AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol. 43—No. 63
3-31-78
PAGES
13491-13863

federal register

FRIDAY, MARCH 31, 1978



highlights

SUNSHINE ACT MEETINGS 13656

DISCHARGE REVIEW BOARDS
DOD establishes uniform policies, standards, and procedures 13564

COTTON TEXTILES FROM ROMANIA
CITA announces import restraint levels under new agreement; effective 4-3-78 13604

ALIEN PHYSICIANS
State amends regulations relating to Exchange-Visitor Programs; effective 1-10-78 13504

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM
Labor/ETA announces intention to award funds to additional national sponsoring organizations; proposals by 4-28-78 13647

GRAS STATUS
HEW/FDA extends until 5-30-78 the comment period on proposal to affirm certain alginates as safe 13584

"JUNK" PHONE CALLS
FCC institutes inquiry into manually dialed and automatically dialed unsolicited telephone calls; comments by 5-26-78 13589

PRIVACY ACT
CSC publishes additional routine use for a system of record; comments by 4-3-78; effective 5-1-78 13597
DOD/DCAA deletes certain systems of records; effective 4-30-78 13605
Interior/Secy publishes additional systems of records; comments by 5-1-78 13640

FISHERY CONSERVATION ZONE
Commerce/NOAA promulgates interim emergency regulations for the Northwest Atlantic Ocean; effective 4-1-78; comments by 5-15-78 13578

ATLANTIC GROUNDFISH
Commerce/NOAA announces approval of amendment to Fishery Management Plan 13601

SOCIAL WELFARE
Interior/BIA amends regulations relating to financial assistance and social services program; effective 5-1-78 13511

MEDICAID QUALITY CONTROL
HEW/HCFA amends regulations to expand information requirements; effective 4-1-78; comments by 5-1-78 13574

CONTINUED INSIDE

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies is 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington. D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.

INFORMATION AND ASSISTANCE

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

FEDERAL REGISTER, Daily Issue:	
Subscription orders (GPO)	**202**-783-3238
Subscription problems (GPO)	**202**-275-3050
"Dial - a - Regulation" (recorded summary of highlighted documents appearing in next day's issue).	**202**-523-5022
Scheduling of documents for publication.	523-3187
Copies of documents appearing in the Federal Register.	523-5240
Corrections	523-5237
Public Inspection Desk	523-5215
Finding Aids	523-5227
Public Briefings: "How To Use the Federal Register."	523-3517
Code of Federal Regulations (CFR)	523-3419
	523-3517
Finding Aids	523-5227

PRESIDENTIAL PAPERS:	
Executive Orders and Proclamations.	523-5233
Weekly Compilation of Presidential Documents.	523-5235
Public Papers of the Presidents	523-5235
Index	523-5235
PUBLIC LAWS:	
Public Law dates and numbers	523-5266
	523-5282
Slip Laws	523-5266
	523-5282
U.S. Statutes at Large	523-5266
	523-5282
Index	523-5266
	523-5282
U.S. Government Manual	523-5230
Automation	523-3408
Special Projects	523-4534

HIGHLIGHTS—Continued

RURAL HEALTH CLINIC SERVICES
HEW/HCFA proposes regulation governing the coverage and reimbursement under State Medicaid programs; comments by 5-1-78 (Part IX of this issue) **13860**

GRAIN DONATION
USDA/Secy gives notice of donation to Indian tribes due to severe drought (2 documents) **13596**

DNA EXPERIMENTS
HEW/NIH publishes U.S.-EMBO Workshop report; comments by 4-15-78 (Part III of this issue) **13748**

EXTENDED BENEFIT PROGRAM
Labor/ETA revises regulations to reflect recent changes in laws; effective 5-1-78 (Part V of this issue) **13818**

TAX CREDIT REDUCTIONS
Labor/ETA revises regulation on deferral to implement amendment to the Federal Unemployment Tax Act; effective 5-1-78 (Part VI of this issue) **13828**

NEW ANIMAL DRUGS
HEW/FDA grants extension of time to 5-19-78 for comments on proposed redefinition of articles used in medicated animal feeds **13585**

FAIR MARKET RENTS
HUD/Asst Secy proposes to amend rule applicable to new construction and substantial rehabilitation for all market areas; comments by 4-17-78 (Part IV of this issue) **13758**

MEXICAN DUCK
Interior/FWS proposes removal from the U.S. List of Endangered and Threatened Wildlife and Plants; comments by 5-30-78 ..... **13592**

FOOD ADDITIVES
HEW/FDA files petition proposing to provide for use of an ion exchange resin in potable water purification system **13587**

AUTOGENOUS BACTERIN
USDA/APHIS provides for reduction in the number of samples being submitted to veterinary services for testing; effective 3-31-78 ..... **13498**

BRUCELLOSIS AREAS
USDA/APHIS amends and updates regulations; effective 3-31-78 ..... **13495**

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION
Labor/ESA issues general wage determination decisions (Part II of this issue) **13732**

COMMUNITY DOMESTIC WATER AND WASTE DISPOSAL
USDA/FmHA amends regulations on development grants; effective 3-31-78 ..... **13494**

FEDERAL GRANT-IN-AID-SYSTEM
Justice/LEAA gives notice of change in grant application and reporting requirements **13645**

INCOME TAX
Treasury/IRS intends to allow public inspection of certain written determinations **13652**

INSULIN PRODUCTS
HEW/FDA proposes amending requirements for requesting certification of certain products; comments by 5-30-78 ..... **13585**

GEOTHERMAL RESOURCES

Interior/GS revises operating regulations imposed on Federal lessees; effective 3-31-78 (Part VII of this issue) 13832

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

HUD/Secy proposes comprehensive revision of requirements; comments by 5-30-78 (Part VIII of this issue) 13836

HUD/CPD proposes that certain acquisitions and resulting displacements be subject to departmental regulations; comments by 5-30-78 (Part VIII of this issue) 13858

EXCISE TAXES

Treasury/IRS provides final regulations relating to special provisions applicable to manufacturers and retailers 13572

Treasury/IRS proposes regulation clarifying the law involving light-duty trucks, buses, and related articles; comments by 5-30-78 13587

RAIL TRANSPORT OF HAZARDOUS MATERIALS

DOT/FRA announces public inquiry on retrofit timetable for 112 and 114 uninsulated pressure tank cars; inquiry on 4-7-78 13652

