LENAWEE COUNTY
(Hw, W&S) - See Statewide
LIVINGSTON COUNTY
(Hw, W&S) - See Statewide
LUCE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACKINAC COUNTY
(B,H) - See Alger County
(Hw, W&S) - See Statewide
MACOMB COUNTY
Decision #MI75-2102 (B,H,R)
40 FR 33639 - 8/8/75

(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

MANISTEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MARQUETTE COUNTY
Decision #AR-3178 (R)
39 FR 44166 - 12/20/74
Mod. #1 - 40 FR 22734 - 5/23/75
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MASON COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
MECOSTA COUNTY
(Hw, W&S) - See Statewide
MENOMINEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MIDLAND COUNTY
(Hw, W&S) - See Statewide
MISSAUKEE COUNTY
(Hw, W&S) - See Statewide
MONROE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MONTCALM COUNTY
(Hw, W&S) - See Statewide
(R) - See Kent County
MONTMORENCY COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
MUSKEGON COUNTY

(B,H) - See Alcona County
Decision #AM-403 (R)
36 FR 15896 - 8/18/71
(D) - See Alcona County
(Hw, W&S) - See Statewide
NEWAYGO COUNTY
(Hw, W&S) - See Statewide
OAKLAND COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OCEANA COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OGEMAW COUNTY
(Hw, W&S) - See Statewide
ONTONAGON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

OSCEOLA COUNTY
(Hw, W&S) - See Statewide
OSCODA COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
OTSEGO COUNTY
(Hw, W&S) - See Statewide
OTTAWA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
(R) - See Allegan County
PRESQUE ISLE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
ROSCOMMON COUNTY
(Hw, W&S) - See Statewide
SAGINAW COUNTY
(B,H) - See Bay County
(R) - See Genessee County
(Hw, W&S) - See Statewide
SAINT CLAIR COUNTY
(B,H) - See Bay County
(R) - See Genessee County
(Hw, W&S) - See Statewide
SAINT JOSEPH COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
SANILAC COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
SCHOOLCRAFT COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
SHIAWASSEE COUNTY
(B,H) - See Bay County
(R) - See Genessee County
(Hw, W&S) - See Statewide
TUSCOLA COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
VAN BUREN COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
WASHTENAW COUNTY
(B,H,R) - See Macomb County
(Hw, W&S) - See Statewide
(D) - See Alcona County
WAYNE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
WEXFORD COUNTY
(Hw, W&S) - See Statewide

MINNESOTA

AITKIN COUNTY
Decision #MN75-2068 (H,Hw)
40 FR 19349 - 5/2/75
Mod. #1 - 40 FR 34547 - 8/15/75
ANOKA COUNTY
Decision #AR-3166 (B,R)
39 FR 39705 - 11/8/74
Mod. #1 - 40 FR 12007 - 3/14/75
Mod. #2 - 40 FR 17461 - 4/18/75
Mod. #3 - 40 FR 22734 - 5/23/75
Mod. #4 - 40 FR 34543 - 8/15/75
(H,Hw) - See Aitkin County
BECKER COUNTY
Decision #AQ-3104 (H,Hw)
39 FR 9369 - 3/8/74
BELTRAMI COUNTY
Decision #AR-3147 (H,Hw)
39 FR 36704 - 10/11/74
BENTON COUNTY
(H,Hw) - See Aitkin County
BIG STONE COUNTY
Decision #AQ-3105 (H,Hw)
39 FR 9370 - 3/8/74
BLUE EARTH COUNTY
(H,Hw) - See Aitkin County
BROWN COUNTY
None
CARLTON COUNTY
(H,Hw) - See Aitkin County
CARVER COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
CASS COUNTY
(H,Hw) - See Becker County
CHIPPEWA COUNTY
(Hw) - See Big Stone County
CHISAGO COUNTY
(H,Hw) - See Aitkin County
CLAY COUNTY
(Hw) - See Becker County
CLEAR WATER COUNTY
(H,Hw) - See Beltrami County
COOK COUNTY
Decision #IL75-5079 (D)
40 FR 29490 - 7/11/75
Mod. #1 - 40 FR 32552 - 8/1/75
Mod. #2 - 40 FR 40006 - 8/29/75
(H,Hw) - See Aitkin County
COTTONWOOD COUNTY
Decision #AQ-3134 (H,Hw)
39 FR 935 - 3/8/74
CROW WING COUNTY
(H,Hw) - See Aitkin County
DAKOTA COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

DODGE COUNTY
(H,Hw) - See Aitkin County
DOUGLAS COUNTY
(H,Hw) - See Big Stone County
FAIRBAULT COUNTY
(H,Hw) - See Aitkin County
FILLMORE COUNTY
(H,Hw) - See Aitkin County
FREEBORN COUNTY
(H,Hw) - See Aitkin County
GOODHUE COUNTY
(H,Hw) - See Aitkin County
GRANT COUNTY
(H,Hw) - See Big Stone County
HENNEPIN COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
HOUSTON COUNTY
(H,Hw) - See Aitkin County
HUBBARD COUNTY
(H,Hw) - See Becker County
ISANTI COUNTY
(H,Hw) - See Aitkin County
ITASKA COUNTY
(H,Hw) - See Aitkin County
JACKSON COUNTY
(H,Hw) - See Aitkin County
KANABEC COUNTY
(H,Hw) - See Aitkin County
KANDIYOHI COUNTY
(H,Hw) - See Big Stone County
KITTSON COUNTY
(H,Hw) - See Beltrami County
KOOCHICHING COUNTY
(H,Hw) - See Aitkin County
LAC QUI PARLE COUNTY
(H,Hw) - See Big STone County
LAKE COUNTY
(H,Hw) - See Aitkin County
(D) - See Cook County
LAKE OF THE WOODS COUNTY
(H,Hw) - See Beltrami County
LE SHUEUR COUNTY
(H,Hw) - See Aitkin County
LINCOLN COUNTY
(H,Hw) - See Cottonwood County

MINNESOTA (Cont'd.)

LYON COUNTY
(H,Hw) - See Cottonwood County
MCLEOD COUNTY
(H,Hw) - See Aitkin County
MAHNOMEN COUNTY
(H,Hw) - See Beltrami County
MARSHALL COUNTY
(H,Hw) - See Beltrami County
MARTIN COUNTY
(H,Hw) - See Aitkin County
MEEKER COUNTY
(H,Hw) - See Aitkin County
MILLE LACS COUNTY
(H,Hw) - See Aitkin County
MORRISON COUNTY
(H,Hw) - See Aitkin County
MOWER COUNTY
(H,Hw) - See Aitkin County
MURRAY COUNTY
(H,Hw) - See Cottonwood County
NICOLLET COUNTY
(H,Hw) - See Aitkin County
NOBLES COUNTY
(H,Hw) - See Aitkin County
NORMAN COUNTY
(H,Hw) - See Beltrami County
OLMSTEAD COUNTY
Decision #MN75-2058 (B,R)
40 FR 17454 - 4/18/75
Mod. #1 - 40 FR 34546 - 8/15/75
(H,Hw) - See Aitkin County
OTTER TAIL COUNTY
(H,Hw) - See Becker County
PENNINGTON COUNTY
(H,Hw) - See Beltrami County
PINE COUNTY
(H,Hw) - See Aitkin County
PIPESTONE COUNTY
(H,Hw) - See Cottonwood County
POLK COUNTY
(H,Hw) - See Beltrami County
POPE COUNTY
(H,Hw) - See Big Stone County
RAMSEY COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
RED LAKE COUNTY
(H,Hw) - See Beltrami County
REDWOOD COUNTY
(H,Hw) - See Cottonwood County
RENVILLE COUNTY
None
RICE COUNTY
(H,Hw) - See Aitkin County
ROCK COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

ROSEAU COUNTY
(H,Hw) - See Beltrami County
SAINT LOUIS COUNTY
(D) - See Cook County
(H,Hw) - See Aitkin County
Decision #MN75-2042 (B,R)
40 FR 7837 - 2/21/75
Mod. #1 - 40 FR 12007 - 3/14/75
Mod. #2 - 40 FR 18278 - 4/25/75
Mod. #3 - 40 FR 34544 - 8/15/75
SCOTT COUNTY
(H,Hw) - See Aitkin County
(B,R) - See Anoka County
SHERBURNE COUNTY
(H,Hw) - See Aitkin County
SIBLEY COUNTY
(H,Hw) - See Aitkin County
STEARNS COUNTY
Decision #MN75-2059 (B,R)
40 FR 16472 - 4/11/75
Mod. #1 - 40 FR 18279 - 4/25/75
Mod. #2 - 40 FR 34551 - 8/15/75
(H,Hw) - See Aitkin County
STEELE COUNTY
(H,Hw) - See Aitkin County
STEVENS COUNTY
(H,Hw) - See Big Stone County
SWIFT COUNTY
(H,Hw) - See Big Stone County
TODD COUNTY
(Hw) - See Becker County
TRAVERSE COUNTY
(H,Hw) - See Big Stone County
WABASHA COUNTY
(H,Hw) - See Aitkin County
WADENA COUNTY
(H,Hw) - See Becker County
WASECA COUNTY
(H,Hw) - See Aitkin County
WASHINGTON COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
WATONWAN COUNTY
None
WILKIN COUNTY
(H,Hw) - See Becker County
WINONA COUNTY
(H,Hw) - See Aitkin County
WRIGHT COUNTY
(H,Hw) - See Aitkin County
YELLOW MEDICINE COUNTY
(H,Hw) - See Cottonwood County

MISSISSIPPI

STATEWIDE
Decision #AR-4013 (D)
39 FR 27397 - 7/26/74
Decision #AR75-5074 (F)
40 FR 26189 - 6/20/75
Decision #MS75-1067 (Hw, W&S)
40 FR 28354 - 7/3/75
Mod. #1 - 40 FR 31439 - 7/25/75
Mod. #2 - 40 FR 33577 - 8/8/75
ADAMS COUNTY
(D,F,Hw, W&S) - See Statewide
ALCORN COUNTY
(D,F,Hw, W&S) - See Statewide
AMITE COUNTY
(D,F,Hw, W&S) - See Statewide
ATTALA COUNTY
(D,F,Hw, W&S) - See Statewide
BENTON COUNTY
(D,F,Hw, W&S) - See Statewide
BOLIVAR COUNTY
(D,F,Hw, W&S) - See Statewide
CALHOUN COUNTY
(D,F,Hw,W&S) - See Statewide
CARROLL COUNTY
(D,F,Hw, W&S) - See Statewide
CHICKASAW COUNTY
(D,F,Hw, W&S) - See Statewide
CHOCTAW COUNTY
(D,F,Hw, W&S) - See Statewide
CLAIBORNE COUNTY
(D,F,Hw, W&S) - See Statewide
CLARKE COUNTY
(D,F,Hw, W&S) - See Statewide
CLAY COUNTY
(Hw, W&S) - See Statewide
COAHOMA COUNTY
Decision #AR-4024 (R)
39 FR 31771 - 8/30/74
Mod. #1 - 40 FR 3086 - 1/17/75
(D,F,Hw, W&S) - See Statewide
COPIAH COUNTY
Decision AQ-4120 (R)
39 FR 20302 - 6/7/74
(D,F,Hw, W&S) - See Statewide

MISSISSIPPI (Cont'd.)

COVINGTON COUNTY
(D,Hw, F, W&S) - See Statewide
DE SOTO COUNTY
(D,F,Hw, W&S) - See Statewide
FORREST COUNTY
Decision #MS75-1076 (R)
40 FR 36935 - 8/22/75
Decision #MS75-1020 (B)
40 FR 5966 - 2/7/75
Mod. #1 - 40 FR 7798 - 2/21/75
(D,F,Hw, W&S) - See Statewide
FRANKLIN COUNTY
(D,F,Hw, W&S) - See Statewide
GEORGE COUNTY
Decision #MS75-1077 (R)
40 FR 36935 - 8/22/75
(D,F,Hw, W&S) - See Statewide
GREENE COUNTY
(D,F,Hw, W&S) - See Statewide
GRENADA COUNTY
(D,F,Hw, W&S) - See Statewide
HANCOCK COUNTY
Decision #MS75-1099 (B,H,Hw, W&S)
40 FR 44459 - 9/26/75

(D,F) - See Statewide
(R) - See George County
HARRISON COUNTY
(B,H,Hw, W&S) - See Hancock County
(R) - See George County
(D,F) - See Statewide

MISSISSIPPI (Cont'd.)

HINDS COUNTY
Decision #AR-4030 (B)
39 FR 32454 - 9/6/74
Mod. #1 - 39 FR 38806 - 11/1/74
Mod. #2 - 39 FR 41658 - 11/29/74
Mod. #3 - 40 FR 16479 - 4/11/75
(D,F,Hw, W&S) - See Statewide
(R) - See Copiah County
HOLMES COUNTY
(D,F,Hw, W&S) - See Statewide
HUMPHREYS COUNTY
(D,F,Hw, W&S) - See Statewide
ISSAQUENA COUNTY
(D,F,Hw, W&S) - See Statewide
ITAWAMBA COUNTY
(D,F,Hw, W&S) - See Statewide
JACKSON COUNTY
(D,F) - See Statewide
(B,H,Hw, W&S) - See Hancock County
(R) - See George County
JASPER COUNTY
(D,F,Hw, W&S) - See Statewide
JEFFERSON COUNTY
(D,F,Hw, W&S) - See Statewide
JEFFERSON DAVIS COUNTY
(D,F,Hw, W&S) - See Statewide
JONES COUNTY
(D,F,Hw, W&S) - See Statewide
(R) - See Forest County
KEMPER COUNTY
(D,F,Hw, W&S) - See Statewide
LAFAYETTE COUNTY
(D,F,Hw, W&S) - See Statewide

MISSISSIPPI (cont'd)

LAMAR COUNTY
(D,F,Hw, W&S) - See Statewide
LAUDERDALE COUNTY
(D,F,Hw, W&S)- See Statewide
LAWRENCE COUNTY
(D,F,Hw, W&S) - See Statewide
LEAKE COUNTY
(D,F,Hw, W&S) - See Statewide
(R) - See Copiah County
LEE COUNTY
(D,F,Hw, W&S) - See Statewide
LEFLORE COUNTY
(D,F,Hw, W&S) - See Statewide
LINCOLN COUNTY
(D,F,Hw, W&S) - See Statewide
LOWNDES COUNTY
(D,F,Hw, W&S) - See Statewide
MADISON COUNTY
(D,F,Hw, W&S) - See Statewide
(R) - See Copiah County
MARION COUNTY
(D,F,Hw, W&S) - See Statewide
MARSHALL COUNTY
(D,F,Hw, W&S) - See Statewide
MONROE COUNTY
(D,F,Hw, W&S) - See Statewide
MONTGOMERY COUNTY
(D,F,Hw, W&S) - See Statewide

MISSISSIPPI (Cont'd)

NESHOBA COUNTY
(D,F,Hw, W&S) - See Statewide
NEWTON COUNTY
(D,F,Hw, W&S) - See Statewide
NOXUBEE COUNTY
(D,F,Hw, W&S) - See Statewide
OKTIBBEHA COUNTY
(D,F,Hw, W&S) - See Statewide
PANOLA COUNTY
(D,F,Hw, W&S) - See Statewide
PEARL RIVER COUNTY
(D,F) - See Statewide
(B,H,Hw, W&S) - See Hancock County
(R) - See George County
PERRY COUNTY
(D,F,Hw, W&S) - See Statewide
PIKE COUNTY
(D,F,Hw, W&S) - See Statewide
PONTOTOC COUNTY
(D,F,Hw, W&S) - See Statewide
PRENTISS COUNTY
(D,F,Hw, W&S) - See Statewide
QUITMAN COUNTY
(D,F,Hw, W&S) - See Statewide
RANKIN COUNTY
(D,F,Hw, W&S) - See Statewide
(R) - See Copiah County

MISSISSIPPI (Cont'd)

SCOTT COUNTY
(D,F,Hw, W&S) - See Statewide
(R) - See Copiah County
SHARKEY COUNTY
(D,F,Hw, W&S) - See Statewide
SIMPSON COUNTY
(D,F,Hw, W&S) - See Statewide
(R) - See Copiah County
SMITH COUNTY
(D,F,Hw, W&S) - See Statewide
(R) - See Copiah County
STONE COUNTY
(D,F,Hw, W&S) - See Statewide
(R) - See George County
SUNFLOWER COUNTY
(D,F,Hw, W&S) - See Statewide
(R) - See Coahoma County
TALLAHATCHIE COUNTY
(D,F,Hw, W&S) - See Statewide
TATE COUNTY
(D,F,Hw, W&S) - See Statewide
TIPPAH COUNTY
(D,F,Hw, W&S) - See Statewide
TISHOMINGO COUNTY
(D,F,Hw, W&S) - See Statewide
TUNICA COUNTY
(D,F,Hw, W&S) - See Statewide
UNION COUNTY
(D,F,Hw, W&S) - See Statewide

MISSISSIPPI (Cont'd.)

WALTHALL COUNTY
(D,F,Hw, W&S) - See Statewide
WARREN COUNTY
Decision #MS75-1044 (B)
40 FR 16530 - 4/11/75
(D,F,Hw, W&S) - See Statewide
(R) - See Coahoma County
WASHINGTON COUNTY
Decision #AQ-4072 (B)
39 FR 5933 - 2/15/74
(D,F,Hw, W&S) - See Statewide
(R) - See Coahoma County
WAYNE COUNTY
(D,F,Hw, W&S) - See Statewide
WEBSTER COUNTY
(D,F,Hw, W&S) - See Statewide
WILKINSON COUNTY
(D,F,Hw, W&S) - See Statewide
WINSTON COUNTY
(D,F,Hw, W&S) - See Statewide
YALOBUSHA COUNTY
(D,F,Hw, W&S) - See Statewide
YAZOO COUNTY
(D,F,Hw, W&S) - See Statewide
(R) - See Copiah County

MISSOURI

STATEWIDE
Decision #M075-4146 (H,Hw)
40 FR 32662 - 8/1/75
ADAIR COUNTY
(H,Hw) - See Statewide
ANDREW COUNTY
Decision #M075-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Statewide
ATCHISON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
AUDRAIN COUNTY
(H,Hw) - See Statewide
BARRY COUNTY
(Hw) - See Statewide
BARTON COUNTY
(H,Hw) - See Statewide
BATES COUNTY
(H,Hw) - See Statewide
BENTON COUNTY
(H,Hw) - See Statewide
BOLLINGER COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(H,Hw) - See Statewide
(D) - See Andrew County
BUCHANAN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
BUTLER COUNTY
(Hw) - See Statewide
CALDWELL COUNTY
(H,Hw) - See Statewide
CALLAWAY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CAMDEN COUNTY
(H,Hw) - See Statewide
CAPE GIRARDEAU COUNTY
Decision #IL75-2036 (D)
40 FR 6023 - 2/7/75
(H,Hw) - See Statewide
CARROLL COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CARTER COUNTY
(Hw) - See Statewide

MISSOURI (Cont'd.)