MEETINGS—

Commerce/NOAA: North Pacific Fishery Council and its Scientific and Statistical Committee and Advisory Panel, 4-26 through 4-28-78 13602

DOD/Secy: Advisory Group on Electron Devices, 5-4-78 ... 13606

Defense Science Board Task Force on ICBMs/MX, 4-25 and 4-26-78 13605

DOE/Intergovernmental and Institutional Relations office: Nuclear Waste Management Task Force draft report and waste isolation pilot plant project, 4-11, 4-12, and 4-74-78 13630

FCC: Personal Use Radio Advisory Committee, 4-19 and 4-20-78 13627

Working Group C of the Advisory Group on Electron Devices, 4-21-78 13602

HEW/ADAMHA: National Advisory Council on Alcohol Abuse and Alcoholism, 5-22 and 5-23-78 13630

HRA: Graduate Medical Education National Advisory Committee, 4-18-78 13632

HSA: National Advisory Council on Migrant Health, 4-24 through 4-26-78 13633

NIH: Arteriosclerosis and Hypertension Advisory Committee, 5-8-78 13633

Ethics Advisory Board, 5-12 and 5-13-78 13633

National Advisory Neurological and Communicative Disorders and Stroke Council, 5-25 through 5-27-78 . 13634

National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee, 5-10-78 13634

National Cancer Institute Committees Advisory, 5-2, 5-3, 5-9, 5-15, and 5-16-78 13634

National Diabetes Advisory Board, 5-17-78 13634

Secy: President's Committee on Mental Retardation, 4-20 and 4-21-78 13635

Interior/BLM: Grazing Advisory Board to the Cedar City District, 5-19-78 13639

Labor/BLS: Business Research Advisory Council's Committee on Productivity and Technology and Foreign Labor Statistics, 4-20-78 13646

Business Research Advisory Council's Committee on Occupational Safety and Health, 4-18-78 13646

National Commission for Man Power Policy, 4-28-78 13649

NSF: Subcommittee on Anthropology, 4-27 and 4-28-78 ... 13649

Subcommittee on History and Philosophy of Science, 4-28-78 13649

Subcommittee to Review the Space Radiation Effects Laboratory, 4-18-78 13649

SBA: National Advisory Council, 5-11-78 13651

Region I Advisory Council Executive Board, 4-21-78 13652

CHANGED MEETINGS—

Commerce/ITA: Exporters' Textile Advisory Committee, 4-11-78 13600

HEW/FDA: Panel on Review of Topical Analgesics, 4-19 and 4-20-78 13631

CANCELLED MEETINGS—

HEW/NIH: Carcinogenesis Program Scientific Review Committee, 4-3-78 13633

SEPARATE PARTS OF THIS ISSUE

Part II, Labor/ESA 13731

Part III, HEW/NIH 13747

Part IV, HUD 13757

Part V, Labor/ETA 13817

Part VI, Labor/ETA 13828

Part VII, Int/GS 13831

Part VIII, HUD 13836

Part IX, HEW-HCFA 13859

reminders

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

Rules Going Into Effect Today

FHLBB—Electronic fund transfers through remote service units; operations 9790; 3-10-78

HUD/Low Income Housing—Loans for housing the elderly or handicapped..... 8492; 3-1-78

Commerce/Secy—Consumer Product Information Labeling Program; amendment to permit labels to include information about a performance characteristic when another Federal agency requires labeled information about that characteristic 8254; 3-1-78

Labor/ETA—FY 1978 Veterans preference indicators of compliance levels. 9092; 3-3-78

List of Public Laws

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

contents

AGRICULTURAL MARKETING SERVICE

Rules

Lemons grown in Calif. and Ariz 13492
Oranges (Valencia) grown in Ariz. and Calif 13492
Raisins produced from grapes grown in Calif 13493

Proposed Rules

Olives grown in Calif 13584

AGRICULTURE DEPARTMENT

See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Farmers Home Administration; Forest Service.

Notices

Feed grain donations:
Cheyenne River Sioux Indian Lands, S. Dak 13596
Fort Berthold Indian Lands, N. Dak 13596

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Notices

Meetings:
Advisory Committees; May 13630

ALCOHOL, TOBACCO AND FIREARMS BUREAU

Rules

Reorganization; title and definition changes, editorial changes, etc 13531

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

Rules

Livestock and poultry quarantine:
Brucellosis 13495
Plant quarantine, foreign:
Oranges, Unshu 13491
Viruses, serums, toxins, etc.:
Autogenous bacterin; reduction of submitted samples 13498

ARMS CONTROL AND DISARMAMENT AGENCY

Rules

Organization and functions 13508

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

Notices

Procurement list, 1978; additions and deletions 13605

BONNEVILLE POWER ADMINISTRATION

Notices

Environmental statements; availability, etc.:
Wholesale electric rate increase 13607

CIVIL AERONAUTICS BOARD

Rules

Air freight forwarders, cooperative shippers associations, etc.:
Operating authority, liberalized 13502

Notices

Hearings, etc.:
Costello Travel Service, Inc., et al 13597
Super saver fares investigation 13597

CIVIL SERVICE COMMISSION

Rules

Excepted service:
Defense Department et al 13491

Proposed Rules

Health benefits, Federal employees:
Transfers from retired Federal employees health benefits program 13583
Health benefits, retired Federal employees:
Coverage cost; government contribution increase 13583

Notices

Health benefits program, Federal employees; open season 13597
Privacy Act; systems of records 13597

COMMERCE DEPARTMENT

See also Industry and Trade Administration; Maritime Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration; National Technical Information Service.

Notices

Committees; establishment, renewals, terminations, etc.:
Gulf of Mexico Fishery Management Council Advisory Panel 13604

COMMODITY CREDIT CORPORATION

Notices

Monthly sales list:
June 1, 1977 through May 31, 1978 13595

COMMUNITY PLANNING AND DEVELOPMENT, OFFICE OF ASSISTANT SECRETARY

Proposed Rules

Community development block grants:
Construction, rehabilitation, or demolition assistance; relocation payments and assistance and real property acquisition 13836

DEFENSE CIVIL PREPAREDNESS AGENCY

Proposed Rules

Insigne; extension of time 13588

DEFENSE CONTRACT AUDIT AGENCY

Notices

Privacy Act; system of records .. 13605

DEFENSE DEPARTMENT

See also Defense Civil Preparedness Agency; Defense Contract Audit Agency.

Rules

Discharge review boards; procedures and standards 13564

Notices

Meetings:
Electron Devices Advisory Group (2 documents) 13606
Science Board task forces, ICBMs/MX 13605

ECONOMIC REGULATORY ADMINISTRATION

Notices

Appeals and applications for exception, etc.; cases filed with Administrative Review Office:
List of applicants, etc. (2 documents) 13607

EMPLOYMENT AND TRAINING ADMINISTRATION

Rules

Administrative procedure:
Tax credit reductions; deferral 13828
Unemployment compensation and assistance:
Extended benefits 13818

Notices

Employment transfer and business competition determinations; financial assistance applications 13647
Senior community service employment program:
Sponsoring organization; funding 13647

EMPLOYMENT STANDARDS ADMINISTRATION

Notices

Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedeas decisions (Fla., Nebr., Okla., P.R., Tex) 13732

20

ENERGY DEPARTMENT

See also Bonneville Power Administration; Economic Regulatory Administration; Federal Energy Regulatory Commission; Intergovernmental and Institutional Relations Office.

Notices

Environmental statements; availability, etc.:
Wind Turbine Generator System, R.I 13606

ENVIRONMENTAL PROTECTION AGENCY

Rules

Air quality implementation plans; approval and promulgation; various States, etc.:
Oklahoma 13573

Proposed Rules

Air pollution control aircraft and aircraft engines:
Turbine engines, large in-use gas; standards; correction 13588

Notices

Environmental statements; availability, etc.:
Agency statements, weekly receipts 13621

FARMERS HOME ADMINISTRATION

Rules

Association, community facility loans:
Water and waste disposal systems, community domestic; development grants 13494

Notices

Disaster and emergency areas:
Arkansas 13595
Pennsylvania 13595

FEDERAL COMMUNICATIONS COMMISSION

Rules

Experimental broadcast services:
Type accepted equipment, use 13575
Industrial and land transportation radio services:
Taxicab radio service channels (450 MHz band); interservice geographic sharing; correction 13577

Proposed Rules

Telephone network, connection of terminal equipment:
"Junk" telephone calls; inquiry 13589
Television broadcast stations; table of assignments:
Virginia; extension of time 13592

Notices

Committees; establishments, renewals, terminations, etc.:
Personal Use Radio Advisory Committee 13627
Domestic public radio services; applications accepted for filing 13624
FM broadcast applications ready and available for processing 13626
Rulemaking proceedings filed, granted, denied, etc.; petitions by various companies (2 documents) 13629
Hearings, etc.:
American International Development, Inc. et al 13623
Gray-Schwartz Broadcasting et al 13626
SJR Communications, Inc 13627

FEDERAL DISASTER ASSISTANCE ADMINISTRATION

Notices

Disaster and emergency areas:
Arizona 13635
California 13635

FEDERAL ENERGY REGULATORY COMMISSION

Notices

Natural gas companies:
Certificates of public convience and necessity; applications, abandonment of service and petitions to amend 13610
Hearings, etc.:
Area rate proceedings 13612
Florida Gas Transmission Co. 13616
Florida Power & Light Co 13616
Nevada Power Co 13617
South Texas Natural Gas Gathering Co. et al 13615
Sun Oil Co. et al 13612
Tennessee Gas Pipeline Co. (2 documents) 13618, 13619
Texas Eastern Transmission Corp 13619
Texas Power & Light Co 13612
Transcontinental Gas Pipe Line Corp. (2 documents) 13619
Trunkline Gas Co 13620

FEDERAL HOME LOAN BANK BOARD

Notices

Applications, etc.:
Central Savings & Loan Association 13629

FEDERAL HOUSING COMMISSIONER—OFFICE OF ASSISTANT SECRETARY FOR HOUSING

Rules

Mortage loan insurance programs, low-income housing, etc.; corrections 13511

Proposed Rules

Low-income housing:
Fair market rents, new construction and substantial rehabilitation; all market areas 13758

FEDERAL RAILROAD ADMINISTRATION

Notices

Tank cars, 112 and 114 uninsulated pressure; retrofit timetable; safety inquiry 13652

FEDERAL RESERVE SYSTEM

Notices

Applications, etc.:
Chemical New York Corp 13630

FISH AND WILDLIFE SERVICE

Rules

Fishing:
National Wildlife Refuges in Md., N.C., and Va 13577

Proposed Rules

Endangered and threatened species; fish, wildlife, and plants:
Duck, Mexican; deregulation .. 13592

FOOD AND DRUG ADMINISTRATION

Rules

Biological products:
Diagnostic substances for laboratory test standards; reagent red blood cells; correction 13504
Cosmetics:
Labeling claims, use of "hypoallergenic"; revoked; correction 13504

Proposed Rules

Animal drugs, feeds, and related products, etc.:
Medicated feed articles; definitions and considerations; extension of time 13585
GRAS or prior-sanctioned ingredients:
Alginates; extension of time ... 13584
Sorbic acid and its salts; correction 13584
Human drugs:
Insulin products; certification requirements 13585
Medical devices:
Public information; disclosure of applications; correction ... 13587

Notices

Food additives, petitions filed or withdrawn:
Institute for Research, Inc 13632
Medical devices:
Angiotensin converting enzyme assay system; reclassification petition recommendation 13631
Meetings:
Dermatology Advisory Committee et al.; rescheduled 13631
EMI Therapy Systems, Inc.; diagnostic systems; correction 13632

FOREST SERVICE

Notices

Environmental statements; availability, etc.:
Colville National Forest, Kettle Range Planning Unit Land Management Plan, Wash 13596

Malheur and Ochoco National Forest, South Fork Planning Unit Land Management Plan, Oreg 13596

GEOLOGICAL SURVEY

Rules

Geothermal resources operations; public, acquired, and withdrawn lands; well and exploration procedures simplified 13832

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

See also Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Care Financing Administration; Health Resources Administration; Health Services Administration; National Institutes of Health.