CASS COUNTY
Decision #MO75-4144 (B,H,Hw)
40 FR 32611 - 8/1/75
Mod. #1 - 40 FR 44442 - 9/26/75
Decision #MO75-4145 (R)
40 FR 32617 - 8/1/75
Mod. #1 - 40 FR 44442 - 9/26/75
(H,Hw) - See Statewide
CEDAR COUNTY
(H,Hw) - See Statewide
CHARITON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CHRISTIAN COUNTY
(Hw) - See Statewide
CLARK COUNTY
(H,Hw) - See Statewide
CLAY COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
COLE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
COOPER COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
DADE COUNTY
(H,Hw) - See Statewide
DALLAS COUNTY
(H,Hw) - See Statewide
DAVIESS COUNTY
(H,Hw) - See Statewide
DE KALB COUNTY
(H,Hw) - See Statewide
DENT COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
DUNKLIN COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
Decision #MO75-4143 (B)
40 FR 32608 - 8/1/75
Decision #MO75-4142 (R)
40 FR 32605 - 8/1/75
(D) - See Andrew County
(H,Hw) - See Statewide
GASCONADE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
GENTRY COUNTY
(H,Hw) - See Statewide
GREENE COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd)

GRUNDY COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
HICKORY COUNTY
(H,Hw) - See Statewide
HOLT COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWARD COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWELL COUNTY
(Hw) - See Statewide
IRON COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
JASPER COUNTY
None
JEFFERSON COUNTY
(D) - See Cape Girdeau County
(H,Hw) - See Statewide
JOHNSON COUNTY
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LACLEDE COUNTY
(H,Hw) - See Statewide
LAFAYETTE COUNTY
(H,Hw) - See Statewide
(D) - See Andrew County
LAWRENCE COUNTY
(H,Hw) - See Statewide
LEWIS COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(B,R) - See Franklin County
(H,Hw) - See Statewide
LINN COUNTY
(H,Hw) - See Statewide
LIVINGSTON COUNTY
(H,Hw) - See Statewide
MC DONALD COUNTY
(H,Hw) - See Statewide
MACON COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARIES COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd)

MARION COUNTY
(H,Hw) - See Statewide
MERCER COUNTY
(H,Hw) - See Statewide
MILLER COUNTY
(H,Hw) - See Statewide
MISSISSIPPI COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
MONITEAU COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MONROE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NEW MADRID COUNTY
(Hw) - See Statewide
NEWTON COUNTY
(H,Hw) - See Statewide
NODAWAY COUNTY
(H,Hw) - See Statewide
OREGON COUNTY
(Hw) - See Statewide
OSAGE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
OZARK COUNTY
(Hw) - See Statewide
PEMISCOT COUNTY
(Hw) - See Statewide
PERRY COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
PETTIS COUNTY
(H,Hw) - See Statewide
PHELPS COUNTY
(H,Hw) - See Statewide
PIKE COUNTY
(H,Hw) - See Statewide
PLATTE COUNTY
(B,R,H,Hw) - See Cass County
(D) - See Andrew County
POLK COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd)

PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RALLS COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RAY COUNTY
(B,R) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
REYNOLDS COUNTY
(Hw) - See Statewide
RIPLEY COUNTY
(Hw) - See Statewide
ST. CHARLES COUNTY
(B,R) - See Franklin County
(D) - See Andrew County
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
ST. CLAIR COUNTY
(H,Hw) - See Statewide
ST. FRANCOIS COUNTY
(H,Hw) - See Statewide
ST. LOUIS COUNTY
(B,R) - See Franklin County
(D) - See Cape Girardeau County
(D) - See Andrew County
(H,Hw) - See Statewide
STE. GENEVIEVE COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SALINE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
SCHUYLER COUNTY
(H,Hw) - See Statewide
SCOTLAND COUNTY
(H,Hw) - See Statewide
SCOTT COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SHANNON COUNTY
(Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
STODDARD COUNTY
(Hw) - See Statewide

MISSOURI (Cont'd)

STONE COUNTY
(Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
TANEY COUNTY
(Hw) - See Statewide
TEXAS COUNTY
(Hw) - See Statewide
VERNON COUNTY
(H,Hw) - See Statewide
WARREN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
WORTH COUNTY
(H,Hw) - See Statewide
WRIGHT COUNTY
(Hw) - See Statewide

MONTANA

STATEWIDE
Decision #MT75-5094 (B)
40 FR 31533 - 7/25/75
Decision #MT75-5093 (H,Hw)
40 FR 31522 - 7/25/75
Mod. #1 - 40 FR 34554 - 8/15/75
BEAVERHEAD COUNTY
(B,H,Hw) - See Statewide
BIG HORN COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BROADWATER COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
CARTER COUNTY
(B,H,Hw) - See Statewide
CASCADE COUNTY
Decision #MT75-5091 (R)
40 FR 31503 - 7/25/75
(B,H,Hw) - See Statewide
CHOUTEAU COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
DANIELS COUNTY
(B,H,Hw) - See Statewide
DAWSON COUNTY
(B,H,Hw) - See Statewide
DEER LODGE COUNTY
(B,H,Hw) - See Statewide
Decision #MT75-5092 (R)
40 FR 31514 - 7/25/75
FALLON COUNTY
(B,H,Hw) - See Statewide
FERGUS COUNTY
(B,H,Hw) - See Statewide
FLATHEAD COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County

MONTANA (Cont'd.)

GALLATIN COUNTY
(B,H,Hw) - See Statewide
(R) - See Deer Lodge County
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GLACIER COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide
GOLDEN VALLEY COUNTY
(B,H,Hw) - See Statewide
GRANITE COUNTY
(B,H,Hw) - See Statewide
HILL COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JUDITH BASIN COUNTY
(B,H,Hw) - See Statewide
LAKE COUNTY
(B,H,Hw) - See Statewide
LEWIS & CLARK COUNTY
(B,H,Hw) - See Statewide
LIBERTY COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MC CONE COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MEAGHER COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
MISSOULA COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide
MUSSELSHELL COUNTY
(B,H,Hw) - See Statewide
PARK COUNTY
(B,H,Hw) - See Statewide
PETROLEUM COUNTY
(B,H,Hw) - See Statewide
PHILLIPS COUNTY
(B,H,Hw) - See Statewide
PONDERA COUNTY
(B,H,Hw) - See Statewide
POWDER RIVER COUNTY
(B,H,Hw) - See Statewide
POWELL COUNTY
(B,H,Hw) - See Statewide
PRAIRIE COUNTY
(B,H,Hw) - See Statewide
RAVALLI COUNTY
(B,H,Hw) - See Statewide

MONTANA (Cont'd.)

RICHLAND COUNTY
(B,H,Hw) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide
ROSEBUD COUNTY
(B,H,Hw) - See Statewide
SANDERS COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
SHERIDAN COUNTY
(B,H,Hw) - See Statewide
SILVER BOW COUNTY
(R) - See Deer Lodge County
(B,H,Hw) - See Statewide
STILLWATER COUNTY
(B,H,Hw) - See Statewide
SWEET GRASS COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TOOLE COUNTY
(B,H,Hw) - See Statewide
TREASURE COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
WHEATLAND COUNTY
(B,H,Hw) - See Statewide
WIBAUX COUNTY
(B,H,Hw) - See Statewide
YELLOWSTONE COUNTY
(B,H,Hw) - See Statewide

NEBRASKA

ADAMS COUNTY
Decision #AR-92 (H,Hw)
39 FR 44917 - 12/27/74
ANTELOPE COUNTY
(H,Hw) - See Adams County
ARTHUR COUNTY
(H,Hw) - See Adams County
BANNER COUNTY
Decision #NE75-4113 (B)
40 FR 26218 - 6/20/75
(H,Hw) - See Adams County
BLAINE COUNTY
(H,Hw) - See Adams County
BOONE COUNTY
(H,Hw) - See Adams County
BOX BUTTE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
BOYD COUNTY
(H,Hw) - See Adams County
Decision #NE75-4054 (Channel Stabilization)
40 FR 8739 - 2/28/75
BROWN COUNTY
(H,Hw) - See Adams County
BUFFALO COUNTY
(H,Hw) - See Adams County
BURT COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
BUTLER COUNTY
(H,Hw) - See Adams County
CASS COUNTY
(Chann. Stab.) - See Boyd County
Decision #NE75-4112 (H,Hw)
40 FR 25400 - 6/13/75
Mod. #1 - 40 FR 27416 - 6/27/75
Mod. #2 - 40 FR 32553 - 8/1/75
CEDAR COUNTY
Decision #AQ-93 (B)
39 FR 15653 - 5/3/74
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
CHASE COUNTY
(H,Hw) - See Adams County
CHERRY COUNTY
(H,Hw) - See Adams County
CHEYENNE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
CLAY COUNTY
(H,Hw) - See Adams County
COLFAX COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

CUMING COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
CUSTER COUNTY
(H,Hw) - See Adams County
DAKOTA COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DAWES COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DAWSON COUNTY
(H,Hw) - See Adams County
DEUEL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DIXON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DODGE COUNTY
(H,Hw) - See Adams County
DOUGLAS COUNTY
Decision #NE75-4111 (B,R)
40 FR 25399 - 6/13/75
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
DUNDY COUNTY
(H,Hw) - See Adams County
FILLMORE COUNTY
(H,Hw) - See Adams County
FRANKLIN COUNTY
(H,Hw) - See Adams County
FRONTIER COUNTY
(H,Hw) - See Adams County
FURNAS COUNTY
(H,Hw) - See Adams County
GAGE COUNTY
(H,Hw) - See Adams County
GARDEN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
GARFIELD COUNTY
(H,Hw) - See Adams County
GOSPER COUNTY
(H,Hw) - See Adams County
GRANT COUNTY
(H,Hw) - See Adams County
GREELEY COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd)

HALL COUNTY
Decision #NE75-4155 (B)
40 FR 41366 - 9/5/75
(H,Hw) - See Adams County
HAMILTON COUNTY
(H,Hw) - See Adams County
HARLAN COUNTY
(H,Hw) - See Adams County
HAYES COUNTY
(H,Hw) - See Adams County
HITCHCOCK COUNTY
(H,Hw) - See Adams County
HOLT COUNTY
(H,Hw) - See Adams County
HOOKER COUNTY
(H,Hw) - See Adams County
HOWARD COUNTY
(H,Hw) - See Adams County
JEFFERSON COUNTY
(H,Hw) - See Adams County
JOHNSON COUNTY
(H,Hw) - See Adams County
KEARNEY COUNTY
(H,Hw) - See Adams County
KEITH COUNTY
(H,Hw) - See Adams County
KEYAPAHA COUNTY
(H,Hw) - See Adams County
KIMBALL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
KNOX COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
LANCASTER COUNTY
Decision #NE75-4085 (B)
40 FR 20599 - 5/9/75
Decision #NE75-4157 (R)
40 FR 42502 - 9/12/75
(H,Hw) - See Adams County
LINCOLN COUNTY
(H,Hw) - See Adams County
LOGAN COUNTY
(H,Hw) - See Adams County
LOUP COUNTY
(H,Hw) - See Adams County
MC PHERSON COUNTY
(H,Hw) - See Adams County
MADISON COUNTY
(H,Hw) - See Adams County
MERRICK COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.)

MORRILL COUNTY
(B) - See Banner County
(H,Hw) - See AdamsCCounty
NANCE COUNTY
(H,Hw) - See Adams County
NEMAHA COUNTY
Decision #MO75-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
NUCKOLLS COUNTY
(H,Hw) - See Adams County
OTOE COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
PAWNEE COUNTY
(H,Hw) - See Adams County
PERKINS COUNTY
(H,Hw) - See Adams County
PHELPS COUNTY
(H,Hw) - See Adams County
PIERCE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
PLATTE COUNTY
(H,Hw) - See Adams County
POLK COUNTY
(H,Hw) - See Adams County
RED WILLOW COUNTY
(H,Hw) - See Adams County
RICHARDSON COUNTY
(Chann. Stab.) - See Boyd County
(D) - See Nemaha County
(H,Hw) - See Adams County
ROCK COUNTY
(H,Hw) - See Adams County
SALINE COUNTY
(H,Hw) - See Adams County
SARPY COUNTY
(Chann. Stab.) - See Boyd County
(B,R) - See Douglas County
(H,Hw) - See Cass County
SAUNDERS COUNTY
(H,Hw) - See Adams County
(H,Hw) - See Cass County
SCOTTS BLUFF COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SEWARD COUNTY
(H,Hw) - See Adams County
SHERIDAN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SHERMAN COUNTY
(H,Hw) - See Adams County
SIOUX COUNTY
(B) - See Banner County
(H,Hw) - See Adams County

NEBRASKA (Cont'd)

STANTON COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
THAYER COUNTY
(H,Hw) - See Adams County
THOMAS COUNTY
(H,Hw) - See Adams County
THURSTON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
VALLEY COUNTY
(H,Hw) - See Adams County
WASHINGTON COUNTY
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
WAYNE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
WEBSTER COUNTY
(H,Hw) - See Adams County
WHEELER COUNTY
(H,Hw) - See Adams County
YORK COUNTY
((H,Hw)-SSeeAAdamsoCounty

NEVADA

STATEWIDE (Excluding the Nevada Test Site & Tonopah Test Range)
Decision #NV75-5095 (B,H,Hw)
40 FR 32635 - 8/1/75
Mod. #1 - 40 FR 43419 - 9/19/75
CHURCHILL COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
Decision #NV75-5096 (R)(Excluding the Nevada Test Site)
40 FR 32646 - 8/1/75
Mod. #1 - 40 FR 43420 - 9/19/75
(B,H,Hw) - See Statewide
Decision #NV75-5057 (B,H,Hw) (Nevada Test Site including the Tonopah Test Range
40 FR 20602 - 5/9/75
Mod. #1 - 40 FR 25326 - 6/13/75
Mod. #2 - 40 FR 43419 - 9/19/75
DOUGLAS COUNTY
(B,H,Hw) - See Statewide
ELKO COUNTY
(B,H,Hw) - See Statewide
ESMERALDA COUNTY
(B,H,Hw) - See Statewide
EUREKA COUNTY
(B,H,Hw) - See Statewide
HUMBOLDT COUNTY
(B,H,Hw) - See Statewide
LANDER COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LYON COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
NYE COUNTY
(B,H,Hw) - See Clark Co. (Nevada Test Site)
(B,H,Hw) - See Statewide
ORMSBY COUNTY
(B,H,Hw) - See Statewide
PERSHING COUNTY
(B,H,Hw) - See Statewide
STOREY COUNTY
(B,H,Hw) - See Statewide
WASHOE COUNTY
Decision #NV75-5097 (R)
40 FR 32650 - 8/1/75
Mod. #1 - 40 FR 43420 - 9/19/75
(B,H,Hw) - See Statewide
WHITE PINE COUNTY
(B,H,Hw) - See Statewide

NEW HAMPSHIRE

BELKNAP COUNTY
None
CARROLL COUNTY
None
CHESHIRE COUNTY
None
COOS COUNTY
None
GRAFTON COUNTY
None
HILLSBORO COUNTY
Decision #NH75-2096 (B,H,Hw,R)
40 FR 30419 - 7/18/75
Mod. #1 - 40 FR 36897 - 8/22/75
MERRIMACK COUNTY
Decision #NH75-2097 (B,H,Hw, & Marine)
40 FR 30422 - 7/18/75
MMod.##1-440FFRf36898 - 8/22/75
ROCKINGHAM COUNTY
Decision #CT75-5045 (D)
40 FR 15294 - 4/4/75
Decision #NH75-2098 (B,H,Hw,R, & Marine)
40 FR 30426 - 7/18/75
Mod. #) - 40 FR 36898 - 8/22/75
STRAFFORD COUNTY
Decision #NH75-2099 (B,H,Hw, & Marine)
40 FR 30430 - 7/18/75
Mod. #1 - 40 FR 36899 - 8/22/75
SULLIVAN COUNTY
None

NEW JERSEY

ATLANTIC COUNTY
Decision #NJ75-3049 (B,H,Hw)
40 FR 26219 - 6/20/75
Mod. #1 - 40 FR 36899 - 8/22/75
Mod. #2 - 40 FR 44443 - 9/26/75
Decision #CT75-5045 (D)
40 FR 15294 - 4/4/75
BERGEN COUNTY
Decision #NJ75-3098 (R)
40 FR 44433 - 9/26/75
Decision #NJ75-3050 (B,H,Hw)
40 FR 29501 - 7/11/75
Mod. #1 - 40 FR 40007 - 8/29/75
Mod. #2 - 40 FR 44444 - 9/26/75
(D) - See Atlantic County

NEW JERSEY (Cont'd.)

BURLINGTON COUNTY
Decision #NJ75-3096 (R)
40 FR 43413 - 9/19/75
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAMDEN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAPE MAY COUNTY
Decision #NJ75-3068 (R)
40 FR 29437 - 7/11/75
(B,H,Hw,D) - See Atlantic County
CUMBERLAND COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
ESSEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
GLOUCESTER COUNTY
(B,H,Hw,R) - See Camden County
(D) - See Atlantic County
HUDSON COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
HUNTERDON COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MERCER COUNTY
(B,H,Hw) -See Atlantic County
MIDDLESEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MONMOUTH COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County

NEW JERSEY (Cont'd.)

MORRIS COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
OCEAN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
PASSAIC COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
SALEM COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
SOMERSET COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
SUSSEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
UNION COUNTY
Decision #NJ75-3097 (R)
40 FR 43415 - 9/19/75
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
WARREN COUNTY
(B,H,Hw) - See Bergen County

NEW MEXICO

STATEWIDE
Decision #NM75-4137 (Streets, Highways, Utilities and Light Engineering Construction)
40 FR 32656 - 8/1/75
Decision #NM75-4136 (Building, including residential in McKinley, Santa Fe, San Juan & Bernalillo Cos., but not on the Indian Reservation, and Heavy engineering construction.
40 FR 32658 - 8/1/75
Mod. #1 - 40 FR 43420 - 9/19/75
Mod. #2 - 40 FR 45955 - 10/3/75
BERNALILLO COUNTY
(B,H,Hw,R) - See Statewide
CATRON COUNTY
(B,H,Hw) - See Statewide
CHAVES COUNTY
(B,H,Hw) - See Statewide
COLFAX COUNTY
(B,H,Hw) - See Statewide
CURRY COUNTY
(B,H,Hw) - See Statewide
DE BACA COUNTY
(B,H,Hw) - See Statewide
DONA ANA COUNTY
(B,H,Hw) - See Statewide
Decision #NM75-4014 (R)
40 FR 3148 - 1/17/75
EDDY COUNTY
(B,H,Hw) - See Statewide
GRANT COUNTY
(B,H,Hw) - See Statewide
GUADALUPE COUNTY
(B,H,Hw) - See Statewide
HARDING COUNTY
(B,H,Hw) - See Statewide
HIDALGO COUNTY
(B,H,Hw) - See Statewide
LEA COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LOS ALAMOS COUNTY
(B,H,Hw) - See Statewide
LUNA COUNTY
(B,H,Hw) - See Statewide
McKINLEY COUNTY
(R) - See San Juan County
(B,H,Hw,R) - See Statewide
MORA COUNTY
(B,H,Hw) - See Statewide

NEW MEXICO (Cont'd.)