Notices

Meetings:
Mental Retardation, President's Committee 13635

HEALTH CARE FINANCING ADMINISTRATION

Rules

Medical assistance programs:
Medicaid quality control systems; information requirements expansion 13574

Proposed Rules

Medical assistance programs:
Medicaid, State; rural health clinic services 13860

HEALTH RESOURCES ADMINISTRATION

Notices

Meetings:
Advisory Committee, April 13632

HEALTH SERVICES ADMINISTRATION

Notices

Meetings:
Advisory Committees, April 13633

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

See also Community Planning and Development; Office of Assistant Secretary; Federal Disaster Assistance Administration; Federal Housing Commissioner—Office of Assistant Secretary for Housing.

Proposed Rules

Relocation payments and assistance and real property acquisition 13836

IMMIGRATION AND NATURALIZATION SERVICE

Rules

Nationality regulations:
Citizenship certificates; children under age 16; procedure further suspended 13494

INDIAN AFFAIRS BUREAU

Rules

Financial assistance and social services program; absolute limits imposed by appropriated funds 13511

Notices

Irrigation projects, operation and maintenance charges:
Fort Hall, Idaho 13635
Wapato, Wash 13636

INDUSTRY AND TRADE ADMINISTRATION

Notices

Meetings:
Exporters' Textile Advisory Committee 13600
Organization and functions:
Trade Regulation Bureau 13599

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS OFFICE

Notices

Meetings:
Nuclear Waste Management Task Force Draft Report and Waste Isolation Pilot Plant (WIPP) Project 13620

INTERIOR DEPARTMENT

See also Fish and Wildlife Service; Geological Survey; Indian Affairs Bureau; Land Management Bureau.

Notices

Environmental statements; availability, etc.:
Canaan Valley National Wildlife Refuge, W. Va 13640
Privacy Act; systems of records 13640

INTERNAL REVENUE SERVICE

Rules

Excise taxes:
Manufacturers and retailers; special provisions, etc 13512

Proposed Rules

Excise taxes:
Trucks (light duty) and buses; manufacture and sale 13587

Notices

Written determinations, public inspection; disclosure intention 13652

INTERSTATE COMMERCE COMMISSION

Notices

Fourth section applications for relief 13655
Hearing assignments (2 documents) 13654
Petitions filing:
American Bus Association 13654
Railroad services abandonment:
Illinois Central Gulf Railroad Co 13655

JUSTICE DEPARTMENT

See Immigration and Naturalization Service; Law Enforcement Assistance Administration.

LABOR DEPARTMENT

See also Employment and Training Administration; Employment Standards Administration; Labor Statistics Bureau; Mine Safety and Health Administration; Occupational Safety and Health Administration.

Rules

Urban mass transportation systems, financing; applications and certification of acceptable employee protective arrangements 13558

Notices

Authority delegations:
Mine Safety and Health Assistant Secretary et al.; mine safety and health programs administration and enforcement 13648

LABOR STATISTICS BUREAU

Notices

Meetings:
Business Research Advisory Council (2 documents) 13646
Unemployment compensation programs; State:
Seasonally adjusted weekly unemployment rates; computation factors 13646, 13647

LAND MANAGEMENT BUREAU

Notices

Applications, etc.:
New Mexico (2 documents) 13637
Wyoming (3 documents) 13638
Authority delegations:
Nevada Area Managers, Elko District 13638
Meetings:
Cedar City District Grazing Advisory Board 13639
Survey plat filings:
California (2 documents) 13639

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Notices

Grant applications, reporting requirements 13645

MANPOWER POLICY, NATIONAL COMMISSION

Notices

Meetings 13649

MARITIME ADMINISTRATION

Notices

Applications, etc.:
Lykes Bros. Steamship Co., Inc 13600

MINE SAFETY AND HEALTH ADMINISTRATION

Rules

Mandatory safety standards for underground coal mines; illumination standards; effective date deferred 13563

NATIONAL BUREAU OF STANDARDS

Notices

Information processing standards, Federal:
- User-terminal protocols; entry and exit procedures between terminal users and computer services; inquiry, extension of time 13601

Voluntary product standards:
- Plumbing fixtures, porcelain enameled formed steel; withdrawal intent 13600

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings:
- Arteriosclerosis and Hypertension Advisory Committee 13633
- Cancer Institute, National; Advisory Committees..... 13634
- Carcinogenesis Program Scientific Review Committee; cancellation 13633
- Diabetes National Advisory Board 13634
- Ethics Advisory Board 13633
- Neurological and Communicative Disorders and Stroke National Advisory Council (2 documents)..... 13634

Recombinant DNA experiments involving genomes of animal, plant, and insects viruses; report 13748

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Rules

Fishery conservation and management:
- Atlantic haddock, cod, yellowtail flounder; emergency regulations 13578
- Surf clam and ocean quahog fisheries, Atlantic 13581

Notices

Fishery management plans, environmental statements, meetings, etc.:
- Atlantic groundfish 13601

Meetings:
- North Pacific Fishery Management Council 13602

Marine mammal permit applications, etc.:
- Hubbs-Sea World Research Institute 13602
- Marineland S.A 13602
- Mate, Dr. Bruce R 13603
- Northeast & Alaska Fisheries Center 13603
- United Fishermen of Alaska .. 13603

NATIONAL SCIENCE FOUNDATION

Notices

Meetings:
- Behavioral and Neural Sciences Advisory Committee, Anthropology Subcommittee 13649
- Physics Advisory Committee, Space Radiation Effects Laboratory Review Subcommittee 13649
- Social Sciences Advisory Committee, History and Philosophy of Science Subcommittee 13649

NATIONAL TECHNICAL INFORMATION SERVICE

Notices

Inventions, Government-owned; availability for licensing 13603

NUCLEAR REGULATORY COMMISSION

Notices

Applications etc.:
- Nebraska Public Power District 13650

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules

Health and safety standards:
- Benzene; occupational exposure; corrections..... 13561

Notices

Applications, etc.:
- Minnesota Mining & Manufacturing Co.; correction 13648

State plans; development, enforcement, etc.:
- Oregon; extension of time 13648

SMALL BUSINESS ADMINISTRATION

Rules

Small business size standards:
- Size determination procedures, size status proceedings decisions, etc 13498

Notices

Applications, etc.:
- American Business Capital Corp 13650
- Cohen Capital Corp..... 13651

Authority delegations:
- Field offices 13651

Disaster areas:
- Arizona 13650
- Louisiana 13650

Lending institutions; maximum interest rates..... 13651

Meetings, advisory councils:
- National 13651
- Region I Executive Board 13652

STATE DEPARTMENT

Rules

International educational and cultural exchange:
- Alien physicians; exchange-visitor program 13504

TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE

Notices

Cotton textiles:
- Romania 13604

TRANSPORTATION DEPARTMENT

See Federal Railroad Administration.

TREASURY DEPARTMENT

See Alcohol, Tobacco and Firearms Bureau; Internal Revenue Service.

list of cfr parts affected in this issue

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

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

5 CFR

213 13491

PROPOSED RULES:

890 13583
891 13583

7 CFR

319 13491
908 13492
910 13492
989 13493
1823 13494

PROPOSED RULES:

932 13584

8 CFR

341 13494

9 CFR

78 13495
113 13498

13 CFR

121 13498

14 CFR

296 13502

20 CFR

601 13828
615 13818

21 CFR

610 13504
660 13504
701 13504

PROPOSED RULES:

133 13584
150 13584
166 13584
172 13584
182 (2 documents) 13584
184 (2 documents) 13584
186 13584
207 13585
210 13585
225 13585
226 13585
429 13585
501 13585
510 13585
514 13585
558 13585
812 13587
814 13587

22 CFR

63 13504
601 13508

24 CFR

200 13511
203 13511
233 13511
880 13511
881 13511
882 13511
883 13511
891 13511

PROPOSED RULES:

42 13836
570 13858
888 13758

25 CFR

20 13511

26 CFR

48 13512

PROPOSED RULES:

48 13587

27 CFR

1 13532
2 13532
3 13532
4 13532
5 13533
6 13533
7 13534
8 13534
18 13534
47 13535
70 13535
72 13535
170 13536
173 13536
178 13536
179 13538
181 13540
186 13541
194 13541
195 13542
196 13542
197 13543
200 13543
201 13544
211 13546
212 13547
213 13547

27 CFR—Continued

231 13548
240 13548
245 13550
250 13551
251 13552
252 13552
270 13553
275 13554
285 13555
290 13556
295 13557
296 13557

29 CFR

215 13558
1910 13561

30 CFR

75 13563
270 13832

32 CFR

70 13564

PROPOSED RULES:

1806 13588

40 CFR

52 13572

PROPOSED RULES:

87 13588

42 CFR

450 13574

PROPOSED RULES:

449 13860
450 13860

47 CFR

74 13575
91 13577
93 13577

PROPOSED RULES:

68 13589
73 13592

50 CFR

33 13577
651 13578
652 13578

PROPOSED RULES:

17 13592

CUMULATIVE LIST OF CFR PARTS AFFECTED DURING MARCH

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

1 CFR

Ch. I 8251
3 10329

3 CFR

PROCLAMATIONS:

4552 11141
4553 11557
4554 11559
4555 11561
4556 11959
4557 12671
4558 13051

EXECUTIVE ORDERS:

10705 (Revoked by EO 12046) 13349
11051 (Amended by EO 12046) 13349
11191 (Revoked by EO 12046) 13349
11312 (Revoked by EO 12047) 13359
11490 (Amended by EO 12046) 13349
11556 (Revoked by EO 12046) 13349
11725 (Amended by EO 12046) 13349
12042 9269
12043 9773
12044 12661
12045 13347
12046 13349
12047 13359
12048 13361
12049 13363

CLEAN AIR ACT DETERMINATIONS:

February 11, 1978 12273
February 15, 1978 12275
February 18, 1978 12277
February 24, 1978 12279
March 7, 1978 12281
March 13, 1978 12283
March 14, 1978 12285
March 21, 1978 ..... 12287, 12289
March 27, 1978 13365

MEMORANDUMS:

February 13, 1978 8247
February 15, 1978 8249
March 27, 1978 12843

4 CFR

331 9775
332 9780
351 9781
403 9781
406 9781
409 9781

PROPOSED RULES:

331 10699
403 10699
408 10699
410 10699
417 11118
418 11118
419 11118
420 11118
421 11118

5 CFR

Ch. X 8505
Ch. XII 8505
213 ..... 8251, 8777, 9781, 11143, 11689, 12291, 12292, 12845, 13491
591 12292
713 12293

PROPOSED RULES:

890 13583
891 13583
300 ..... 9131, 11812

7 CFR

1 12673
2 ..... 8252, 11689, 13053
29 9585
180 9782
225 13020
227 12296
240 12299
247 8777
250 9782
272 9783
319 13491
354 12301
701 8783
711 9783
722 8785
760 10535
795 9784
905 ..... 9455, 10901
907 ..... 8505, 9586, 10901, 11961, 13367
908 ..... 8506, 8785, 9586, 10902, 11961, 13054, 13367, 13492
910 ..... 8785, 9787, 11143, 12307, 13492
947 12845
971 13054
989 13493
991 10902
1135 11143
1207 9133
1464 9133
1468 9456
1472 9461
1823 13494
1861 8786
1901 8787
1933 1114
2852 10539

PROPOSED RULES:

Ch. II 10568
17 13385
410 9616
760 10568
908 10370
911 13070
915 13072
929 12020
932 13584
967 12329
1001 12695
1464 11707

7 CFR—Continued

PROPOSED RULES—Continued

1701 ..... 10571, 12869
1409 9155
2853 ..... 9284, 10571
2858 11204

8 CFR

214 12673
341 13494

PROPOSED RULES:

214 11707

9 CFR

73 10544
78 ..... 8787, 11144, 12307, 13495
92 11690
112 11145
113 ..... 11145, 13498
350 11147
351 11147
354 11148
355 11148
362 11148
381 12846

PROPOSED RULES:

54 11204
97 10571
201 13488
203 13488
317 8807
318 8807

10 CFR

9 13055
50 11963
51 10544
70 11964
73 11964
170 11815
205 ..... 12848, 13073
209 12852
212 10329

PROPOSED RULES:

30 10370
34 ..... 12715, 12718
35 ..... 11206, 11208
40 10370
50 10370
70 10370
205 ..... 12331, 13073
209 ..... 10572, 12333
211 ..... 9488, 12332
212 ..... 9488, 10935, 12332
213 13386
214 13388
218 12333
711 12333
1010 9284
1021 12333