MORA COUNTY
(B,H,Hw) - See Statewide
OTERO COUNTY
(R) - See Dona Ana County
(B,H,Hw) - See Statewide
QUAY COUNTY
(B,H,Hw) - See Statewide
RIO ARRIBA COUNTY
(B,H,Hw) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide
SANDOVAL COUNTY
(B,H,Hw) - See Statewide
SAN JUAN COUNTY
Decision #NM75-5004 (R)(Navajo Indian Reservation)
40 FR 3921 - 1/24/75
(B,H,Hw,R) - See Statewide
SAN MIGUEL COUNTY
(B,H,Hw) - See Statewide
SANTE FE COUNTY
(B,H,Hw,R) - See Statewide
SIERRA COUNTY
(B,H,Hw) - See Statewide
SOCORRO COUNTY
(B,H,Hw) - See Statewide
TAOS COUNTY
(B,H,Hw) - See Statewide
TORRANCE COUNTY
(B,H,hw) - See Statewide
UNION COUNTY
(B,H,Hw) - See Statewide
VALENCIA COUNTY
(B,H,Hw) - See Statewide

NEW YORK

ALBANY COUNTY
Decision #NY75-3031 (B,H,Hw)
40 FR 16545 - 4/11/75
ALLEGANY COUNTY
None
BRONX COUNTY
Decision #AR-2101 (B,H,Hw)
39 FR 44925 - 12/27/74
Mod. #1 - 40 FR 5984 - 2/7/75
Mod. #2 - 40 FR 7799 - 2/21/75
Mod. #3 - 40 FR 33578 - 8/8/75
Decision #NY75-3016 (R)
40 FR 7852 - 2/21/75
Decision #CT75-5045 (D)
40 FR 15294 - 4/4/75
BROOME COUNTY
Decision #NY75-3032 (B,H,Hw)
40 FR 16549 - 4/11/75
CATTARAUGUS COUNTY
None
CAYUGA COUNTY
Decision #NY75-3033 (D)
40 FR 16554 - 4/11/75
CHAUTAUGUA COUNTY
Decision #AR-2014 (B,H,Hw)
39 FR 28735 - 8/9/74
Mod. #1 - 40 FR 3863 - 1/24/75
(D) - See Cayuga County
CHEMUNG COUNTY
None
CHENANGO COUNTY
None
CLINTON COUNTY
None
COLUMBIA COUNTY
None
CORTLAND COUNTY
None
DELAWARE COUNTY
None

NEW YORK (Cont'd)

DUTCHESS COUNTY
Decision #NY75-3034 (B,H,Hw)
40 FR 16559 - 4/11/75
(D) - See Bronx County
ERIE COUNTY
Decision #NY75-3035 (B,H,Hw)
40 FR 16565 - 4/11/75
(D) - See Cayuga County
ESSEX COUNTY
None
FRANKLIN COUNTY
(D) - See Cayuga County
FULTON COUNTY
None
GENESEE COUNTY
None
GREENE COUNTY
None
HAMILTON COUNTY
None
HERKIMER COUNTY
None
JEFFERSON COUNTY
Decision #NY75-3036 (B,H,Hw)
40 FR 16571 - 4/11/75
Mod. #1-40 FR 24455 - 6/6/75
(D) - See Cayuga County
KINGS COUNTY
(B,H,Hw,R,D) - See Bronx County
LEWIS COUNTY
None
LIVINGSTON COUNTY
None
MADISON COUNTY
None

NEW YORK (Cont'd)

MONROE COUNTY
Decision #NY75-3063 (B, H,Hw)
40 FR 26233 - 6/20/75
Mod. #1 - 40 FR 27416 - 6/27/75
(D) - See Cayuga County
MONTGOMERY COUNTY
None
NASSAU COUNTY
Decision #NY75-3038 (B,H,Hw)
40 FR 16581 - 4/11/75
(D) - See Bronx County
NEW YORK COUNTY
(B,H,Hw,R,D) - See Bronx County
NIAGARA COUNTY
Decision #NY75-3039 (B,H,Hw)
40 FR 16586 - 4/11/75
(D) - See Cayuga County
ONEIDA COUNTY
Decision #NY75-3040 (B,H,Hw)
40 FR 16589 - 4/11/75
Mod. #1 - 40 FR 24456 - 6/6/75
ONONDAGA COUNTY
Decision #NY75-3041 (B,H,Hw)
40 FR 16595 - 4/11/75
Mod. #1 - 40 FR 24457 - 6/6/75
Mod. #2 - 40 FR 45955 - 10/3/75
ONTARIO COUNTY
None
ORANGE COUNTY
Decision #NY75-3042 (B,H,Hw)
40 FR 16599 - 4/11/75
Mod. #1 - 40 FR 25327 - 6/13/75
Mod. #2 - 40 FR 45955 - 10/3/75
(D) - See Bronx County
ORLEANS COUNTY
(D) - See Cayuga County
OSWEGO COUNTY
(D) - See Cayuga County
OTSEGA COUNTY
None
PUTNAM COUNTY
None
QUEENS COUNTY
(B,H,Hw,R) - See Bronx County

NEW YORK (Cont'd)

RENSSELAER COUNTY
Decision #NY75-3043 (B,H,Hw)
40 FR 16606 - 4/11/75
RICHMOND COUNTY
(B,H,Hw,R,D) - See Bronx County
ROCKLAND COUNTY
(D) - See Bronx County
ST LAWRENCE COUNTY
(D) - See Cayuga County
SARATOGA COUNTY
Decision #AR-2097 (B,H,Hw)
39 FR 44919 - 12/27/74
SCHENECTADY COUNTY
Decision #NY75-3044 (B,H,Hw)
40 FR 16610 - 4/11/75
SCHOHARIE COUNTY
None
SCHUYLER COUNTY
None
SENECA COUNTY
None
STEUBEN COUNTY
Decision #NY75-3046 (B,H,Hw)
40 FR 16619 - 4/11/75
SUFFOLK COUNTY
Decision #NY75-3045 (B,H,Hw)
40 FR 16614 - 4/11/75
(D) - See Bronx County
SULLIVAN COUNTY
None
TIOGA COUNTY
None

NEW YORK (cont'd)

TOMPKINS COUNTY
None
ULSTER COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
Decision #NY75-3047 (B,H,Hw)
40 FR 16624 - 4/11/75
Mod. #1 - 40 FR 45955 - 10/3/75
(D) - See Cayuga County
WESTCHESTER COUNTY
Decision #NY75-3048 (B,H,Hw)
40 FR 16631 - 4/11/75
(D) - See Bronx County
WYOMING COUNTY
None
YATES COUNTY
None

NORTH CAROLINA

STATEWIDE
Decision #NC75-1015 (H,Hw)
40 FR 4857 - 1/31/75
Mod. #1 - 40 FR 41351 - 9/5/75
Decision #NC75-1078 (Sewer & Water)
40 FR 41367 - 9/5/75
ALAMANCE COUNTY
Decision #AQ-4078 (R)
39 FR 7010 - 2/22/74
(Sewer & Water, H,Hw) - See Statewide
ALEXANDER COUNTY
(Sewer & Water, H,Hw) - See Statewide
ALLEGHANY COUNTY
(Sewer & Water, H,Hw) - See Statewide
ANSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ASHE COUNTY
(Sewer & Water, H,Hw) - See Statewide
AVERY COUNTY
Decision #AR-4017 (B)
39 FR 28739 - 8/9/74
Mod. #1 - 39 FR 43466 - 12/13/74
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

BEAUFORT COUNTY
Decision #MD75-3008 (D)
40 FR 3094 - 1/17/75
Mod. #1 - 40 FR 14204 - 3/28/75
(Sewer & Water, H,Hw) - See Statewide
BERTIE COUNTY
Decision #AQ-4079 (R)
39 FR 7010 - 2/22/74
Mod. #1 - 40 FR 3087 - 1/17/75
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
BLADEN COUNTY
(Sewer & Water, H,Hw) - See Statewide
BRUNSWICK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
Decision #AR-4031 (R)
39 FR 32441 - 9/6/74
BUNCOMBE COUNTY
Decision #AR-4005 (B)
39 FR 24778 - 7/5/74
Mod. #1 - 39 FR 43465 - 12/13/74
Decision #NC75-1014 (R)
40 FR 6111 - 2/7/75
(Sewer & Water, H,Hw) - See Statewide
BURKE COUNTY
Decision #AQ-4105 (B)
39 FR 14842 - 4/26/74
Decision #AQ-4117 (R)
39 FR 18397 - 5/24/74
(Sewer & Water, H,Hw) - See Statewide
CABARRUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CALDWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CAMDEN COUNTY
(Sewer & Water, H,Hw) - See Statewide
CARTERET COUNTY
Decision #AQ-4083 (R)
39 FR 8101 - 3/1/74
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CASWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CATAWBA COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
CHATHAM COUNTY
Decision #NC75-1049 (B)
40 FR 18273 - 4/25/75
Decision #AR-4044 (R)
39 FR 36882 - 10/11/74
Mod. #1 - 40 FR 3087 - 1/17/75
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd)

CHOWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(R) - See Bertie County
CLAY COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLEVELAND COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
COLUMBUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CRAVEN COUNTY
(R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
CUMBERLAND COUNTY
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
CURRITUCK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
DARE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
DAVIDSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
DAVIE COUNTY
(Sewer & Water, H,Hw) - See Statewide
DUPLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
DURHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
EDGECOMBE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
FORSYTH COUNTY
Decision #AR-4019 (R)
39 FR 29702 - 8/16/74
(Sewer & Water, H,Hw) - See Statewide
FRANKLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
GASTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
GATES COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
GRAHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
GRANVILLE COUNTY
(Sewer & Water, H,Hw) - See Statewide
GREENE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
GUILFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County

NORTH CAROLINA (Cont'd.)

HALIFAX COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
HARNETT COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HAYWOOD COUNTY
(R) - See Buncombe County
(R) - See Cumberland County
(Sewer & Water, H,Hw) - See Statewide
HENDERSON COUNTY
R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
HERTFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(R) - See Bertie County
HOKE COUNTY
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HYDE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
IREDELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
JACKSON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
JOHNSTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
JONES COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
LEE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
LENOIR COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
LINCOLN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Burke County
MCDOWELL COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MACON COUNTY
(Sewer & Water, H,Hw) - See Statewide
MADISON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MARTIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
MECKLENBURG COUNTY
Decision #AP-161 (B)
38 FR 5753 - 3/2/73
Mod. #1 - 38 FR 7166 - 3/16/73
Mod. #2 - 38 FR 31770 - 11/16/73
(Sewer & Water, H,Hw) - See Statewide

NORTH CARULINA (Cont'd.)

MITCHELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
(B) - See Avery County
MONTGOMERY COUNTY
(Sewer & Water, H,Hw) - See Statewide
MOORE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
NASH COUNTY
(Sewer & Water, H,Hw) - See Statewide
NEW HANOVER COUNTY
Decision #NC75-1054 (B)
40 FR 22723 - 5/23/75
Mod. #1 - 40 FR 43420 - 9/19/75
(R) - See Brunswick County
(D) - See BeaufortCounty
(Sewer & Water, H,Hw) - See Statewide
NORTHAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
ONSLOW COUNTY
Decision #AR-4048 (B)
39 FR 38078 - 10/25/74
(Sewer & Water, H,Hw) - See Statewide
(R) - See Brunswick County-
ORANGE COUNTY
(Sewer & Water, H,Hw) - See Statewide
PAMLICO COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
PASQUOTANK COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PENDER COUNTY
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERQUIMANS COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERSONS COUNTY
(Sewer & Water, H,Hw) - See Statewide
PITT COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
POLK COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
RANDOLPH COUNTY
(R) - See Alamance County
(Sewer & Water, H,Hw) - See Statewide
RICHMOND COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROBESON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROCKINGHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County
ROWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

RUTHERFORD COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
SAMPSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chatham County
SCOTLAND COUNTY
(Sewer & Water, H,Hw) - See Statewide
STANLY COUNTY
(Sewer & Water, H,Hw) - See Statewide
STOKES COUNTY
(Sewer & Water, H,Hw) - See Statewide
SURRY COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Forsyth County
SWAIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
TRANSYLVANIA COUNTY
Decision #NC75-1097 (B)
40 FR 43462 - 9/19/75
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
TYRRELL County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
UNION COUNTY
(Sewer & Water, H,Hw) - See Statewide
VANCE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
WAKE COUNTY
Decision #AQ-4032 (B)
38 FR 31093 - 11/9/73
Mod. #1 - 39 FR 5066 - 2/8/74
(Sewer & Water, H,Hw) - See Statewide
WARREN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
WASHINGTON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
WATAUGA COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
WAYNE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
WILKES COUNTY
Decision #AR-4063 (B)
39 FR 42803 - 12/6/74
Mod. #1 - 40 FR 3087 - 1/17/75
Mod. #2 - 40 FR 5984 - 2/7/75
(Sewer & Water, H,Hw) - See Statewide
WILSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Bertie County
YADKIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
YANCEY COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH DAKOTA

STATEWIDE
Decision #ND75-5109 (Hw)
40 FR 40022 - 8/29/75
ADAMS COUNTY
(Hw) - See Statewide
BARNES COUNTY
(Hw) - See Statewide
BENSON COUNTY
(Hw) - See Statewide
BILLINGS COUNTY
(Hw) - See Statewide
BOTTINEAU COUNTY
(Hw) - See Statewide
BOWMAN COUNTY
(Hw) - See Statewide
BURKE COUNTY
(Hw) - See Statewide
Decision #ND75-5110 (B)
40 FR 40025 - 8/29/75
40 FR 22776 - 5/23/75
Mod. #1 - 40 FR 26184 - 6/20/75
CASS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
CAVALIER COUNTY
(Hw) - See Statewide
DICKEY COUNTY
(Hw) - See Statewide
DIVIDE COUNTY
(Hw) - See Statewide
DUNN COUNTY
(Hw) - See Statewide
EDDY COUNTY
(Hw) - See Statewide
EMMONS COUNTY
(Hw) - See Statewide
FOSTER COUNTY
(Hw) - See Statewide
GOLDEN VALLEY COUNTY
(Hw) - See Statewide

NORTH DAKOTA (Cont'd)

GRAND FORKS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
GRANT COUNTY
(Hw) - See Statewide
GRIGGS COUNTY
(Hw) - See Statewide
HETTINGER COUNTY
(Hw) - See Statewide
KIDDER COUNTY
(Hw) - See Statewide
LAMOURE COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
McHENRY COUNTY
(Hw) - See Statewide
McINTOSH COUNTY
(Hw) - See Statewide
McKENZIE COUNTY
(Hw) - See Statewide
McLEAN COUNTY
(Hw) - See Statewide
MERCER COUNTY
(Hw) - See Statewide
MORTON COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
MOUNTRAIL COUNTY
(Hw) - See Statewide
NELSON COUNTY
(Hw) - See Statewide
OLIVER COUNTY
(Hw) - See Statewide
PEMBINA COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
RAMSEY COUNTY
(Hw) - See Statewide
RANSOM COUNTY
(Hw) - See Statewide
RENVILLE COUNTY
(Hw) - See Statewide
RICHLAND COUNTY
(Hw) - See Statewide
(B) - See Burleigh County

NORTH DAKOTA (Cont'd)

ROLETTE COUNTY
(Hw) - See Statewide
SARGENT COUNTY
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SIOUX COUNTY
(Hw) - See Statewide
SLOPE COUNTY
(Hw) - See Statewide
STARK COUNTY
(Hw) - See Statewide
STEELE COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
STUTSMAN COUNTY
(Hw) - See Statewide
TOWNER COUNTY
(Hw) - See Statewide
TRAILL COUNTY
(Hw) - See Statewide
WALSH COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WARD COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WELLS COUNTY
(Hw) - See Statewide
WILLIAMS COUNTY
(Hw) - See Statewide

OHIO

STATEWIDE
Decision #OH75-2056 (H,Hw)
40 FR 1530 - 4/4/75
Mod. #1 - 40 FR 18282 - 4/25/75
Mod. #2 - 40 FR 25328 - 6/13/75
ADAMS COUNTY
Decision #IL75-2036 (D)
40 FR 6023 - 2/7/75
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #OH75-2034 (B)
40 FR 5967 - 2/7/75
(H,Hw) - See Statewide
ASHLAND COUNTY
(H,Hw) - See Statewide
ASHTABULA COUNTY
Decision #AR-3169 (B,R)
39 FR 40401 - 11/15/74
Mod. #1 - 40 FR 14214 - 3/28/75
Decision #IL75-5075 (D)
40 FR 27416 - 6/27/75
(H,Hw) - See Statewide
ATHENS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
AUGLAIZE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BELMONT COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
BUTLER COUNTY
Decision #AR-3033 (B)
39 FR 30774 - 8/23/74
Mod. #1 - 40 FR 16492 - 4/11/75
Decision #AP-683 (R)
38 FR 14049 - 5/25/73
(H,Hw) - See Statewide
CARROLL COUNTY
(H,Hw) - See Statewide
CHAMPAIGN COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
Decision #AR-3034 (B)
39 FR 30776 - 8/23/74
Mod. #1 - 40 FR 15274 - 4/4/75
Decision #AP-684 (R)
38 FR 14049 - 5/25/73
(H,Hw) - See Statewide
CLERMONT COUNTY
Decision #AM-685 (R)
38 FR 14050 - 5/25/73
(B) - See Hamilton County
(D) - See Adams County
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
COLUMBIANA COUNTY
(H,Hw) - See Statewide
COSHOCTON COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd)

CRAWFORD COUNTY
(H,Hw) - See Statewide
CUYAHOGA COUNTY
Decision #AR-3035 (B,R)
39 FR 30778 - 8/23/74
Mod. #1 - 40 FR 15274 - 4/4/75
(H,Hw) - See Statewide
DARKE COUNTY
(H,Hw) - See Statewide
DEFIANCE COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
Decision #AM-420 (R)
36 FR 15963 - 8/18/71
Mod. #1 - 38 FR 4630 - 2/16/73
(H,Hw) - See Statewide
ERIE COUNTY
Decision #AR-3172 (B)
39 FR 41102 - 11/22/74
Mod. #1-40 FR 15276 - 4/4/75
(D) - See Ashtabula County
(H,Hw) - See Statewide
FAIRFIELD COUNTY
(R) - See Delaware County
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
FRANKLIN COUNTY
Decision #AR-3036 (B)
39 FR 30780 - 8/23/74
Mod. #1 - 40 FR 37330 - 10/18/74
Mod. # 2- 40 FR 15274 - 4/4/75
Mod. #3 - 40 FR 33578 - 8/8/75
(R) - See Delaware County
(H,Hw) - See Statewide
FULTON COUNTY
(B) - See Lucas County
(H,Hw) - See Statewide
GALLIA COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
GEAUGA COUNTY
(H,Hw) - See Statewide
GREENE COUNTY
Decision #AR-3037 (B)
39 FR 30782 - 8/23/74
Mod. #1 -40 FR 15275 - 4/4/75
Decision #OH75-2109 (R)
40 FR 42498 - 9/12/75

(H,Hw) - See Statewide
GUERNSEY COUNTY
(H,Hw) - See Statewide
HAMILTON COUNTY
Decision #AR-3038 (B)
39 FR 30784 - 8/23/74
Mod. #1 - 40 FR 15275 - 4/4/75
(D) - See Adams County
(R) - See Clermont County
(H,Hw) - See Statewide

OHIO (Cont'd)

HANCOCK COUNTY
Decision #AR-3173 (B)
39 FR 41105 - 11/22/74
Mod. #1 - 40 FR 15276 - 4/4/75
(H,Hw) - See Statewide
HARDIN COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
HIGHLAND COUNTY
(H,Hw) - See Statewide
HOCKING COUNTY
(H,Hw) - See Statewide
HOLMES COUNTY
(H,Hw) - See Statewide
HURON COUNTY
(B) - See Erie County
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(B,R) - See Cuyahoga County
(D) - See Ashtabula County
(H,Hw) - See Statewide
LAWRENCE COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
LICKING COUNTY
Decision #AR-3039 (B)
39 FR 30786 - 8/23/74
Mod. #1-40 FR 16492 - 4/11/75
Mod. #2 - 40 FR 27416 - 6/27/75
(H,Hw) - See Statewide
(R) - See Delaware County
LOGAN COUNTY
(H,Hw) - See Statewide
LORAIN COUNTY
Decision #AR-3040 (B,R)
39 FR 30663 - 8/23/74
Mod. #1 - 40 FR 16493 - 4/11/75
(D) - See Ashtabula County
(H,Hw) - See Statewide
LUCAS COUNTY
Decision #OH75-2060 (B)
40 FR 17529 - 4/18/75
(D) - See Ashtabula County
(H,Hw) - See Statewide
MADISON COUNTY
(B) - See Franklin County
(R) - See Delaware County
(H,Hw) - See Statewide

OHIO (Cont'd.)