12 CFR

202 ..... 11966, 11967
215 8506
225 10331
226 13055
303 9788
329 9789
330 10683
338 11563
543 10544
545 9790
550 10546
564 10547
566 10546

PROPOSED RULES:

Ch. I 13074
Ch. II 13074
Ch. III 13074
Ch. V 13074
11 ..... 10371, 10938
206 10387
207 11214
208 12720
220 11214
221 11214
225 11584
335 10401

13 CFR

107 ..... 9134, 10683
121 ..... 10332, 13498
123 10684
305 13368
308 8252
309 ..... 8252, 8507

PROPOSED RULES:

112 9488
113 9488
120 12720
121 ..... 11584, 12721

14 CFR

13 10333
25 10338
36 8722
39 ..... 9135, 9587, 9590-9593, 10340, 10904, 11569, 11570, 11969, 11970, 13369-13372
71 ..... 8507-8508, 9137-9139, 9594, 9595, 10340, 11571-11573, 11970-11972, 12675, 13373-13374
73 ..... 9139, 9596, 11573, 11574
91 ..... 10338, 10903, 10905, 11575
95 8508
97 ..... 9596, 11972
121 ..... 9598, 11974, 11976
129 11976
296 13502
302 8254
1214 9790

PROPOSED RULES:

Ch. II 10938, 12330
37 9155
39 ..... 9156, 9617, 10410, 12025, 12026, 13390, 13391
71 ..... 9157, 9617-9622, 10938, 11585-11587, 12026, 12027, 12721, 13393

14 CFR—Continued

PROPOSED RULES—Continued

73 12028
75 9157
121 ..... 9159, 9160, 10938
129 9160
207 ..... 8266, 11215
208 ..... 8266, 11215
212 ..... 8266, 11215
214 ..... 8266, 11215
221 ..... 11225, 12029
223 8266
241 11833
371 11215
372a 11215
373 11215
378 11215
378a 11215
399 11833
1221 8267

15 CFR

16 8254
369 11576
370 12675
371 10340
923 8378
930 10502

PROPOSED RULES:

904 9623

16 CFR

1 11690
2 10684
3 11978
4 11978
13 ..... 9141, 9469-9471, 13056, 13057
600 ..... 9471, 13058
1303 8514
1500 ..... 12308, 12636
1701 11979

PROPOSED RULES:

13 ..... 9493, 9495, 9497, 9623, 10572, 11709, 11834, 13074
437 11834
443 8268
1115 13393
1116 13393
1201 10700
1505 10575
1701 12029

17 CFR

140 9143
200 ..... 11980, 13375
211 9599
229 9602
230 10548
231 9599
239 10548
240 ..... 10550, 11542, 11981
241 ..... 9599, 11542

PROPOSED RULES:

210 ..... 9823, 10876, 12334
230 ..... 9823, 10701, 10876
231 ..... 8807, 10888
239 ..... 9823, 10876, 10888
240 ..... 8269, 8807 9271, 9823, 10876
241 ..... 8807, 10288
249 ..... 8807, 9823, 10876, 10888
270 12721

18 CFR

157 11691

PROPOSED RULES:

2 8270
154 8270
803 12724

19 CFR

4 13059
6 13059
7 13060
10 13060
12 13060
18 13061
19 10684
22 13061
101 13061
111 13061
134 13061
141 11815
144 13061
145 13061
148 13061
153 11982
162 13062
174 13062

PROPOSED RULES:

101 11587

20 CFR

404 12675
416 11983
601 13828
602 10311
603 9103
615 13818
621 10311
651 ..... 9103, 10311
653 ..... 9092, 10312, 12855
654 9103
655 10312
658 9105

PROPOSED RULES:

404 ..... 9284, 11714, 12031-12033, 13395
416 ..... 8555, 9284, 11714, 12033

21 CFR

Ch. I 11301
2 11316
5 ..... 11694, 11695
14 11149
81 8796
101 ..... 8793, 12856
103 9272
105 10551
131 11150
139 11695
146 ..... 10552, 11695
155 12858
172 11696
173 11317
175 11697
176 11698
182 ..... 11697, 11698
184 11698
186 11698
189 11317
250 10551
300 11317
310 10553

21 CFR—Continued

314 8797
431 9792
433 11150
436 ..... 9799, 11151
440 ..... 9799, 9800
442 9800
444 9801
446 11151
449 9800
452 9800
455 ..... 9801, 9802
460 ..... 9792, 12858
500 ..... 9802, 11317, 12310
510 ..... 9803, 11175, 11698
520 ..... 8797, 9804, 10553, 11176, 11177, 12311
522 ..... 9272, 9804, 11176
524 11176
526 10554
539 11177
540 11700
546 11177
558 ..... 9803, 11176
573 ..... 11181, 11700
610 ..... 10554, 13504
640 ..... 9804, 12311
660 ..... 10554, 13504
700 11317
701 ..... 10559, 13504
801 11318
813 12311

PROPOSED RULES:

109 8808
131 11226
133 ..... 9823, 13584
150 ..... 9823, 13584
166 ..... 9823, 13584
172 ..... 9808, 13584
182 ..... 8808, 8809, 9823, 11227, 12874, 13584
184 ..... 8808, 8809, 9823, 10577, 11227, 12874, 13584
186 ..... 9823, 12874, 13584
193 9319
207 13585
210 13585
225 13585
226 13585
312 12869
314 12869
320 11227
429 13585
431 12869
436 11714
448 11714
455 11715
501 13585
510 13585
514 ..... 9829, 12869, 13585
558 ..... 11716, 13585
601 12869
610 11716
680 11716
740 9830
807 12869
812 13587
814 ..... 12869, 13587
820 9320
1308 11588

22 CFR

63 13504
601 13508

23 CFR

1204 9143

PROPOSED RULES:

Ch. I 10578

24 CFR

0 8255
200 ..... 9475, 13511
203 ..... 8798, 13511
213 8798
233 13511
234 8798
235 9273
570 ..... 8434, 8450, 8476, 13340
571 12222
803 13182
880 13511
881 13511
882 13511
883 13511
885 8492
888 13182
891 13511
1914 ..... 11181, 11183, 12675
1915 11184
1916 ..... 10905, 11193, 11194
1917 ..... 10906, 11488
1920 10906–10908
2205 8764

PROPOSED RULES:

42 13836
81 11589
570 13858
888 ..... 12878, 13758
1917 ..... 11499, 11660–11670, 11788–11798, 11928–11952, 12192–12215

25 CFR

20 13511
73 8798
183 11815
191 8799
221 8799
231 11983

PROPOSED RULES:

43p 8555
113 8557
271 12878
272 12878
273 12878
274 12878
275 12878
276 12878
277 12034

26 CFR

1 ..... 9475, 10685, 11195
48 13512

PROPOSED RULES:

1 ..... 10411, 10704, 10939, 11589, 12038, 12336
20 12336
48 13587
301 12038

27 CFR

1 13532
2 13532
3 13532
4 13532
5 13533
6 13533
7 13534
8 13534
18 13534
47 13535
70 13535
71 10687
72 13535
170 13536
173 13536
178 13536
179 13538
181 13540
186 13541
194 13541
195 13542
196 13542
197 13543
200 13543
201 13544
211 13546
212 13547
213 13547
231 13548
240 13548
245 13550
250 13551
251 13552
252 13552
270 13553
275 13554
285 13555
290 13556
295 13557
296 13557

PROPOSED RULES:

6 8270
8 8270
47 11745
178 11742
179 11742

28 CFR

0 8256

PROPOSED RULES:

50 ..... 9131, 11812

29 CFR

215 13558
521 12311
1902 11195
1910 ..... 11514, 13561
1952 9806
2520 10130
2610 10559
2700 10320

PROPOSED RULES:

1607 ..... 9131, 11812
1910 ..... 9830, 9831, 11227, 12890
2510 10579
2610 10580

30 CFR

1 12312
11 12312
15 12313
16 12313
17 12313
18 12313
19 12314
20 12314
21 12314
22 12315
23 12315
24 12315
25 12315
26 12315
27 12316
28 12316
29 12316
31 12317
32 12317
33 12317
35 12317
36 12318
50 12318
55 12318
56 12318
57 12318
70 12319
71 12319
74 12319
75 ..... 12319, 13563
77 12320
90 12320
231 10341
270 13832

PROPOSED RULES:

40 9108
41 9109
43 9113
44 9114
55 9114
56 9114
57 9114
81 9108
82 9111
100 9120
270 12892

31 CFR

52 9807
223 12677

PROPOSED RULES:

51 9320
103 10940

32 CFR

70 13564
186 12678
256 12680
268 11196
706 ..... 8256, 12681
763 11815
888h 10908

PROPOSED RULES:

Ch. XIV 12039
288 8271
1460 10581
1469 10581
1806 ..... 10940, 13588

33 CFR

3 8515
87 10911
117 ..... 8516-8517, 11983, 13378
161 12257
165 ..... 10342, 12682
181 9766
209 8257
402 11672

PROPOSED RULES:

Ch. I 12840
117 ..... 8559, 9625, 13401
183 9260
207 10942
401 13075

35 CFR

10 11577
119 13379

36 CFR

215 11827

PROPOSED RULES:

7 ..... 9321, 12042
223 13401

37 CFR

202 ..... 11701, 12320

38 CFR

2 10560
3 11703
14 10560
36 9274

PROPOSED RULES:

2 12892
14 12893
21 ..... 9322, 10581, 10706
36 10583

39 CFR

PROPOSED RULES:

111 ..... 9831, 12044

40 CFR

33 10342
52 ..... 9274, 9275, 9603, 11816, 11817, 11819, 13572
60 ..... 8799, 9276, 9452, 10866, 11984, 12324
61 8799
81 8962
87 12614
116 10474
117 10484
118 10485
119 10491
180 12682
205 12326
436 9808
710 9254
712 11318
762 11318

PROPOSED RULES:

51 ..... 8809-8810, 9162
52 ..... 10707-10709, 11834, 12047
87 ..... 12615, 13588
116 10474

40 CFR—Continued

PROPOSED RULES—Continued

117 10484
118 10485
119 10491
141 ..... 9163, 10942, 13077
162 11590
180 ..... 9163, 9165, 9323, 10943, 12725
205 ..... 10822, 12047
228 8811
257 12726
413 9324
423 8812

41 CFR

Ch. 101 10342
1-3 11986
1-12 11986
8-4 8258
15-7 9278
101-21 11820
101-25 8800
101-45 11820
114-43 11577
114-44 11580
114-45 11580
114-46 11582

PROPOSED RULES:

9-1 12727
14H-70 12894
50-202 12337
60-3 ..... 9131, 11812
101-11 12731
114-150 8272

42 CFR

121 13040
123 10100
405 8258
448 9810
449 ..... 8800, 9810
450 ..... 8801, 9817, 13574

PROPOSED RULES:

71 12338
110 ..... 11472, 12339
122 11229
123 11229
449 13860
450 13860
460 8813

43 CFR

Ch. II 11821
32 12266
419 11821
2920 11822
6260 11822

PUBLIC LAND ORDERS:

5631 11992
5632 11992

PROPOSED RULES:

14 12339
1600 8814
2880 8770
3250 12260

45 CFR

16 9264
100a 9242
172 11703
179 9242
201 9265
1061 ..... 9476, 9818
1067 12859
1069 10911
1622 11198

PROPOSED RULES:

64 13012
90 8756
102 8561
115 8561
116 8561
116d 8561
126 12048
130 8561
161 8561
180 11676
190 12048
205 8562
282 11719
1608 11241
1612 11241
1613 11241
1614 11241
1620 11241

46 CFR

148 ..... 8760, 11583
160 ..... 9769, 10913
502 11992

PROPOSED RULES:

4 9165
93 10946
148 13402
157 12218
186 12218
187 12218
511 11590
512 12345

47 CFR

1 10342
2 12682
64 11704
73 ..... 8805, 9280, 10342, 11704
74 13575
81 ..... 10344, 13062
89 ..... 10697, 11822
91 ..... 8518, 10368, 11822, 11993, 13577
93 ..... 11990, 13577
97 12682

47 CFR—Continued

PROPOSED RULES:

2 9500
61 11719
63 9505
67 ..... 11835, 13077
68 13587
73 ..... 8273, 8274, 8815, 8816, 9509-9511, 10413, 10710, 10943, 10944, 11724, 11835, 11836, 12346, 13402, 13592
74 9500
76 ..... 8275, 13402
78 9500
81 ..... 10414, 11836
91 12048
93 12048