MAHONING COUNTY
Decision #AR-3042 (B,R)
39 FR 30790 - 8/23/74
Mod. #1 - 40 FR 7799 - 2/21/75
Mod. #2 - 40 FR 16493 - 4/11/75
Mod. #3 - 40 FR 27416 - 6/27/75
Mod. #4 - 40 FR 29448 - 7/11/75
(H,Hw) - See Statewide
MARION COUNTY
(H,Hw) - See Statewide
MEDINA COUNTY
(H,Hw) - See Statewide
MEIGS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MIAMI COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
MONROE COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(B) - See Greene County
(R) - See Greene County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
MORROW COUNTY
(H,Hw) - See Statewide
MUSKINGUM COUNTY
Decision #AR-3043 (B)
39 FR 30792 - 8/23/74
Mod. #1 - 40 FR 17462 - 4/18/75
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide
OTTAWA COUNTY
(R) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
PAULDING COUNTY
(H,Hw) - See Statewide
PERRY COUNTY
(H,Hw) - See Statewide
PICKAWAY COUNTY
(B) - See Franklin County
(R) - See Delaware County
(H,Hw) - See Statewide
PIKE COUNTY
Decision #AR-3176 (B)
39 FR 43451 - 12/13/74
Mod. #1 - 40 FR 3087 - 1/17/75
Mod. #2 - 40 FR 5985 - 2/7/75
Mod. #3 - 40 FR 17464 - 4/18/75
(H,Hw) - See Statewide
PORTAGE COUNTY
Decision #AR-3044 (B,R)
39 FR 30794 - 8/23/74
(H,Hw) - See Statewide

OHIO (Cont'd.)

PREBLE COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RICHLAND COUNTY
(H,Hw) - See Statewide
ROSS COUNTY
(B) - See Pike County
(H,Hw) - See Statewide
SANDUSKY COUNTY
(B) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
SCIOTO COUNTY
(B) - See Pike County
(D) - See Adams County
(H,Hw) - See Statewide
SENECA COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
STARK COUNTY
Decision #AR-3045 (B,R)
39 FR 30796 - 8/23/74
Mod. #1 - 40 FR 17463 - 4/18/75
Mod. #2 - 40 FR 33578 - 8/8/75
(H,Hw) - See Statewide
SUMMITT COUNTY
Decision #AR-3046 (B,R)
39 FR 30798 - 8/23/74
Mod. #1 - 39 FR 34927 - 9/27/74
Mod. #2 - 40 FR 17463 - 4/18/75
(H,Hw) - See Statewide
TRUMBULL COUNTY
Decision #AR-3047 (B,R)
39 FR 30800 - 8/23/74
Mod. #1 - 40 FR 17463 - 4/18/75
Mod. #2 - 40 FR 44445 - 9/26/75
(H,Hw) - See Statewide
TUSCARAWAS COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
VAN WERT COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
VINTON COUNTY
(H,Hw) - See Statewide
WARREN COUNTY
(R) - See Butler County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
WAYNE COUNTY
(H,Hw) - See Statewide
WILLIAMS COUNTY
(H,Hw) - See Statewide
WOOD COUNTY
(H,Hw) - See Statewide
WYANDOT COUNTY
(H,Hw) - See Statewide

OKLAHOMA

STATEWIDE (Except the City of Muskogee)
Decision #AQ-124 (Constr., alteration, and/or repair of streets, highways, runways, erosion control structures, well drilling, and water and sewer utilities)
39 FR 24194 - 6/28/74
ADAIR COUNTY
(B) - See Muscogee County
(H,Hw) - See Statewide
ALFALFA COUNTY
(H,Hw) - See Statewide
ATOKA COUNTY
(H,Hw) - See Statewide
BEAVER COUNTY
(H,Hw) - See Statewide
BECKHAM COUNTY
(H,Hw) - See Statewide
BLAINE COUNTY
(H,Hw) - See Statewide
BRYAN COUNTY
(H,Hw) - See Statewide
Decision #OK75-4016 (R)
40 FR 3151 - 1/17/75
CADDO COUNTY
(B) - See CAnadian County
(H,Hw) - See Statewide
CANADIAN COUNTY
(H,Hw) - See Statewide
Decision #OK75-4080 (B)
40 FR 17531 - 4/18/75
Mod. #1 - 40 FR 22736 - 5/23/75
Mod. #2 - 40 FR 26185 - 6/20/75
Mod. #3 - 40 FR 30387 - 7/18/75
Mod. #4 - 40 FR 31440 - 7/25/75
Mod. #5 - 40 FR 41352 - 9/5/75
Mod. #6 - 40 FR 45956 - 10/3/75
Decision #AP-304 (R)
37 FR 15789 - 8/4/72
Mod. #1 - 37 FR 28799 - 12/28/72
Mod. #2 - 38 FR 4078 - 2/9/73
CARTER COUNTY
(H,Hw) - See Statewide
CHEROKEE COUNTY
(B) - See Adair County
(H,Hw) - See Statewide
CHOCTAW COUNTY
(H,Hw) - See Statewide
CIMARRON COUNTY
(H,Hw) - See Statewide
CLEVELAND COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
COAL COUNTY
(H,Hw) - See Statewide
COMANCHE COUNTY
(H,Hw) - See Statewide
Decision #OK75-4017 (R)
40 FR 3152 - 1/17/75
Decision #OK75-4116 (B)
40 FR 27434 - 6/27/75
Mod. #1 - 40 FR 34554 - 8/15/75
Mod. #2 - 40 FR 42484 - 9/12/75
Mod. #3 - 40 FR 45956 - 10/3/75
COTTON COUNTY
(H,Hw) - See Statewide

OKLAHOMA (cont'd)

CRAIG COUNTY
(H,Hw) - See Statewide
CREEK COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(H,Hw) - See Statewide
GARFIELD COUNTY
Decision #OK75-4133 (B)
40 FR 31558 - 7/25/75
Mod. #1 - 40 FR 41353 - 9/5/75
Mod. #2 - 40 FR 45956 - 10/3/75
(H,Hw) - See Statewide
GARVIN COUNTY
(H,Hw) - See Statewide
GRADY COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide
GREER COUNTY
(H,Hw) - See Statewide
HARMON COUNTY
(H,Hw) - See Statewide
HARPER COUNTY
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
JOHNSTON COUNTY
(H,Hw) - See Statewide
KAY COUNTY
(H,Hw) - See Statewide
KINGFISHER COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
KIOWA COUNTY
(H,Hw) - See Statewide
LATIMER COUNTY
(H,Hw) - See Statewide
LEFLORE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
LOGAN COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
LOVE COUNTY
(H,Hw) - See Statewide

OKLAHOMA (cont'd)

McCLAIN COUNTY
(H,Hw) - See Statewide
(B) - See Canadian County
McCURTAIN COUNTY
(H,Hw) - See Statewide
MCINTOSH COUNTY
Decision #OK75-4148 (B)
40 FR 34567 - 8/15/75
Mod. #1 - 40 FR 42486 - 9/12/75
Mod. #2 - 40 FR 45957 - 10/3/75
(H,Hw) - See Statewide
MAJOR COUNTY
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MAYES COUNTY
(H,Hw) - See Statewide
MURRAY COUNTY
(H,Hw) - See Statewide
MUSKOGEE COUNTY
Decision #OK75-4156 (B,H,Hw)
40 FR 41369 - 9/5/75
Mod. #1 - 40 FR 45957 - 10/3/75
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide
NOWATA COUNTY
(H,Hw) - See Statewide
OKFUSKEE COUNTY
(H,Hw) - See Statewide
OKLAHOMA COUNTY
(B,R) - See Canadian County
(H,Hw) - See Statewide
OKMULGEE COUNTY
(H,Hw) - See Statewide
OSAGE COUNTY
(H,Hw) - See Statewide
(R) - See Tulsa County
OTTAWA COUNTY
(H,Hw) - See Statewide
PAWNEE COUNTY
(H,Hw) - See Statewide
PAYNE COUNTY
(H,Hw) - See Statewide
PITTSBURG COUNTY
Decision #OK75-4138 (B)
40 FR 32668 - 8/1/75
Mod. #1 - 40 FR 34555 - 8/15/75
Mod. #2 - 40 FR 42485 - 9/12/75
Mod. #3 - 40 FR 45956 - 10/3/75
(H,Hw) - See Statewide
PONTOTOC COUNTY
(H,Hw) - See Statewide
POTTAWATOMIE COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
PUSHMATAHA COUNTY
(H,Hw) - See Statewide
ROGERS COUNTY
(H,Hw) - See Statewide

OKLAHOMA (Cont'd)

ROGERS MILLS COUNTY
(H,Hw) - See Statewide
SEMINOLE COUNTY
(B) - See Oklahoma County
(H,Hw) - See Statewide
SEQUOYAH COUNTY
(H,Hw) - See Statewide
STEPHENS COUNTY
(H,Hw) - See Statewide
TEXAS COUNTY
(H,Hw) - See Statewide
TILLMAN COUNTY
(H,Hw) - See Statewide
TULSA COUNTY
Decision #OK75-4140 (B)
40 FR 32672 - 8/1/75
Mod. #1 - 40 FR 41354 - 9/5/75
Mod. #2 - 40 FR 45956 - 10/3/75
(H,Hw) - See Statewide
Decision #OK75-4015 (R)
40 FR 3150 - 1/17/75
WAGONER COUNTY
Decision #OK75-4158 (B)
40 FR 42503 - 9/12/75
Mod. #1 - 40 FR 45957 - 10/3/75
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WASHITA COUNTY
(H,Hw) - See Statewide
WOODS COUNTY
(H,Hw) - See Statewide
WOODWARD COUNTY
(H,Hw) - See Statewide

OREGON

STATEWIDE
Decision #OR75-5111 (B,H,Hw,D)
40 FR 41371 - 9/5/75
Mod. #1 - 40 FR 44446 - 9/26/75
BAKER COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CLACKAMAS COUNTY
Decision #OR75-5042 (R)
40 FR 15312 - 4/4/75
(B,H,Hw,D) - See Statewide
CLATSOP COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COOS COUNTY
(B,H,Hw,D) - See Statewide
CROOK COUNTY
(B,H,Hw,D) - See Statewide
CURRY COUNTY
(B,H,Hw,D) - See Statewide
DESCHUTES COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
GILLIAM COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(H,Hw,B,D) - See Statewide
HARNEY COUNTY
(B,H,Hw,D) - See Statewide
HOOD RIVER COUNTY
(H,Hw,B,D) - See Statewide
JACKSON COUNTY
(H,Hw,B,D) - See Statewide
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
JOSEPHINE COUNTY
(B,H,Hw,D) - See Statewide
KLAMATH COUNTY
(B,H,Hw,D) - See Statewide
LAKE COUNTY
(B,H,Hw,D) - See Statewide
LANE COUNTY
Decision #OR75-5122 (R)
40 FR 45989 - 10/3/75
(B,H,Hw,D) - See Statewide
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
LINN COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Lane County

OREGON (Cont'd.)

MALHEUR COUNTY
(B,H,Hw,D) - See Statewide
MARION COUNTY
(R) - See Lane County
(B,H,Hw,D) - See Statewide
MORROW COUNTY
(B,H,Hw,D) - See Statewide
MULTNOMAH COUNTY
(R) - See Clackamas County
(B,H,Hw,D) - See Statewide
POLK COUNTY
(B,H,Hw,D) - See Statewide
SHERMAN COUNTY
(B,H,Hw,D) - See Statewide
TILLAMOOK COUNTY
(B,H,Hw,D) - See Statewide
UMATILLA COUNTY
(B,H,Hw,D) - See Statewide
UNION COUNTY
(B,H,Hw,D) - See Statewide
WALLOWA COUNTY
(B,H,Hw,D) - See Statewide
WASCO COUNTY
(B,H,Hw,D) - See Statewide
WASHINGTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clackamas County
WHEELER COUNTY
(B,H,Hw,D) - See Statewide
YAMHILL COUNTY
(B,H,Hw,D) - See Statewide

PENNSYLVANIA

ADAMS COUNTY
Decision #PA75-3067 (H,Hw)
40 FR 29519 - 7/11/75
Decision #AR-2099 (B)
39 FR 44931 - 12/27/74
Mod. #1 - 40 FR 4790 - 1/31/75
Mod. #2 - 40 FR 5986 - 2/7/75
Mod. #3 - 40 FR 15282 - 4/4/75
Mod. #4 - 40 FR 22740 - 5/23/75
Mod. #5 - 40 FR 25332 - 6/13/75
Mod. #6 - 40 FR 29449 - 7/11/75
Mod. #7 - 40 FR 45957 - 10/3/75
ALLEGHENY COUNTY
Decision #PA75-3071 (B)
40 FR 36936 - 8/22/75
Decision #PA75-3070 (R)
40 FR 30433 - 7/18/75
Mod. #1 - 40 FR 34555 - 8/15/75
ARMSTRONG COUNTY
Decision #PA75-3029 (H,Hw)
40 FR 15318 - 4/4/75
Mod. #1 - 40 FR 17471 - 4/18/75
Mod. #2 - 40 FR 19332 - 5/2/75
Mod. #3 - 40 FR 31447 - 7/25/75
Mod. #4 - 40 FR 45960 - 10/3/75
Decision #PA75-3073 (B)
40 FR 36943 - 8/22/75
BEAVER COUNTY
Decision #PA75-3026 (H,Hw)
40 FR 14266 - 3/28/75
Mod. #1 - 40 FR 17467 - 4/18/75
Mod. #2 - 40 FR 31444 - 7/25/75
Mod. #3 - 40 FR 36900 - 8/22/75
Mod. #4 - 40 FR 45960 - 10/3/75
Decision #PA75-3074 (B)
40 FR 36946 - 8/22/75
Mod. #1 - 40 FR 43421 - 9/19/75
Mod. #2 - 40 FR 45961 - 10/3/75
BEDFORD COUNTY
Decision #PA75-3028 (H,Hw)
40 FR 15313 - 4/4/75
Mod. #1 - 40 FR 17468 - 4/18/75
Mod. #2 - 40 FR 31445 - 7/25/75
Mod. #3 - 40 FR 45960 - 10/3/75
Decision #PA75-3072 (B)
40 FR 36940 - 8/22/75
Mod. #1 - 40 FR 45959 - 10/3/75
BERKS COUNTY
Decision #PA75-3055 (B)
40 FR 27436 - 6/27/75
Mod. #1 - 40 FR 29452 - 7/11/75
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

BLAIR COUNTY
Decision #PA75-3057 (B)
40 FR 23686 - 5/30/75
Mod. #1 - 40 FR 31450 - 7/25/75
Mod. #2 - 40 FR 43421 - 9/19/75
Mod. #3 - 40 FR 45958 - 10/3/75
(H,Hw) - See Armstrong County
BRADFORD COUNTY
(H,Hw) - See Adams County
BUCKS COUNTY
Decision #PA75-3082 (B)
40 FR 36976 - 8/22/75
Decision #PA75-3087 (R)
40 FR 40031 - 8/29/75
Decision #PA75-3088 (H,Hw)
40 FR 36992 - 8/22/75
BUTLER COUNTY
Decision #PA75-3080 (B)
40 FR 36968 - 8/22/75
Mod. #1 - 40 FR 42487 - 9/12/75
Decision #PA75-3051 (H,Hw)
40 FR 17583 - 4/18/75
Mod. #1 - 40 FR 31449 - 7/25/75
Mod. #2 - 40 FR 45951 - 10/3/75
CAMBRIA COUNTY
Decision #PA75-5059 (B)
40 FR 28361 - 7/3/75
Mod. #1 - 40 FR 31451 - 7/25/75
Mod. #2 - 40 FR 43421 - 9/19/75
(H,Hw) - See Butler County
CAMERON COUNTY
Decision #PA75-3121 (B)
40 FR 12947 - 3/21/75
Mod. #1 - 40 FR 15282 - 4/4/75
Mod. #2 - 40 FR 16495 - 4/11/75
Mod. #3 - 40 FR 22741 - 5/23/75
(H,Hw) - See Bedford County
CARBON COUNTY
(H,Hw) - See Adams County
CENTRE COUNTY
Decision #AQ-2061 (H,Hw)
39 FR 6008 - 2/15/74
Mod. #1 - 39 FR 9357 - 3/8/74
Mod. #2 - 39 FR 14121 - 4/19/74
Mod. #3 - 39 FR 22373 - 6/21/74
Mod. #4 - 39 FR 33918 - 9/20/74
CHESTER COUNTY
(H,Hw,R) - See Bucks County

PENNSYLVANIA (Cont'd.

CHESTER COUNTY (Cont'd.)
Decision #PA75-3083 (B)
40 FR 36980 - 8/22/75
CLARION COUNTY
(B) - See Cameron County
(H,Hw) - See Bedford County
CLEARFIELD COUNTY
Decision #PA75-3093 (B)
40 FR 44462 - 9/26/75
COLUMBIA COUNTY
(H,Hw) - See Adams County
CRAWFORD COUNTY
Decision #AR-2098 (B)
39 FR 44928 - 12/27/74
Mod. #1 - 40 FR 15282 - 4/4/75
Mod. #2 - 40 FR 22740 - 5/23/75
Mod. #3 - 40 FR 31443 - 7/25/75
Mod. #4 - 40 FR 43421 - 9/19/75
(H,Hw) - See Armstrong County
CUMBERLAND COUNTY
Decision #PA75-3027 (B)
40 FR 14268 - 3/28/75
NMod. #1 - 40 FR 22741 - 5/23/75
Mod. #2 - 40 FR 29451 - 7/11/75
Mod. #3 - 40 FR 45959 - 10/3/75
(H,Hw) - See Adams County
DELAWARE COUNTY
Decision #PA75-3084 (B)
40 FR 36983 - 8/22/75
(H,Hw,R) - See Bucks County
ELK COUNTY
Decision #PA75-3058 (B)
40 FR 28358 - 7/3/75
Mod. #1 - 40 FR 31449 - 7/25/75
Mod. #2 - 40 FR 43421 - 9/19/75
Mod. #3 - 40 FR 45959 - 10/3/75
(H,Hw) - See BedfordCounty
ERIE COUNTY
Decision #PA75-3054 (B)
40 FR 28355 - 7/3/75
Mod. #1 - 40 FR 31450 -7/25/75
Mod. #2 - 40 FR 45960 - 10/3/75
(H,Hw) - See Butler County
FAYETTE COUNTY
(B) - See Butler County
(H,Hw) - See Butler County
FOREST COUNTY
Decision #PA75-3078 (B)
40 FR 36961 - 8/22/75
Mod. #1 - 40 FR 42487 - 9/12/75
Mod. #2 - 40 FR 43421 - 9/19/75
Mod. #3 - 40 FR 45961 - 10/3/75

PENNSYLVANIA (Cont'd.

FRANKLIN COUNTY
Decision #AR-2001 (B)
39 FR 24803 - 7/5/74
Mod. #1 - 39 FR 26562 - 7/19/74
Mod. #2 - 39 FR 28010 - 8/2/74
Mod. #3 - 39 FR 40406 - 11/15/74
Mod. #4 - 39 FR 44157 - 12/20/74
(H,Hw) - See Bedford County
FULTON COUNTY
(H,Hw) - See BedfordCounty
GREENE COUNTY
(H,Hw) - See Centre County
HUNTINGDON COUNTY
(H,Hw) - See Bedford County
INDIANA COUNTY
Decision #PA75-3075 (B)
40 FR 36949 - 8/22/75
Mod. #1 - 40 FR 43421 - 9/19/75
Mod. #2 - 40 FR 45961 - 10/3/75
(H,Hw) - See Armstrong County
JEFFERSON COUNTY
(B) - See Cameron County
(H,Hw) - See Centre County
JUNIATA COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
LACKAWANNA COUNTY
Decision #PA75-3102 (B)
40 FR 45993 - 10/3/75
LANCASTER COUNTY
Decision #AR-2030 (B)
39 FR 31857 - 8/30/74
Mod. #1 - 39 FR 40406 - 11/15/74
Mod. #2 - 39 FR 44912 - 12/27/74
Mod. #3 - 40 FR 4789 - 1/31/75
Mod. #4 - 40 FR 5986 - 2/7/75
Mod. #5 - 40 FR 14215 - 3/28/75
Mod. #6 - 40 FR 22739 - 5/23/75
Mod. #7 - 40 FR 29448 - 7/11/75
Mod. #8 - 40 FR 45957 - 10/3/75
(H,Hw) - See Adams County
LAWRENCE COUNTY
Decision #AR-2045 (B)
39 FR 37345 - 10/18/74
Mod. #1 - 39 FR 44913 - 12/27/74
Mod. #2 - 40 FR 15280 - 4/4/75
Mod. #3 - 40 FR 28310 - 7/3/75
Mod. #4 - 40 FR 31441 - 7/25/75
Mod. #5 - 40 FR 45959 - 10/3/75
(H,Hw) - See Butler County

PENNSYLVANIA (Cont'd.)

LEBANON COUNTY
Decision #PA75-3053 (B)
40 FR 22782 - 5/23/75
Mod. #1 - 40 FR 29451 - 7/11/75
Mod. #2 - 40 FR 45959 - 10/3/75
LEHIGH COUNTY
Decision #PA75-3104 (B)
40 FR 45998 - 10/3/75
(H,Hw) - See Adams County
LUZERNE COUNTY
Decision #PA75-3025 (B)
40 FR 12982 - 3/21/75
Mod. #1 - 40 FR 25333 - 6 /13/75
Mod. #2 - 40 FR 29450 - 7/11/75
Mod. #3 - 40 FR 45960 - 10/3/75
(H,Hw) - See Adams County
LYCOMING COUNTY
Decision #PA75-3065 (B)
40 FR 29517 - 7/11/75
Mod. #1 - 40 FR 45958 - 10/3/75
(H,Hw) - See Adams County
MC KEAN COUNTY
(H,Hw) - See Adams County
(B) - See Forest County
MERCER COUNTY
Decision #AR-2046 (B)
39 FR 37349 - 10/18/74
Mod. #1 39 FR 44913 - 12/27/74
Mod. #2 - 40 FR 15281 - 4/4/75
Mod. #3 - 40 FR 28310 - 7/3/75
Mod. #4 - 40 FR 31442 - 7/25/75
Mod. #5 - 40 FR 45959 - 10/3/75
(H,Hw) - See Butler County
MIFFLIN COUNTY
(H,Hw) - See BedforddCounty
MONROE COUNTY
(H,Hw) - See Adams County
MONTGOMERY COUNTY
Decision #AR-2004 (B)
40 FR 36986 - 8/22/75
Mod. #1 - 40 FR 45958 - 10/3/75
(H,Hw,R) - See Bucks County
MONTOUR COUNTY
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

NORTHAMPTON COUNTY
Decision #PA75-3101 (B)
40 FR 45990 - 10/3/75
(H,Hw) - See Adams County
NORTHUMBERLAND COUNTY
Decision #AR-2095 (B)
39 FR 43494 - 12/13/74
Mod. #1 - 40 FR 12016 - 3/14/75
Mod. #2 - 40 FR 22739 - 5/23/75
Mod. #3 - 40 FR 29449 - 7/11/75
Mod. #4 - 40 FR 45958 - 10/3/75
(H,Hw) - See Adams County
PERRY COUNTY
(H,Hw) - See Adams County
PHILADELPHIA COUNTY
Decision #PA75-3086 (B)
40 FR 36989 - 8/22/75
Mod. #1 - 40 FR 41355 - 9/5/75
Decision #CT75-5045 (D)
40 FR 15291 - 4/4/75
(H,Hw,R) - See Bucks County
PIKE COUNTY
(H,Hw) - See Adams County
POTTER COUNTY
(H,Hw) - See Bedford County
SCHUYKILL COUNTY
Decision #PA75-3103 (B)
40 FR 45996 - 10/3/75
(H,Hw) - See Adams County
SNYDER COUNTY
(H,Hw) - See Adams County
SOMERSET COUNTY
(H,Hw) - See Butler County
SULLIVAN COUNTY
Decision #AQ-2070 (B)
39 FR 10070 - 3/15/74
Mod. #1 - 39 FR 26562 - 7 19/74
Mod. #2 - 39 FR 44911 - 12/27/74
Mod. #3 - 40 FR 4789 - 31/75
Mod. #4 - 40 FR 15278 - 4/4/75
Mod. #5 - 40 FR 24459 - 6/6/75
Mod. #6 - 40 FR 29448 - 7/11/75
Mod. #7 - 40 FR 45957 - 10/3/75
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

SUSQUEHANNA COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
TIOGA COUNTY
(H,Hw) - See Adams County
UNION COUNTY
(H,Hw) - See Adams County
VENANGO COUNTY
Decision #PA75-3079 (B)
40 FR 36965 - 8/22/75
(H,Hw) - See Armstrong County
WARREN COUNTY
Decision #PA75-3077 (B)
40 FR 36957 - 8/22/75
Mod. #1 - 40 FR 42487 - 9/12/75
Mod. #2 - 40 FR 45960 - 10/3/75
(H,Hw) - See Armstrong County
WASHINGTON COUNTY
Decision #PA75-3081 (B)
40 FR 36972 - 8/22/75
Mod. #1 - 40 FR 41355 - 9/5/75
(H,Hw) - See Butler County
WAYNE COUNTY
(H,Hw) - See Adams County
WESTMORELAND COUNTY
Decision #PA75-3076 (B)
40 FR 36953 - 8/22/75
(H,Hw) - See Butler County
WYOMING COUNTY
(H,Hw) - See Adams County
YORK COUNTY
(B,H,Hw) - See Adams Co. (Excluding New Cumberland Depot)
(D) - See Cumberland County (New Cumberland Depot)
(H,Hw) - See Adams County (New Cumberland Depot)
(B) - See Lackawanna County

PUERTO RICO

PUERTO RICO
Decision #PR75-3091 (R)
40 FR 33644 - 8/8/75
Decision #AQ-2052 (B)
39 FR 5161 - 2/8/74
Decision #PR75-3089 (H,Hw)
40 FR 33643 - 8/8/75

RHODE ISLAND

STATEWIDE
Decision #CT75-5045 (D)
40 FR 15294 - 4/4/75
BRISTOL COUNTY
Decision #RI75-2031 (B,H,Hw,R, & Marine)
40 FR 6128 - 2/7/75
Mod. #1 - 40 FR 12017 - 3/14/75
Mod. #2 - 40 FR 28311 - 7/3/75
Mod. #3 - 40 FR 32553 - 8/1/75
Mod. #4 - 40 FR 36900 - 8/22/75
(D) - See Statewide
KENT COUNTY
(B,H,Hw, & Marine) - See Bristol County
(D) - See Statewide
NEWPORT COUNTY
Decision #RI75-2111 (B,H,Hw,R, & Marine)
40 FR 44467 - 9/26/75
(D) - See Statewide
PROVIDENCE COUNTY
(D) - See Statewide
(B,H,Hw, R, & Marine) - See Bristol County
WASHINGTON COUNTY
Decision #RI75-2112 (B,H,Hw, R, & Marine)
40 FR 44471 - 9/26/75
(D) - See Statewide

SOUTH CAROLINA

STATEWIDE
Decision #SC75-1031 (H,Hw)
40 FR 12058 - 3/14/75
Mod. #1 - 40 FR 41355 - 9/5/75
Decision #SC75-1079 (Sewer & Water, H)
40 FR 41380 - 9/5/75
Decision #AP-157 (Sewer & Water)
38 FR 4619 - 2/16/73
ABBEVILLE COUNTY
Decision #AR-4003 (B)
39 FR 26554 - 7/19/74
(Sewer & Water, H,Hw) - See Statewide
AIKEN COUNTY
Decision #SC75-1029 (R)
40 FR 10900 - 3/7/75
(Sewer & Water, H,Hw) - See Statewide
ALLENDALE COUNTY
Decision #SC75-1045 (R)
40 FR 16636 - 4/11/75
(Sewer & Water, H,Hw) - See Statewide
ANDERSON COUNTY
Decision #SC75-1004 (R)
40 FR 3154 - 1/17/75
(Sewer & Water, H,Hw) - See Statewide
BAMBERG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
BARNWELL COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #SC75-1026 (B)
40 FR 8692 - 2/28/75
Decision #MD75-3008 (D)
40 FR 3094 - 1/17/75
Mod. #1 - 40 FR 14204 - 3/28/75
(Sewer & Water, H,Hw) - See Statewid
BERKELEY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #SC75-1021 (R)
40 FR 7859 - 2/21/75
Decision #SC75-1055 (B)
40 FR 22785 - 5/23/75
Mod. #1 - 40 FR 25336 - 6/13/75
CALHOUN COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
CHARLESTON COUNTY
(B,R) - See Berkeley County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
Decision #SC75-1017 (R)
40 FR 4785 - 1/31/75
Mod. #1 - 40 FR 12017 - 3/14/75
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA (Cont'd.

CHESTER COUNTY
Decision #AR-4009 (B)
39 FR 25778 - 7/12/74
(Sewer & Water, H,Hw) - See Statewide
CHESTERFIELD COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLARENDON COUNTY
Decision #AR-4052 (R)
39 FR 39671 - 11/8/74
(Sewer & Water, H,Hw) - See Statewide
COLLETON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #AR-4052 (R)
39 FR 39671 - 11/8/74
DARLINGTON COUNTY
Decision #SC75-1041 (B)
40 FR 14194 - 3/28/75
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
DILLON COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
DORCHESTER COUNTY
(R) - See Berkeley County
EDGEFIELD COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
FAIRFIELD COUNTY
(B) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
FLORENCE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
GEORGETOWN COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
GREENVILLE COUNTY
Decision #SC75-1038 (B)
40 FR 12951 - 3/21/75
Mod. #1 - 40 FR 16496 - 4/11/75
Mod. #2 - 40 FR 43422 - 9/19/75
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
GREENWOOD COUNTY
(Sewer & Water, H,Hw) - See Statewide
HAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
HORRY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
JASPER COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
KERSHAW COUNTY
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA (Cont'd.

LANCASTER COUNTY
(B) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
LAURENS COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
((R)-SSee Clarendon County
(Sewer & Water, H,Hw) - See Statewide
LEXINGTON COUNTY
Decision #AR-4004 (R)
39 FR 24779 - 7/7/74
Decision #SC75-1042 (R)
40 FR 14271 - 3/28/75
(Sewer & Water, H,Hw) - See Statewide
McCORMICK COUNTY
(Sewer & Water, H,Hw) - See Statewide
MARION COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
MARLBORO COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
NEWBERRY COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
OCONEE COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
ORANGEBURG COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Allendale County
PICKENS COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
RICHLAND COUNTY
(B,R) - See Lexington County
(Sewer & Water, H,Hw) - See Statewide
SALUDA COUNTY
(Sewer & Water, H,Hw) - See Statewide
SPARTANBURG COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
SUMTER COUNTY
Decision #AQ-4097 (B)
39 FR 12581 - 4/5/74
(Sewer & Water, H,Hw) - See Statewide
(R) - See Clarendon County
UNION COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
(B) - See Abbeville County
WILLIAMSBURG COUNTY
(R)- See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
YORK COUNTY
(Sewer & Water, H,Hw) - See Statewide

SOUTH DAKOTA

STATEWIDE
Decision #SD75-5013 (H,Hw)
40 FR 4858 - 1/31/75
AURORA COUNTY
(H,Hw) - See Statewide
BEADLE COUNTY
(H,Hw) - See Statewide
BENNET COUNTY
(H,Hw) - See Statewide
BON HOMME COUNTY
(H,Hw) - See Statewide
BROOKINGS COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
BRULE COUNTY
(H,Hw) - See Statewide
BUFFALO COUNTY
(H,Hw) - See Statewide
BUTTE COUNTY
(H,Hw) - See Statewide
CAMPBELL COUNTY
(H,Hw) - See Statewide
CHARLES MIX COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
CODINGTON COUNTY
(H,Hw) - See Statewide
CORSON COUNTY
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DAVISON COUNTY
(H,Hw) - See Statewide
DAY COUNTY
(H,Hw) - See Statewide
DEUEL COUNTY
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
DOUGLAS COUNTY
(H,Hw) - See Statewide
EDMUNDS COUNTY
(H,Hw) - See Statewide
FALL RIVER COUNTY
(H,Hw) - See Statewide
FAULK COUNTY
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.)

GREGORY COUNTY
(H,Hw) - See Statewide
HAAKON COUNTY
(H,Hw) - See Statewide
HAMLIN COUNTY
(H,Hw) - See Statewide
HAND COUNTY
(H,Hw) - See Statewide
HANSON COUNTY
(H,Hw) - See Statewide
HARDING COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
HUTCHINSON COUNTY
(H,Hw) - See Statewide
HYDE COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JERAULD COUNTY
(H,Hw) - See Statewide
JONES COUNTY
(H,Hw) - See Statewide
KINGSBURY COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(H,Hw) - See Statewide
LAWRENCE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LYMAN COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd)

MARSHALL COUNTY
(H,Hw) - See Statewide
Mc COOK COUNTY
(H,Hw) - See Statewide
Mc PHERSON COUNTY
(H,Hw) - See Statewide
MEADE COUNTY
Decision #SD75-5119 (B)
40 FR 44475 - 9/26/75
(H,Hw) - See Statewide
MELLETTE COUNTY
(H,Hw) - See Statewide
MINER COUNTY
(H,Hw) - See Statewide
MINNEHAHA COUNTY
Decision #SD75-5121 (B)
40 FR 46000 - 10/3/75
(H,Hw) - See Statewide
Decision #AQ-1091 (R)
39 FR 8146 - 3/1/74
Mod. #1 - 39 FR 14856 - 4/26/74
(H,Hw) - See Statewide
MOODY COUNTY
(H,Hw) - See Statewide
PENNINGTON COUNTY
(B) - See Meade County
(H,Hw) - See Statewide
PERKINS COUNTY
(H,Hw) - See Statewide
POTTER COUNTY
(H,Hw) - See Statewide
ROBERTS COUNTY
(H,Hw) - See Statewide
SANBORN COUNTY
(H,Hw) - See Statewide
SHANNON COUNTY
(H,Hw) - See Statewide
SPINK COUNTY
(H,Hw) - See Statewide
STANLEY COUNTY
(H,Hw) - See Statewide
SULLY COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.)

TODD COUNTY
(H,Hw) - See Statewide
TRIPP COUNTY
(H,Hw) - See Statewide
TURNER COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
WALWORTH COUNTY
(H,Hw) - See Statewide
WASHABAUGH COUNTY
(H,Hw) - See Statewide
YANKTON COUNTY
(H,Hw) - See Statewide
ZIEBACH COUNTY
(H,Hw) - See Statewide

TENNESSEE

STATEWIDE
Decision #AR75-5074 (F)
40 FR 26189 - 6/20/75
Decision #AR-4046 (Hw)
40 FR 940 - 1/3/75
ANDERSON COUNTY
Decision #TN75-1053 (B)(Oak Ridge, Energy Research Development Administration Only)
40 FR 24464 - 6/6/75
Mod. #1 - 40 FR 31452 - 7/25/75
(Hw) - See Statewide
(F) - See Statewide
BEDFORD COUNTY
(F,Hw) - See Statewide
BENTON COUNTY
(F,Hw) - See Statewide
BLEDSOE COUNTY
(F,Hw) - See Statewide
BLOUNT COUNTY
(F,Hw) - See Statewide
BRADLEY COUNTY
(F,Hw) - See Statewide
CAMPBELL COUNTY
(F,Hw) - See Statewide
CANNON COUNTY
(F,Hw) - See Statewide
CARROLL COUNTY
Decision #AR-4013 (D)
39 FR 27397 - 7/26/74
(F,Hw) - See Statewide
CARTER COUNTY
Decision #TN75-1068 (B)
40 FR 30434 - 7/18/75
Decision #TN75-1098 (R)
40 FR 44476 - 9/26/75
(F,Hw) - See Statewide
CHEATHAM COUNTY
Decision #AQ-4061 (R)
39 FR 3426 - 1/25/74
Mod. #1 - 40 FR 7800 - 2/21/75
(F,Hw) - See Statewide
CHESTER COUNTY
(F,Hw) - See Statewide
CLAIBORNE COUNTY
(F,Hw) - See Statewide

TENNESSEE (CONT'D.)

CLAY COUNTY
(F,Hw) - See Statewide
COCKE COUNTY
(F,Hw) - See Statewide
COFFEE COUNTY
(F,Hw) - See Statewide
CROCKETT COUNTY
(D) - See Carroll County
(F,Hw) - See Statewide
CUMBERLAND COUNTY
(F,Hw) - See Statewide
DAVIDSON COUNTY
Decision #TN75-1088 (B)
40 FR 42505 - 9/12/75
(R) - See Cheatham County
(F,Hw) - See Statewide
DECATUR COUNTY
(F,Hw) - See Statewide
DEKALB COUNTY
(F,Hw) - See Statewide
DICKSON COUNTY
(F,Hw) - See Statewide
(R) - See Cheatham County
DYER COUNTY
Decision #TN75-1074 (R)
40 FR 33645 - 8/8/75
Decision #AQ-4073 (B)
39 FR 5947 - 2/15/75
Mod. #1 - 40 FR 9357 - 3/8/75
(F,Hw) - See Statewide
(D) - See Carroll County
FAYETTE COUNTY
(D) - See Carroll County
(F,Hw) - See Statewide
FENTRESS COUNTY
(F,Hw) - See Statewide
FRANKLIN COUNTY
(F,Hw) - See Statewide
GIBSON COUNTY
(D) - See Carroll County
(F,Hw) - See Statewide
(B,R) - See Dyer County

TENNESSEE (Cont'd)

GILES COUNTY
(F,Hw) - See Statewide
GRAINGER COUNTY
(F,Hw) - See Statewide
GREENE COUNTY
(F,Hw) - See Statewide
GRUNDY COUNTY
(F,Hw) - See Statewide
HAMBLEN COUNTY
(F,Hw) - See Statewide
HAMILTON COUNTY
Decision #TN75-1072 (B,H)
40 FR 31567 - 7/25/75
Mod. #1 - 40 FR 36900 - 8/22/75
Mod. #2 - 40 FR 42488 - 9/12/75
(F,Hw) - See Statewide
HANCOCK COUNTY
(F,Hw) - See Statewide
HARDEMAN COUNTY
(D) - See Carroll County
(F,Hw) - See Statewide
HARDIN COUNTY
(F,Hw) - See Statewide
HAWKINS COUNTY
(F,Hw) - See Statewide
HAYWOOD COUNTY
(D) - See Carroll County
(F,Hw) - See Statewide
HENDERSON COUNTY
(F,Hw) - See Statewide
HENRY COUNTY
(D) - See Carroll County
(F,Hw) - See Statewide
HICKMAN COUNTY
(F,Hw) - See Statewide
HOUSTON COUNTY
(F,Hw) - See Statewide
HUMPHREYS COUNTY
(F,Hw) - See Statewide
JACKSON COUNTY
(F,Hw) - See Statewide

TENNESSEE (CONT'D)

JEFFERSON COUNTY
(F,Hw) - See Statewide
JOHNSON COUNTY
(F,Hw)- See Statewide
KNOX COUNTY
Decision #TN75-1052 (B)
40 FR 23688 - 5/30/75
Mod. #1 - 40 FR 31452 - 7/25/75
Decision #AQ-4051 (R)
39 FR 2321 - 1/18/74
(F,Hw) - See Statewide
LAKE COUNTY
(R) - See Dyer County
(F,Hw) - See Statewide
LAUDERDALE COUNTY
(D) - See Carroll County
(F,Hw) - See Statewide
LAWRENCE COUNTY
(F,Hw) - See Statewide
(R) - See Cheatham County
LEWIS COUNTY
(F,Hw) - See Statewide
LINCOLN COUNTY
(F,Hw) - See Statewide
LOUDON COUNTY
(F,Hw) - See Statewide
MC MINN COUNTY
(F,Hw) - See Statewide
MC NAIRY COUNTY
(F,Hw) - See Statewide
MACON COUNTY
(F,Hw) - See Statewide
MADISON COUNTY
Decision #TN75-1051 (B)
40 FR 21666 - 5/16/75
(D) - See Carroll County
(F,Hw) - See Statewide
MARION COUNTY
(D) - See Carroll County
(F,Hw) - See Statewide

TENNESSEE (Cont'd)

MARSHALL COUNTY
(F,Hw) - See Statewide
(R) - See Cheatham County
MAURY COUNTY
(F,Hw) - See Statewide
(R) - See Cheatham County
MEIGS COUNTY
(F,Hw) - See Statewide
MONROE COUNTY
(F,Hw) - See Statewide
MONTGOMERY COUNTY
(F,Hw) - See Statewide
MOORE COUNTY
(F,Hw) - See Statewide
MORGAN COUNTY
(F,Hw) - See Statewide
OBION COUNTY
(R) - See Dyer County
(D) - See Carroll County
(F,Hw) - See Statewide
OVERTON COUNTY
(F,Hw) - See Statewide
PERRY COUNTY
(F,Hw) - See Statewide
PICKETT COUNTY
(F,Hw) - See Statewide
POLK COUNTY
(F,Hw) - See Statewide
PUTNAM COUNTY
(F,Hw) - See Statewide
RHEA COUNTY
(F,Hw) - See Statewide
ROANE COUNTY
(B) - See Anderson Co. (Oak Ridge,Energy Research Development Administration Only)
(F,Hw) - See Statewide
ROBERTSON COUNTY
(F,Hw) - See Statewide
(R) - See Cheatham County

TENNESSEE (Cont'd)

RUTHERFORD COUNTY
Decision #AQ-4114 (B)
39 FR 16980 - 5/10/74
Mod. #1 - 39 FR 28013 - 8/2/74
Mod. #2 - 39 FR 29726 - 8/16/74
Mod. #3 - 39 FR 31782 - 8/30/74
Mod. #4 - 40 FR 3088 - 1/17/75
(F,Hw) - See Statewide
(R) - See Cheatham County
SCOTT COUNTY
(F,Hw) - See Statewide
SEQUATCHIE COUNTY
(F,Hw) - See Statewide
SEVIER COUNTY
(F,Hw) - See Statewide
SHELBY COUNTY
Decision #TN75-1070 (B,H,W&S, & Utilit
40 FR 30435 - 7/18/75
Mod. #1 - 40 FR 44446 - 9/26/75
Decision #AP-152 (R)
38 FR 4176 - 2/9/73
(D) - See Carroll County
(F,Hw) - See Statewide
SMITH COUNTY
(F,Hw) - See Statewide
STEWART COUNTY
(F,Hw) - See Statewide
SULLIVAN COUNTY
(B) - See Carter County
(F,Hw) - See Statewide
(R) - See Carter County
SUMNER COUNTY
(F,Hw) - See Statewide
(R) - See Cheatham County
TIPTON COUNTY
(D) - See Carroll County
(F,Hw) - See Statewide
TROUSDALE COUNTY
(F,Hw) - See Statewide
(R) - See Cheatham County

TENNESSEE (cont'd)

UNICOI COUNTY
(F,Hw) - See Statewide
UNION COUNTY
(F,Hw) - See Statewide
VAN BUREN COUNTY
(F,Hw) - See Statewide
WARREN COUNTY
(F,Hw) - See Statewide
WASHINGTON COUNTY
(B) - See Carter County
(R) - See Carter County
(F,Hw) - See Statewide
WAYNE COUNTY
(F,Hw) - See Statewide
WEAKLEY COUNTY
(R) - See Dyer County
(D) - See Carroll County
(F,Hw) - See Statewide
WHITE COUNTY
(F,Hw) - See Statewide
WILLIAMSON COUNTY
(F,Hw) - See Statewide
(R) - See Cheatham County
WILSON COUNTY
(F,Hw) - See Statewide
(R) - See Cheatham County

TEXAS

STATEWIDE (Excluding Dallas-Fort Worth Regional Airport)
Decision #TX75-4086 (H (Excluding tunnels and dams), Hw
Incidental shore work, and paving and utilities incidental to general building construction)
40 FR 21667 - 5/16/75
ANDERSON COUNTY
(H,Hw) - See Statewide
ANDREWS COUNTY
(H,Hw) - See Statewide
ANGELINA COUNTY
(H,Hw) - See Statewide
ARANSAS COUNTY
(H,Hw) - See Statewide
Decision #AR-4013 (D)
39 FR 27397 - 7/26/74
ARCHER COUNTY
(H,Hw) - See Statewide
ARMSTRONG COUNTY
Decision #TX75-4135 (B)
40 FR 31569 - 7/25/75
Decision #TX75-4118 (R)
40 FR 29529 - 7/11/75
Mod. #1 - 40 FR 31454 - 7/25/75
Mod. #2 - 40 FR 43423 - 9/19/75
(H,Hw) - See Statewide
ATASCOSA COUNTY
(H,Hw) - See Statewide
AUSTIN COUNTY
(H,Hw) - See Statewide
BAILEY COUNTY
(H,Hw) - See Statewide
Decision #TX75-4003 (R)
40 FR 3158 - 1/17/75
BANDERA COUNTY
(H,Hw) - See Statewide
BASTROP COUNTY
Decision #AR-1 (R)
39 FR 24809 - 7/5/74
(H,Hw) - See Statewide
BAYLOR COUNTY
(H,Hw) - See Statewide
BEE COUNTY
Decision #TX75-4004 (R)
40 FR 3160 - 1/17/75
(H,Hw) - See Statewide
BELL COUNTY
(H,Hw) - See Statewide
Decision #TX75-4110 (B)
40 FR 23692 - 5/30/75
Mod. #1 - 40 FR 26187 - 6/20/75
Mod. #2 - 40 FR 29453 - 7/11/75
Mod. #3 - 40 FR 30388 - 7/18/75
Mod. #4 - 40 FR 31453 - 7/25/75

TEXAS (Cont'd)

BEXAR COUNTY
Decision #TX75-4109 (R)
40 FR 23690 - 5/30/75
(H,Hw) - See Statewide
Decision #AR-45 (B)
39 FR 34015 - 9/20/74
Mod. #1 - 39 FR 35915 - 10/4/74
Mod. #2 - 39 FR 39675 - 11/8/74
Mod. #3 - 39 FR 44158 - 12/20/74
BLANCO COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
BORDEN COUNTY
(H,Hw) - See Statewide
BOSQUE COUNTY
(B) - See Bell County
(H,Hw) - See Statewide
BOWIE COUNTY
Decision #TX75-4104 (B)
40 FR 22796 - 5/23/75
Mod. #1 - 40 FR 30388 - 7/18/75
Mod. #2 - 40 FR 31453 - 7/25/75
Mod. #3 - 40 FR 33578 - 8/8/75
Mod. #4 - 40 FR 36902 - 8/22/75
(H,Hw) - See Statewide
BRAZORIA COUNTY
(H,Hw) - See Statewide
Decision #AR-11 (R)
39 FR 29910 - 8/16/74
(D) - See Aransas County
BRAZOS COUNTY
Decision #TX75-4106 (B)
40 FR 22799 - 5/23/75
Mod. #1 - 40 FR 24461 - 6/6/75
Mod. #2 - 40 FR 29453 - 7/11/75
Mod. #3 - 40 FR 31453 - 7/25/75
Mod. #4 - 40 FR 36902 - 8/22/75
(H,Hw) - See Statewide
BREWSTER COUNTY
(H,Hw) - See Statewide
BRISCOE COUNTY
(H,Hw) - See Statewide
BROOKS COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
BURLESON COUNTY
(H,Hw) - See Statewide
BURNETT COUNTY
(H,Hw) - See Statewide
CALDWELL COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
CALHOUN COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
CALLAHAN COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

CAMERON COUNTY
Decision #TX75-4091 (D)
40 FR 21681 - 5/16/75
Mod. #1 - 40 FR 30387 - 7/18/75
(H,Hw) - See Statewide
Decision #TX75-4093 (R)
40 FR 21683 - 5/16/75
CAMP COUNTY
(H,Hw) - See Statewide
CARSON COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CASS COUNTY
(H,Hw) - See Statewide
CASTRO COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CHAMBERS COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
CHEROKEE COUNTY
(H,Hw) - See Statewide
CHILDRESS COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
COCHRAN COUNTY
(H,Hw) - See Statewide
(R) - See Bailey County
COKE COUNTY
(H,Hw) - See Statewide
COLEMAN COUNTY
(H,Hw) - See Statewide
COLLIN COUNTY
Decision #AQ-87 (R)
39 FR 10106 - 3/15/74
Decision #TX75-4102 (B-excluding Dallas-Fort Worth Regional Airport)
40 FR 22791 - 5/23/75
Mod. #1 - 40 FR 36901 - 8/22/75
Mod. #2 - 40 FR 36901 - 8/22/75
Mod. #3 - 40 FR 43423 - 9/19/75
(H,Hw) - See Statewide
COLLINGSWORTH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
COLORADO COUNTY
(H,Hw) - See Statewide
COMAL COUNTY
(H,Hw) - See Statewide
COMANCHE COUNTY
(H,Hw) - See Statewide
CONCHO COUNTY
(H,Hw) - See Statewide
COOKE COUNTY
(H,Hw) - See Statewide
CORYELL COUNTY
(B) - See Bell County
(H,Hw) - See Statewide
COTTLE COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

CRANE COUNTY
(H,Hw) - See Statewide
Decision #TX75-4006 (R)
40 FR 3163 - 1/17/75
CROCKETT COUNTY
(H,Hw) - See Statewide
CROSBY COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
CULBERSON COUNTY
(H,Hw) - See Statewide
DALLAM COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
DALLAS COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
DAWSON COUNTY
(H,Hw) - See Statewide
DEAF SMITH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
DELTA COUNTY
(H,Hw) - See Statewide
DENTON COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
DE WITT COUNTY
(H,Hw) - See Statewide
DICKENS COUNTY
(H,Hw) - See Statewide
DIMMIT COUNTY
Decision #TX75-4010 (B,R)
40 FR 3172 - 1/17/75
(H,Hw) - See Statewide
DONLEY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Statewide
DUVAL COUNTY
(H,Hw) - See Statewide
EASTLAND COUNTY
(H,Hw) - See Statewide
ECTOR COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
EDWARDS COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
EL PASO COUNTY
Decision #TX75-4114 (B)
40 FR 26240 - 6/20/75
Mod. #1 - 40 FR 29453 - 7/11/75
Mod. #2 - 40 FR 30388 - 7/18/75
Mod. #3 - 40 FR 31453 - 7/25/75
Mod. #4 - 40 FR 43423 - 9/19/75
(H,Hw) - See Statewide
ERATH COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

FALLS COUNTY
(B) - See Bell County
(H,Hw) - See Statewide
FANNIN COUNTY
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
FISHER COUNTY
(H,Hw) - See Statewide
FLOYD COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
FOARD COUNTY
(H,Hw) - See Statewide
FORT BEND COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
FRANKLIN COUNTY
(H,Hw) - See Statewide
FREESTONE COUNTY
(H,Hw) - See Statewide
FRIO COUNTY
(H,Hw) - See Statewide
GAINES COUNTY
(H,Hw) - See Statewide
GALVESTON COUNTY
(R) - See Brazoria County
(D) - See Aransas County
(H,Hw) - See Statewide
Decision #TX75-4154 (B)
40 FR 36996 - 8/22/75
Mod. #1 - 40 FR 43424 - 9/19/75
GARZA COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
GILLESPIE COUNTY
(H,Hw) - See Statewide
GLASSCOCK COUNTY
(H,Hw) - See Statewide
GOLIAD COUNTY
(H,Hw) - See Statewide
GONZALES COUNTY
(H,Hw) - See Statewide
GRAY COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
GRAYSON COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
GREGG COUNTY
Decision #TX75-4032 (B)
40 FR 21682 - 5/16/75
(H,Hw) See Statewide

TEXAS (Cont'd)

GRIMES COUNTY
(H,Hw) - See Statewide
GUADALUPE COUNTY
(H,Hw) - See Statewide
HALE COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
HALL COUNTY
(H,Hw) - See Statewide
HAMILTON COUNTY
(H,Hw) - See Statewide
HANSFORD COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HARDEMAN COUNTY
(H,Hw) - See Statewide
HARDIN COUNTY
(H,Hw) - See Statewide
HARRIS COUNTY
(B) - See Galveston County
(R) - See Brazoria County
(D) - See Aransas County
(H,Hw) - See Statewide
HARRISON COUNTY
Decision #TX75-4103 (B)
40 FR 22795 - 5/23/75
Mod. #1 - 40 FR 30388 - 7/18/75
Mod. #2 - 40 FR 31452 - 7/25/75
(H,Hw) - See Statewide
HARTLEY COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HAYS COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
HEMPHILL COUNTY
(R,B) - See Armstrong County
(H,Hw) - See Statewide
HENDERSON COUNTY
(H,Hw) - See Statewide
HIDALGO COUNTY
(R,B) - See Cameron County
(H,Hw) - See Statewide
HILL COUNTY
(B) - See Bell County
(H,Hw) - See Statewide
HOCKLEY COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
HOOD COUNTY
(B) - See Collin County
Decision #TX75-4011 (R)
40 FR 3173 - 1/17/75
(H,Hw) - See Statewide

TEXAS (Cont'd)

HOPKINS COUNTY
(H,Hw) - See Statewide
HOUSTON COUNTY
(H,Hw) - See Statewide
HOWARD COUNTY
40 FR 3936 - 1/24/75
(H,Hw) - See Statewide
HUDSPETH COUNTY
(H,Hw) - See Statewide
HUNT COUNTY
(R)(B) - See Collin County
(H,Hw) - See Statewide
HUTCHINSON COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
IRION COUNTY
(H,Hw) - See Statewide
JACK COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
JASPER COUNTY
(H,Hw) - See Statewide
JEFF DAVIS COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
Decision #TX75-4117 (B,R)
40 FR 29527 - 7/11/75
Mod. #1 - 40 FR 31453 - 7/25/75
Mod. #2 - 40 FR 43423 - 9/19/75
(D) - See Aransas County
(Hw) - See Statewide
JIM HOGG COUNTY
(H,Hw) - See Statewide
(B,R) - See Dimmit County
JIM WELLS COUNTY
(H,Hw) - See Statewide
JOHNSON COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
JONES COUNTY
(H,Hw) - See Statewide
KARNES COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

KAUFMAN COUNTY
(B,R) - See Collin County
(H,Hw) - See Statewide
KENDALL COUNTY
(H,Hw) - See Statewide
KENEDY COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County
KENT COUNTY
(H,Hw) - See Statewide
KERR COUNTY
(H,Hw) - See Statewide
KIMBLE COUNTY
(H,Hw) - See Statewide
KING COUNTY
(H,Hw) - See Statewide
KINNEY COUNTY
(H,Hw) - See Statewide
KLEBERG COUNTY
Decision #TX75-4099 (B)
40 FR 22787 - 5/23/75
Mod. #1 - 40 FR 27417 - 6/27/75
Mod. #2 - 40 FR 30387 - 7/18/75
Mod. #3 - 40 FR 31452 - 7/25/75
Mod. #4 - 40 FR 36901 - 8/22/75
Mod. #5 - 40 FR 43423 - 9/19/75
(D) - See Aransas County
(H,Hw) - See Statewide
(R) - See Bee County
KNOX COUNTY
(H,Hw) - See Statewide
LAMAR COUNTY
(H,Hw) - See Statewide
LAMB COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
LAMPASAS COUNTY
(H,Hw) - See Statewide
LA SALLE COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
LAVACA COUNTY
(H,Hw) - See Statewide
LEE COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County

TEXAS (Cont'd)

LEON COUNTY
(H,Hw) - See Statewide
LIBERTY COUNTY
(H,Hw) - See Statewide
LIMESTONE COUNTY
(H,Hw) - See Statewide
LIPSCOMB COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
LIVE OAK COUNTY
(H,Hw) - See Statewide
LLANO COUNTY
(H,Hw) - See Statewide
LOVING COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
LUBBOCK COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
Decision #TX75-4094 (B)
40 FR 21685 - 5/16/75
Mod. #1 - 40 FR 26186 - 6/20/75
Mod. #2 - 40 FR 29452 - 7/11/75
Mod. #3 - 40 FR 30387 - 7/18/75
Mod. #4 - 40 FR 36901 - 8/22/75
Mod. #5 - 40 FR 43422 - 9/19/75
LYNN COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
McCULLOCH COUNTY
(H,Hw) - See Statewide
McLENNAN COUNTY
(B) - See Bell County
(H,Hw) - See Statewide
McMULLEN COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(H,Hw) - See Statewide
MARTIN COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

MASON COUNTY
(H,Hw) - See Statewide
MATAGORDA COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
(D) - See Aransas County
MAVERICK COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
MEDINA COUNTY
(H,Hw) - See Statewide
MENARD COUNTY
(H,Hw) - See Statewide
MIDLAND COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
MILAM COUNTY
(H,Hw) - See Statewide
MILLS COUNTY
(H,Hw) - See Statewide
MITCHELL COUNTY
(H,Hw) - See Statewide
MONTAGUE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(R) - See Brazoria County
(H,Hw) - See Statewide
MOORE COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
MORRIS COUNTY
(H,Hw) - See Statewide
MOTLEY COUNTY
(H,Hw) - See Statewide
NACOGDOCHES COUNTY
(H,Hw) - See Statewide
NAVARRO COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

NEWTON COUNTY
(H,Hw) - See Statewide
NOLAN COUNTY
(H,Hw) - See Statewide
NUECES COUNTY
(B) - See Kleberg County
(D) - See Aransas County
(H,Hw) - See Statewide
(R) - See Bee County
OCHILTREE COUNTY
(R) (B) - See Armstrong County
(H,Hw) - See Statewide
OLDHAM COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
ORANGE COUNTY
(R)(B) - See Jefferson County
(Hw) - See Statewide
(D) - See Aransas County
PALO PINTO COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
PANOLA COUNTY
(H,Hw) - See Statewide
PARKER COUNTY
(H,Hw) - See Statewide
(R) - See Hood County
PARMER COUNTY
(H,Hw) - See Statewide
PECOS COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
POLK COUNTY
(H,Hw) - See Statewide
POTTER COUNTY
(H,Hw) - See Statewide
(B) (R) - See Armstrong County
PRESIDIO COUNTY
(H,Hw) - See Statewide
RAINS COUNTY
(H,Hw) - See Statewide
RANDALL COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
REAGAN COUNTY
(H,Hw) - See Statewide
REAL COUNTY
(H,Hw) - See Statewide
RED RIVER COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

REEVES COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
REFUGIO COUNTY
(D) - See Aransas County
(H,Hw) - See Statewide
ROBERTS COUNTY
(H,Hw) - See Statewide
(B) (R) - See Armstrong County
ROBERTSON COUNTY
(H,Hw) - See Statewide
ROCKWALL COUNTY
(R)(B) - See Collin County
(H,Hw) - See Statewide
RUNNELS COUNTY
(H,Hw) - See Statewide
RUSK COUNTY
(H,Hw) - See Statewide
SABINE COUNTY
(H,Hw) - See Statewide
SAN AUGUSTINE COUNTY
(H,Hw) - See Statewide
SAN JACINTO COUNTY
(H,Hw) - See Statewide
SAN PATRICIO COUNTY
(R) - See Bee County
(D) - See Aransas County
(H,Hw) - See Statewide
SAN SABA COUNTY
(H,Hw) - See STatewide
SCHLEICHER COUNTY
(H,Hw) - See Statewide
SCURRY COUNTY
(H,Hw) - See Statewide
SHACKELFORD COUNTY
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
SHERMAN COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
SMITH COUNTY
(H,Hw) - See Statewide
SOMERVELL COUNTY
(H,Hw) - See Statewide
STARR COUNTY
(H,Hw) - See Statewide
(B)(R) - See Cameron County
STEPHENS COUNTY
(H,Hw) - See Statewide

TEXAS (Cont'd)

STERLING COUNTY
(H,Hw) - See Statewide
STONEWALL COUNTY
(H,Hw) - See Statewide
SUTTON COUNTY
(H,Hw) - See Statewide
SWISHER COUNTY
(H,Hw) - See Statewide
(B)(R) - See Armstrong County
TARRANT COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
Decision #AQ-117 (R)
39 FR 22400 - 6/21/74
TAYLOR COUNTY
Decision #TX75-4098 (B)
40 FR 22786 - 5/23/75
Mod. #1 - 40 FR 36901 - 8/22/75
(H,Hw) - See Statewide
TERRELL COUNTY
(H,Hw) - See Statewide
TERRY COUNTY
(H,Hw) - See Statewide
(R) - See Bailey County
THROCKMORTON COUNTY
(H,Hw) - See Statewide
TITUS COUNTY
(H,Hw) - See Statewide
TOM GREEN COUNTY
Decision #TX75-4088 (B)
40 FR 21677 - 5/16/75
Mod. #1 - 40 FR 33578 - 8/8/75
(H,Hw) - See Statewide
TRAVIS COUNTY
Decision #TX75-4101 (B)
40 FR 22789 - 5/23/75
Mod. #1 -40 FR 25334 - 6/13/75
Mod. #2 - 40 FR 29452 - 7/11/75
Mod. #3 - 40 FR 30388 - 7/18/75
Mod. #4 - 40 FR 36901 - 8/22/75
Mod. #5 - 40 FR 43423 - 9/19/75
(R) - See Bastrop County
(H,Hw) - See Statewide
TRINITY COUNTY
(H,Hw) - See Statewide
TYLER COUNTY
(H,Hw) - See Statewide
UPSHUR COUNTY
(H,Hw) - See Statewide
UPTON COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
UVALDE COUNTY
(H,Hw) - See STatewide
VAL VERDE COUNTY
(H,Hw) - See Statewide
VAN ZANDT COUNTY
(H,Hw) - See Statewide
VICTORIA COUNTY
(H,Hw) - See Statewide
(D) - See Aransas County

TEXAS (Cont'd.)

WALKER COUNTY
(H,Hw) - See Statewide
(R) - See Brazoria County
WALLER COUNTY
(H,Hw) - See Statewide
WARD COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
WASHINGTON COUNTY
(H,Hw) - See Statewide
WEBB COUNTY
(B,R) - See Dimmit County
(H,Hw) - See STatewide
WHARTON COUNTY
(H,Hw) - See Statewide
WHEELER COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Statewide
WICHITA COUNTY
Decision #TX75-4087 (R)
40 FR 21675 - 5/16/75
Decision #TX75-4147 (B)
40 FR 33646 - 8/8/75
Mod. #1 - 40 FR 43424 - 9/19/75
(H,Hw) - See Statewide
WILBARGER COUNTY
(H,Hw) - See Statewide
WILLACY COUNTY
(R)(B) - See Cameron County
(H,Hw) - See Statewide
(D) - See Aransas County
WILLIAMSON COUNTY
(H,Hw) - See Statewide
(R) - See Bastrop County
WILSON COUNTY
(H,Hw) - See Statewide
WINKLER COUNTY
(H,Hw) - See Statewide
(R) - See Crane County
WISE COUNTY
(B) - See Collin County
(H,Hw) - See Statewide
(R) - See Hood County
WOOD COUNTY
(H,Hw) - See Statewide
YOAKUM COUNTY
(R) - See Bailey County
(H,Hw) - See Statewide
YOUNG COUNTY
(H,Hw) - See Statewide
ZAPATA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide
ZAVALA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Statewide

UTAH

STATEWIDE
Decision #UT75-5107 (B,H,Hw)
40 FR 36998 - 8/22/75
BEAVER COUNTY
(B,H,Hw) - See Statewide
BOX ELDER COUNTY
(B,H,Hw) - See Statewide
CACHE COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
DAGGETT COUNTY
(B,H,Hw) - See Statewide
DAVIS COUNTY
(B,H,Hw) - See Statewide
DUCHESNE COUNTY
(B,H,Hw) - See Statewide
EMERY COUNTY
(B,H,Hw) - See Statewide
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GRAND COUNTY
(B,H,Hw) - See Statewide
IRON COUNTY
(B,H,Hw) - See Statewide
JUAB COUNTY
(B,H,Hw) - See Statewide
KANE COUNTY
(B,H,Hw) - See Statewide
MILLARD COUNTY
(B,H,Hw) - See Statewide
MORGAN COUNTY
(B,H,Hw) - See Statewide
PIUTE COUNTY
(B,H,Hw) - See Statewide
RICH COUNTY
(B,H,Hw) - See Statewide
SALT LAKE COUNTY
(B,H,Hw) - See Statewide
SAN JUAN COUNTY
(B,H,Hw) - See Statewide
SANPETE COUNTY
(B,H,Hw) - See Statewide
SEVIER COUNTY
(B,H,Hw) - See Statewide
SUMMIT COUNTY
(B,H,Hw) - See Statewide
TOOELE COUNTY
(B,H,Hw) - See Statewide
UINTAH COUNTY
(B,H,Hw) - See Statewide
UTAH COUNTY
(B,H,Hw) - See Statewide
WASATCH COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

UTAH (Cont'd)

WAYNE COUNTY
(B,H,Hw) - See Statewide
WEBER COUNTY
(B,H,Hw) - See Statewide

VERMONT

Statewide (Except Rutland County)
Decision #AQ-3184 (Hw)
39 FR 24203 - 6/28/74
Mod. #1 - 39 FR 27397 - 7/26/74
Mod. #2 - 40 FR 16497 - 4/11/75
Mod. #3 - 40 FR 21657 - 5/16/75
ADDISON COUNTY
(Hw) - See Statewide
BENNINGTON COUNTY
(Hw) - See Statewide
CALEDONIA COUNTY
(Hw) - See Statewide
CHITTENDEN COUNTY
(Hw) - See Statewide
ESSEX COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
GRAND ISLE COUNTY
(Hw) - See Statewide
LAMOILLE COUNTY
(Hw) - See Statewide
ORANGE COUNTY
(Hw) - See Statewide
ORLEANS COUNTY
(Hw) - See Statewide
RUTLAND COUNTY
None
WASHINGTON COUNTY
(Hw) - See Statewide
WINDHAM COUNTY
(Hw) - See Statewide
WINDSOR COUNTY
(Hw) - See Statewide

VIRGINIA

ACCOMACK COUNTY
Decision #AP-805 (Hw)
38 FR 11279 - 5/4/73
Mod. #1 - 38 FR 13127 - 5/18/73
Mod. #2 - 40 FR 15284 - 4/4/75
Mod. #3 - 40 FR 23631 - 5/30/75
Decision #MD75-3008 (D)
40 FR 3094 - 1/17/75
Mod. #1 - 40 FR 14204 - 3/28/75
ALBERMARLE COUNTY
Decision #VA75-3094 (B)
40 FR 43415 - 9/19/75
Decision #AM-1874 (Hw)
36 FR 16342 - 8/20/71
Mod. #1 - 40 FR 15284 - 4/4/75
ALEXANDRIA CITY
Decision #MD75-3100 (B)
40 FR 44477 - 9/26/75
ALLEGHANY COUNTY
Decision #AM-1875 (Hw)
36 FR 16343 - 8/20/71
Mod. #1 - 37 FR 5169 - 3/10/72
Mod. #2 - 40 FR 15284 - 4/4/75
AMELIA COUNTY
Decision #AR-2032 (Hw)
39 FR 31871 - 8/30/74
AMHERST COUNTY
Decision #AQ-2032 (Hw)
38 FR 33259 - 11/30/73
APPOMATTOX COUNTY
(Hw) - See Amherst County
ARLINGTON COUNTY
(B) - See Alexandria City
(D) - See Accomack County
AUGUSTA COUNTY
Decision #AM-9320 (R)
37 FR 10267 - 5/19/72
Mod. #1 - 40 FR 15284 - 4/4/75
(Hw) - See Alleghany County
BATH COUNTY
(Hw) - See Alleghany County
BEDFORD CITY
(Hw) - See Bedford County
BEDFORD COUNTY
Decision #AQ-2021 (Hw)
38 FR 27744 - 10/5/73
BLAND COUNTY
Decision #AQ-2020 (Hw)
38 FR 27744 - 10/5/73
Mod. #1 - 40 FR 15285 - 4/4/75
BOTETOURT COUNTY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

BRISTOL CITY
(Hw) - See Bland County
BRUNSWICK COUNTY
(Hw) - See Amelia County
BUCHANAN COUNTY
(Hw) - See Bland County
BUCKINGHAM COUNTY
(Hw) - See Amherst County
BUENA VISTA CITY
(Hw) - See Alleghany County
CAMPBELL COUNTY
Decision #VA75-3095 (B)
40 FR 43416 - 9/19/75
(Hw) - See Amherst County
CAROLINE COUNTY
Decision #AQ-2031 (Hw)
38 FR 33258 - 11/30/73
CARROLL COUNTY
(Hw) - See Bedford County
CHARLES CITY COUNTY
(Hw) - See Amelia County
CHARLOTTE COUNTY
(Hw) - See Amherst County
CHARLOTTSVILLE CITY
(Hw) - See Albermarle County
CHESAPEAKE CITY
Decision #VA75-3005 (B)
40 FR 944 - 1/3/75
Mod. #1 - 40 FR 14217 - 3/28/75
Mod. #2 - 40 FR 17473 - 4/18/75
Mod. #3 - 40 FR 22742 - 5/23/75
Mod. #4 - 40 FR 29455 - 7/11/75
Decision #AP-494 (Hw)
38 FR 7693 - 3/23/73
Mod. #1 - 40 FR 44446 - 9/26/75
(D) - See Accomack County
CHESTERFIELD COUNTY
(Hw) - See Amelia County
CLARKE COUNTY
Decision #AP-406 (R)
37 FR 15234 - 7/28/72
Mod. #1 - 40 FR 15284 - 4/4/75
(Hw) - See Alleghany County
CLIFTON FORGE CITY
(Hw) - See Alleghany County
COLONIAL HEIGHTS CITY
(Hw) - See Amelia County
COVINGTON CITY
(Hw) - See Alleghany County
CRAIG COUNTY
(Hw) - See Bedford County

VIRGINIA

ACCOMACK COUNTY
Decision #AP-805 (Hw)
38 FR 11279 - 5/4/73
Mod. #1 - 38 FR 13127 - 5/18/73
Mod. #2 - 40 FR 15284 - 4/4/75
Mod. #3 - 40 FR 23631 - 5/30/75
Decision #MD75-3008 (D)
40 FR 3094 - 1/17/75
Mod. #1 - 40 FR 14204 - 3/28/75
ALBEMARLE COUNTY
Decision #AM-1874 (Hw)
36 FR 16342 - 8/20/71
Mod. #1 - 40 FR 15284 - 4/4/75
ALEXANDRIA CITY
Decision #MD75-3062 (B)
40 FR 26203 - 6/20/75
Mod. #1 - 40 FR 28312 - 7/3/75
Mod. #2 - 40 FR 29453 - 7/11/75
Mod. #3 - 40 FR 33579 - 8/8/75
Mod. #4 - 40 FR 40009 - 8/29/75
ALLEGHANY COUNTY
Decision #AM-1875 (Hw)
36 FR 16343 - 8/20/71
Mod. #1 - 37 FR 5169 - 3/10/72
Mod. #2 - 40 FR 15284 - 4/4/75
AMELIA COUNTY
Decision #AR-2032 (Hw)
39 FR 31871 - 8/30/74
AMHERST COUNTY
Decision #AQ-2032 (Hw)
38 FR 33259 - 11/30/73
APPOMATTOX COUNTY
(Hw) - See Amherst County
ARLINGTON COUNTY
(B) - See Alexandria City
(D) - See Accomack County
AUGUSTA COUNTY
Decision #AM-9320 (R)
37 FR 10267 - 5/19/72
Mod. #1 - 40 FR 15284 - 4/4/75
(Hw) - See Alleghany County
BATH COUNTY
(Hw) - See Alleghany County
BEDFORD CITY
(Hw) - See Bedford County
BEDFORD COUNTY
Decision #AQ-2021 (Hw)
38 FR 27744 - 10/5/73
BLAND COUNTY
Decision #AQ-2020 (Hw)
38 FR 27744 - 10/5/73
Mod. #1 - 40 FR 15285 - 4/4/75
BOTETOURT COUNTY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

BRISTOL CITY
(Hw) - See Bland County
BRUNSWICK COUNTY
(Hw) - See Amelia County
BUCHANAN COUNTY
(Hw) - See Bland County
BUCKINGHAM COUNTY
(Hw) - See Amherst County
BUENA VISTA CITY
(Hw) - See Alleghany County
CAMPBELL COUNTY
(Hw) - See Amherst County
CAROLINE COUNTY
Decision #AQ-2031 (Hw)
38 FR 33258 - 11/30/73
CARROLL COUNTY
(Hw) - See Bedford County
CHARLES CITY COUNTY
(Hw) - See Amelia County
CHARLOTTE COUNTY
(Hw) - See Amherst County
CHARLOTTSVILLE CITY
(Hw) - See Albemarle County
CHESAPEAKE CITY
Decision #VA75-3005 (B)
40 FR 944 - 1/3/75
Mod. #1 - 40 FR 14217 - 3/28/75
Mod. #2 - 40 FR 17473 - 4/18/75
Mod. #3 - 40 FR 22742 - 5/23/75
Mod. #4 - 40 FR 29455 - 7/11/75
Decision #AP-494 (Hw)
38 FR 7693 - 3/23/73
(D) - See Accomack County
CHESTERFIELD COUNTY
(Hw) - See Amelia County
CLARKE COUNTY
Decision #AP-406 (R)
37 FR 15234 - 7/28/72
Mod. #1 - 40 FR 15284 - 4/4/75
(Hw) - See Alleghany County
CLIFTON FORGE CITY
(Hw) - See Alleghany County
COLONIAL HEIGHTS CITY
(Hw) - See Amelia County
COVINGTON CITY
(Hw) - See Alleghany County
CRAIG COUNTY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

CULPEPER COUNTY
(Hw) - See Albemarle County
CUMBERLAND COUNTY
(Hw) - See Amherst County
DANVILLE CITY
(Hw) - See Amherst County
DICKENSON COUNTY
(Hw) - See Bland County
DINWIDDIE COUNTY
(Hw) - See Amelia County
EMPORIA CITY
(Hw) - See Accomack County
ESSEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
FAIRFAX COUNTY
(B) - See Alexandria City
(D) - See Accomack County
FAIRFAX CITY
(B) - See Alexandria City
FALLS CHURCH CITY
(B) - See Alexandria City
FAUQUIER COUNTY
(Hw) - See Albemarle County
FLOYD COUNTY
(Hw) - See Bedford County
FLUVANNA COUNTY
(Hw) - See Albemarle County
FORT MONROE CITY
(Hw) - See Chesapeake City
(B,H,W&S) - See York County
FRANKLIN CITY
(Hw) - See Accomack County
FRANKLIN COUNTY
(Hw) - See Bedford County
FREDERICK COUNTY
(R) - See Clarke County
(Hw) - See Alleghany County

VIRGINIA (Cont'd)

FREDERICKSBURG CITY
(Hw) - See Caroline County
GALAX CITY
(Hw) - See Bedford County
GILES COUNTY
(Hw) - See Bedford County
GLOUCESTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
GOOCHLAND COUNTY
(Hw) - See Amelia County
GRAYSON COUNTY
(Hw) - See Bland County
GREENE COUNTY
(Hw) - See Albemarle County
GREENSVILLE COUNTY
(Hw) - See Accomack County
HALIFAX COUNTY
(Hw) - See Amherst County
HAMPTON CITY
Decision #AQ-2103 (R)
39 FR 14119 - 4/19/74
Mod. #1 - 15612 - 5/3/74
(B,H,W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
HANOVER COUNTY
(Hw) - See Amelia County
HARRISONBURG CITY
(Hw) - See Alleghany County
HENRICO COUNTY
Decision #VA75-3006 (B)
40 FR 946 - 1/3/75
Mod. #1 - 40 FR 14217 - 3/28/75
Mod. #2 - 40 FR 17473 - 4/18/75
Mod. #3 - 40 FR 22743 - 5/23/75
(Hw) - See Amelia County

VIRGINIA (Cont'd.)

HENRY COUNTY
(Hw) - See Bedford County
HIGHLAND COUNTY
(Hw) - See Alleghany County
HOPEWELL CITY
(Hw) - See Amelia County
ISLE OF WIGHT COUNTY
(D,Hw) - See Accomack County
JAMES CITY COUNTY
Decision #AP-407 (R)
37 FR 15235 - 7/28/72
(D,Hw) - See Accomack County
KING AND QUEEN COUNTY
(Hw) - See Caroline County
KING GEORGE COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
KING WILLIAM COUNTY
(Hw) - See Caroline County
LANCASTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
LEE COUNTY
(Hw) - See Bland County
LOUDOUN COUNTY
(Hw) - See Albermarle County
LOUISA COUNTY
(Hw) - See Albemarle County
LUNENBURG COUNTY
(Hw) - See Amelia County
LYNCHBURG CITY
(Hw) - See Amherst County
MADISON COUNTY
(Hw) - See Alemarle County
MARTINSVILLE CITY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

MATHEWS COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MECKLENBURG COUNTY
(Hw) - See Amelia County
MIDDLESEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MONTGOMERY COUNTY
(Hw) - See Bedford County
NANSEMOND COUNTY
(D,Hw) - See Accomack County
NELSON COUNTY
(Hw) - See Amherst County
NEW KENT COUNTY
(Hw) - See Amelia County
NEWPORT NEWS CITY
(B,H,W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
(R) - See Hampton City
NORFOLK CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
NORTHAMPTON COUNTY
(D,Hw) - See Accomack County
NORTON CITY
(Hw) - See Bland County
NORTHUMBERLAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
NOTTOWAY COUNTY
(Hw) - See Amelia County
ORANGE COUNTY
(Hw) - See Albemarle County

VIRGINIA (Cont'd)

PAGE COUNTY
(Hw) - See Alleghany County
PATRICK COUNTY
(Hw) - See Bedford County
PETERSBURG CITY
(Hw) - See Amelia County
PITTSYLVANIA COUNTY
(Hw) - See Amherst County
PORTSMOUTH CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
POWHATAN COUNTY
(Hw) - See Amelia County
PRINCE EDWARD COUNTY
(Hw) - See Amherst County
PRINCE GEORGE COUNTY
(Hw) - See Amelia County
PRINCE WILLIAM COUNTY
(Hw) - See Albermarle County
(D) - See Accomack County
PULASKI COUNTY
(Hw) - See Bedford County
RADFORD CITY
Decision #VA75-3069 (B)
40 FR 29438 - 7/11/75
Mod. #1 - 40 FR 36902 - 8/22/75
(Hw) - See Bedford County
RAPPAHANNOCK COUNTY
(Hw) - See Albermarle County
RICHMOND CITY
(B) - See Henrico County
(Hw) - See Amelia County
RICHMOND COUNTY
(Hw) - See Caroline County
ROANOKE CITY
(Hw) - See Bedford County
ROANOKE COUNTY
(Hw) - See Bedford County
ROCKBRIDGE COUNTY
(Hw) - See Alleghany County
ROCKINGHAM COUNTY
(R) - See Clarke County
(Hw) - See Alleghany County
RUSSELL COUNTY
(Hw) - See Bland County
SALEM CITY
(Hw) - See Bedford County
SCOTT COUNTY
(Hw) - See Bland County
SHENANDOAH COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County
SMYTH COUNTY
(Hw) - See Bland County
SOUTHAMPTON COUNTY
(Hw) - See Accomack County

VIRGINIA (Cont'd.)

SOUTH BOSTON CITY
(Hw) - See Amherst County
SPOTSYLVANIA COUNTY
(Hw) - See Caroline County
STAUNTON CITY
(Hw) - See Alleghany County
STAFFORD COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
SUFFOLK CITY
(Hw) - See Accomack County
SURRY COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
SUSSEX COUNTY
(Hw) - See Accomack County
TAZEWELL COUNTY
(Hw) - See Bland County
VIRGINIA BEACH CITY
Decision #AM-9321 (R)
37 FR 10266 - 5/19/72
(Hw,B) - See Chesapeake City
(D) - See Accomack County
WARREN COUNTY
(R) - See Clarke County
(Hw) - See Alleghany County
WASHINGTON COUNTY
(Hw) - See Bland County
WAYNESBORO CITY
(Hw) - See Allegheny County
WESTMORELAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
WILLIAMSBURG CITY
(Hw) - See Accomack County
WINCHESTER CITY
(Hw) - See Alleghany County
WISE COUNTY
(Hw) - See Bland County
WYTHE COUNTY
(Hw) - See Bland County
YORK COUNTY
Decision #VA75-3004 (B,H,S&W)
40 FR 941 - 1/3/75
Mod. #1 - 40 FR 14217 - 3/28/75
Mod. #2 - 40 FR 21657 - 5/16/75
Mod. #3 - 40 FR 22742 - 5/23/75
Mod. #4 - 40 FR 29454 - 7/11/75
(R) - See James City
(D,Hw) - See Accomack County

WASHINGTON

STATEWIDE
Decision #WA75-5113 (B,H,Hw,D)
40 FR 42507 - 9/12/75
Mod. #1 - 40 FR 44446 - 9/26/75
ADAMS COUNTY
(B,H,Hw,D) - See Statewide
ASOTIN COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CHELAN COUNTY
(B,H,Hw,D) - See Statewide
CLALLAM COUNTY
Decision #WA75-5064 (R)
40 FR 23695 - 5/30/75
Mod. #1 - 40 FR 29455 - 7/11/75
(B,H,Hw,D) - See Statewide
CLARK COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COWLITZ COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
FERRY COUNTY
(B,H,Hw, D) - See Statewide
FRANKLIN COUNTY
(B,H,Hw,D) - See Statewide
GARFIELD COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
GRAYS HARBOR COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
ISLAND COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KING COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
KITSAP COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KITTITAS COUNTY
(B,H,Hw,D) - See Statewide
KLICKITAT COUNTY
(B,H,Hw,D) - See Statewide

WASHINGTON (Cont'd)

LEWIS COUNTY
(B,H,Hw,D) - See Statewide
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
MASON COUNTY
(B,H,Hw,D) - See Statewide
(R)- See Clallam County
OKANOGAN COUNTY
(B,H,Hw,D) - See Statewide
PACIFIC COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
PEND OREILLE COUNTY
(B,H,Hw,D) - See Statewide
PIERCE COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SAN JUAN COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
SKAGIT COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
SKAMANIA COUNTY
(B,H,Hw,D) - See Statewide
SNOHOMISH COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SPOKANE COUNTY
(B,H,Hw,D) - See Statewide
STEVENS COUNTY
(B,H,Hw,D) - See Statewide
THURSTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WAHKIAKUM COUNTY
(B,H,Hw,D) - See Statewide
WALLA WALLA COUNTY
(B,H,Hw,D) - See Statewide
WHATCOM COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WHITMAN COUNTY
(B,H,Hw,D) - See Statewide
YAKIMA COUNTY
Decision #AQ-1109 (R)
39 FR 18416 - 5/24/74
(B,H,Hw,D) - See Statewide

WASHINGTON, D. C.

WASHINGTON, D. C.
Decision #DC75-3099 (B,Hw, W&S)
40 FR 44449 - 9/26/75
Decision #MD75-3008 (D)
40 FR 3094 - 1/17/75
Mod. #1 - 40 FR 14204 - 3/28/75

WEST VIRGINIA

STATEWIDE
Decision #WV75-3009 (H,Hw)
40 FR 4883 - 1/31/75
Mod. #1 - 40 FR 10883 - 3/7/75
Mod. #2 - 40 FR 14217 - 3/28/75
BARBOUR COUNTY
Decision #WV75-3007 (B)
40 FR 6136 - 2/7/75
Mod. #1 - 40 FR 8700 - 2/28/75
Mod. #2 - 40 FR 10883 - 3/7/75
Mod. #3 - 40 FR 14217 - 3/28/75
Mod. #4 - 40 FR 16497 - 4/11/75
Mod. #5 - 40 FR 21659 - 5/16/75
(H,Hw) - See Statewide
BERKELEY COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
BRAXTON COUNTY
(H,Hw) - See Statewide
BROOKE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CABELL COUNTY
(B) - See Barbour County
Decision #IL75-2036 (D)
40 FR 6023 - 2/7/75
(H,Hw) - See Statewide
CALHOUN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CLAY COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
DODDRIDGE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
FAYETTE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GILMER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide
GREENBRIER COUNTY
(H,Hw) - See Statewide
HAMPSHIRE COUNTY
(H,Hw) - See Statewide
HANCOCK COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HARDY COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd)

JACKSON COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County
JEFFERSON COUNTY
(H,Hw) - See Statewide
KANAWHA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
Decision #AR-2058 (R)
39 FR 35948 - 10/4/74
Mod. #1 - 39 FR 44913 - 12/27/74
(H,Hw) - See Statewide
LEWIS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LOGAN COUNTY
(H,Hw) - See Statewide
MC DOWELL COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MARSHALL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MASON COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
MERCER COUNTY
(H,Hw) - See Statewide
MINERAL COUNTY
(H,Hw) - See Statewide
MINGO COUNTY
(H,Hw) - See Statewide
MONONGALIA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MONROE COUNTY
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NICHOLAS COUNTY
(H,Hw) - See Statewide
OHIO COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PENDLETON COUNTY
(H,Hw) - See Statewide
PLEASANT COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County

WEST VIRGINIA (Cont'd.)

PRESTON COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RALEIGH COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RITCHIE COUNTY
(H,Hw) - See Statewide
(B) - See Barbour County
ROANE COUNTY
(H,Hw) - See Statewide
SUMMERS COUNTY
(H,Hw) - See Statewide
TAYLOR COUNTY
(H,Hw) - See Statewide
TUCKER COUNTY
(H,Hw) - See Statewide
TYLER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
UPSHUR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WAYNE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WEBSTER COUNTY
(H,Hw) - See Statewide
WETZEL COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
WIRT COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WOOD COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
WYOMING COUNTY
(H,Hw) - See Statewide

WISCONSIN

STATEWIDE
Decision #WI75-2047 (Hw)
40 FR 8757 - 2/28/75
Decision #WI75-2048 (H, Sewer, Tunnel, & Water)
40 FR 12059 - 3/14/75
ADAMS COUNTY
(H,Hw,W&S) - See Statewide
ASHLAND COUNTY
Decision #IL75-5079 (D)
40 FR 29490 - 7/11/75
Mod. #1 - 40 FR 32552 - 8/1/75
Mod. #2 - 40 FR 40006 - 8/29/75
(H,Hw,W&S) - See Statewide
Decision #AR-3151 (B,R)
39 FR 36706 - 10/11/74
Mod. #1 - 40 FR 21657 - 5/16/75
BARRON COUNTY
(B) - See Polk County
(H,Hw,W&S) - See Statewide
BAYFIELD COUNTY
(B,R,D) - See Ashland County
(H,Hw,W&S) - See Statewide
BROWN COUNTY
Decision #AR-3153 (B)
39 FR 36825 - 10/11/74
Mod. #1 - 40 FR 21658 - 5/16/75
(D) - See Ashland County
(H,Hw,W&S) - See Statewide
BUFFALO COUNTY
(H,Hw,W&S) - See Statewide
BURNETT COUNTY
(H,Hw,W&S) - See Statewide
CALUMET COUNTY
(H,Hw,W&S) - See Statewide
CHIPPEWA COUNTY
(H,Hw,W&S) - See Statewide
(B,R) - See Eau Clair County
CLARK COUNTY
(H,Hw,W&S) - See Statewide
COLUMBIA COUNTY
(H,hw,W&S) - See Statewide
CRAWFORD COUNTY
(H,Hw,W&S) - See Statewide
DANE COUNTY
(H,Hw,W&S) - See Statewide
Decision #AR-3155 (B,R)
39 FR 36829 - 10/11/74
Mod. #1 - 40 FR 18284- 4/25/75
DODGE COUNTY
(H,Hw,W&S) - See Statewide
DOOR COUNTY
(D) - See Ashland County
(H,Hw,W&S) - See Statewide
DOUGLAS COUNTY
(B,R) - See Ashland County
DUNN COUNTY
(B) - See Polk County
(H,Hw,W&S) - See Statewide
EAU CLAIR COUNTY
Decision #AR-3154 (B,R)
39 FR 36827 - 10/11/74
Mod. #1 - 40 FR 18284 - 4/25/75
(H,Hw,W&S) - See Statewide

WISCONSIN (Cont'd.)

FLORENCE COUNTY
(H,Hw,W&S) - See Statewide
FOND DU LAC COUNTY
(H,Hw,W&S) - See Statewide
FOREST COUNTY
(H,Hw,W&S) - See Statewide
GRANT COUNTY
(H,Hw,W&S) - See Statewide
GREEN COUNTY
(B) - See Rock County
(H,Hw,W&S) - See Statewide
GREEN LAKE COUNTY
(B) - See Winnebago County
(H,Hw,W&S) - See Statewide
IOWA COUNTY
(B) - See Dane County
(H,Hw,W&S) - See Statewide
IRON COUNTY
(D) - See Ashland County
(H,Hw,W&S) - See Statewide
JACKSON COUNTY
(H,Hw,W&S) - See Statewide
JEFFERSON COUNTY
(H,Hw,W&S) - See Statewide
JUNEAU COUNTY
(H,Hw,W&S) - See Statewide
Decision #AR-3158 (B)
39 FR 36835 - 10/11/74
Mod. #1 - 40 FR 18285 - 4/25/75
KENOSHA COUNTY
(H,Hw,W&S) - See Statewide
Decision #AR-3159 (B,R)
39 FR 36837 - 10/11/74
Mod. #1 - 39 FR 41662 - -1/29/74
KEWAUNEE COUNTY
(D) - See Ashland County
(H,Hw,W&S) - See Statewide
LA CROSSE COUNTY
Decision #AR-3160 (B,R)
39 FR 36839 - 10/11/74
Mod. #1 - 40 FR 18286 - 4/25/75
(H,Hw,W&S) - See Statewide
LA FAYETTE COUNTY
(H,Hw,W&S) - See Statewide
LANGLADE COUNTY
(B) - See Marathon County
(H,Hw,W&S) - See Statewide
LINCOLN COUNTY
(B) - See Marathon County
(H,Hw,W&S) - See Statewide
MANITOWOC COUNTY
(H,Hw,W&S) - See Statewide
MARATHON COUNTY
Decision #AR-3161 (B)
39 FR 36840 - 10/11/74
Mod. #1 - 40 FR 18286 - 4/25/75
(H,Hw,W&S) - See Statewide
MARINETTE COUNTY
(D) - See Ashland County

WISCONSIN (Cont'd.

MARQUETTE COUNTY
(B) - See Winnebago County
(H,Hw,W&S) - See Statewide
MENOMINEE COUNTY
(H,Hw,W&S) - See Statewide
MILWAUKEE COUNTY
Decision #AR-3162 (B,R)
39 FR 36843 - 10/11/74
Mod. #1 - 40 FR 18287 - 4/25/75
(H,Hw,W&S) - See Statewide
MONROE COUNTY
(H,Hw,W&S) - See Statewide
OCONTO COUNTY
(D) - See Ashland County
(H,Hw,W&S) - See Statewide
ONEIDA COUNTY
(H,Hw,W&S) - See Statewide
OUTAGAMIE COUNTY
(H,Hw,W&S) - See Statewide
OZAUKEE COUNTY
(B,R) - See Milwaukee County
(D) - See Ashland County
(H,Hw,W&S) - See Statewide
PEPIN COUNTY
(B,R) - See Eau Clair County
(H,Hw,W&S) - See Statewide
PIERCE COUNTY
(H,Hw,W&S) - See Statewide
POLK COUNTY
Decision #AR-3152 (B)
39 FR 36823 - 10/11/74
Mod. #1 - 40 FRR18284 - 4/25/75
(H,Hw,W&S) - See Statewide
PORTAGE COUNTY
(H,Hw,W&S) - See Statewide
PRICE COUNTY
(H,Hw,W&S) - See Statewide
RACINE COUNTY
Decision #WI75-2064 (B,R)
40 FR 21691 - 5/16/75
(D) - See Ashland County
(H,Hw,W&S) - See Statewide
RICHLAND COUNTY
(H,Hw, W&S) - See Statewide
ROCK COUNTY
Decision #AR-3156 (B)
39 FR 36831 - 10/11/74
Mod. #1 - 40 FR 21658 - 5/16/75
(H,Hw,W&S) - See Statewide
RUSK COUNTY
(H,Hw,W&S) - See Statewide
SAINT CROIX COUNTY
(B) - See Polk County
(H,Hw,W&S) - See Statewide
SAUK COUNTY
(B) - See Dane County
(H,Hw,W&S) - See Statewide
SAWYER COUNTY
(H,Hw,W&S) - See Statewide

WISCONSIN (Cont'd.

SHAWANO COUNTY
(H,Hw,W&S) - See Statewide
SHEBOYGAN COUNTY
(D) - See Ashland County
TAYLOR COUNTY
(H,Hw,W&S) - See Statewide
TREMPEALEAU COUNTY
(H,Hw,W&S) - See Statewide
VERNON COUNTY
(H,Hw,W&S) - See Statewide
VILAS COUNTY
(H,Hw,W&S) - See Statewide
WALWORTH COUNTY
(H,Hw,W&S) - See Statewide
WASHBURN COUNTY
(H,Hw,W&S) - See Statewide
WASHINGTON COUNTY
(B,R) - See Milwaukee County
(H,Hw,W&S) - See Statewide
WAUKESHA COUNTY
(B,R) - See Milwaukee County
(H,Hw,W&S) - See Statewide
WAUPACA COUNTY
(B) - See Winnebago County
(H,Hw,W&S) - See Statewide
WASHARA COUNTY
(B) - See Winnebago County
(H,Hw,W&S) - SeeSStatewide
WINNEBAGO COUNTY
Decision #AR-3157 (B)
39 FR 36833 - 10/11/74
Mod. #1 - 40 FR 20562 - 5/9/75
(H,Hw,W&S) - SeeSStatewide
WOOD COUNTY
(H,Hw,W&S) - See Statewide

WYOMING

STATEWIDE
Decision #WY75-5011 (Hw)
40 FR 4879 - 1/31/75
Mod. #1 - 40 FR 16497 - 4/11/75
Mod. #2 - 40 FR 26187 - 6/20/75
ALBANY COUNTY
(Hw) - See Statewide
BIG HORN COUNTY
(Hw) - See Statewide
CAMPBELL COUNTY
(Hw) - See Statewide
CARBON COUNTY
(Hw) - See Statewide
CONVERSE COUNTY
Decision #WY75-5106 (B,H)
40 FR 34578 - 8/15/75
(Hw) - See Statewide
CROOK COUNTY
(Hw) - See Statewide
FREMONT COUNTY
(Hw) - See Statewide
GOSHEN COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
HOT SPRINGS COUNTY
(Hw) - See Statewide
JOHNSON COUNTY
(Hw) - See Statewide
LARAMIE COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
NATRONA COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
NIOBRARA COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
PARK COUNTY
(Hw) - See Statewide
PLATTE COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SUBLETTE COUNTY
(Hw) - See Statewide
SWEETWATER COUNTY
(Hw) - See Statewide
TETON COUNTY
(Hw) - See Statewide
UINTA COUNTY
(Hw) - See Statewide
WASHAKIE COUNTY
(Hw) - See Statewide
WESTON COUNTY
(Hw) - See Statewide
YELLOWSTONE NATIONAL PARK
(Hw) - See Statewide


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