49 CFR

Ch. II 12691
Ch. V 10918
25 10913
171 10917
172 ..... 8519, 10917
173 ..... 8521, 9149, 13382
174 8522
176 8522
179 8523
218 9512
501 ..... 8525, 11995
523 11995
533 11995
567 ..... 9604, 12014
568 9604
571 ..... 9149, 9605, 9606, 10919, 12014, 12015
580 10921
1033 ..... 8528 8529, 9281, 9282, 9606, 10561-10564, 10922, 11200, 11823, 12326, 13063-13064, 13383
1047 ..... 8817, 10697
1080 10923
1082 8817
1121 10564
1125 8530
1127 ..... 9150, 10368
1131 ..... 8554, 11706
1300 ..... 8531, 11706, 12327
1303 ..... 8534, 11706
1304 ..... 8536, 11706
1306 ..... 8538, 11706
1307 ..... 8539, 11706
1308 ..... 8544, 11706
1309 ..... 8547, 11706
1310 ..... 8549, 11706
1331 11201

49 CFR—Continued

PROPOSED RULES:

Ch. II 9324
Ch. V 11100
172 8562
173 8562
174 8562
175 8562
176 8562
177 8562
221 10583
393 ..... 9166, 9626
399 8569
567 9167
571 ..... 8571, 9626, 10947
581 12049
1047 8817
1056 13078
1082 8817
1100 13404
1201 10711
1204 11725
1206 10711
1260 11725
1261 11725

50 CFR

10 10565
17 ..... 9607, 12690
18 13065
21 10565
26 ..... 9282, 10923-10926, 12017
33 ..... 10368, 10929-10933, 11823, 12017, 12018, 13384, 13577
227 12735
255 9153
285 8554
351 9481
611 ..... 10566, 10933, 11824
651 13578
652 13578

PROPOSED RULES:

10 12830
13 12830
14 12830
17 ..... 12050, 13404, 13592
23 ..... 9168, 9628, 12348, 12349
26 10590
32 9629
230 9172
285 10592

FEDERAL REGISTER PAGES AND DATES—MARCH

Pages	*Date*	*Pages*	*Date*	*Pages*	*Date*
8247-8504	Mar. 1	10329-10533	13	11959-12271	23
8505-8776	2	10535-10681	14	12273-12670	24
8777-9131	3	10683-10899	15	12671-12841	27
9133-9267	6	10901-11140	16	12843-13050	28
9269-9454	7	11141-11555	17	13051-13364	29
9455-9594	8	11557-11687	20	13365-13489	30
9595-9772	9	11689-11813	21	13491-13863	31
9773-10327	10	11815-11957	22		

rules and regulations

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

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

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Defense; Department of Justice; National Aeronautics and Space Administration; National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Defense, Department of Justice and the National Foundation on the Arts and the Humanities because they are confidential in nature. This amendment also revokes certain positions at the National Aeronautics and Space Administration, and the National Foundation on the Arts and the Humanities because they have been vacant for more than 60 days.

EFFECTIVE DATE: March 17, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3306(a)(100), 213.3310(z)(2), and 213.3382(p) are added and 213.3348(n) and 213.3382(n) are revoked as set out below:

§ 213.3306 Department of Defense.

(a) *Office of the Secretary.* * * *

(100) One Assistant for Policy Formulation to the Deputy Assistant Secretary (European and NATO Affairs), Office of the Assistant Secretary of Defense for International Security Affairs.

* * * * *

§ 213.3310 Department of Justice.

* * * * *

(z) *U.S. Parole Commission.* * * *

(2) One Executive Assistant to the Chairman.

* * * * *

§ 213.3348 National Aeronautics and Space Administration.

* * * * *

(n) [Revoked].

* * * * *

§ 213.3382 National Foundation on the Arts and the Humanities.

* * * * *

(n) [Revoked].

* * * * *

(p) One Policy and Planning Officer to the Deputy Chairman, National Endowment for the Arts.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-8557 Filed 3-30-78; 8:45 am]

[3410-34]

Title 7—Agriculture

CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

PART 319—FOREIGN QUARANTINE NOTICES

Subpart—Citrus Fruit

UNSHU ORANGES

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the citrus fruit quarantine regulations by removing the requirement that Unshu oranges, shipped under permit, be given a second bacteriophage test for bacteria of *Xanthomonas citri* just prior to export from Japan. The safeguards provided by requirements in the regulations prior to this final test before export are adequate to prevent the spread of the disease to the United States.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

H. I. Rainwater, 301-436-8247.

SUPPLEMENTARY INFORMATION: The citrus canker disease is caused by the infectious bacterium *Xanthomonas citri* (hasse) Dawson and is a very destructive disease to fruit, stems, and leaves of citrus. In order to prevent the introduction of this disease into citrus-producing areas of the United States, importation of host fruit is regulated under the Citrus Fruit quarantine (7 CFR 319.28) and also the Fruits and Vegetables Quarantine (7 CFR 319.56).

Under the provisions of § 319.28, Unshu oranges, under permit that are to be imported into the United States are required to be grown, inspected, treated, and packed under rigid safeguards to prevent the introduction of citrus canker disease into the United States. Department of Agriculture inspectors perform onsite inspections in the orange groves and in the packinghouses and supervise sterilization and preharvest bacteriophage testing of the oranges. It has been the Department's experience that these safeguards are adequate to prevent the introduction of the citrus canker disease into the United States because the required second bacteriophage test has not disclosed any oranges as having the bacterium which causes the disease. Therefore, the final bacteriophage testing just prior to export, is being deleted from the regulations.

Accordingly, 7 CFR 319.28 is amended by deleting paragraph 319.28(b)(5).

§ 319.28 [Amended]

(Secs. 5, 7, 9, 37 Stat. 316, 317, 318; 7 U.S.C. 159, 160, 162; 37 FR 28464, 28477; 38 FR 19141.)

This amendment relieves certain restrictions heretofore imposed, and should be made effective promptly in order to be of maximum benefit to the persons subject to the restrictions that are being relieved. Also, it does not appear that additional relevant information would be made available to the Department by public participation in rulemaking proceedings on the amendment.

Accordingly, it is found, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to this amendment are impracticable, unnec-

essary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 29th day of March 1978.

JOSEPH W. GENTRY,
Acting Deputy Administrator Plant Protection and Quarantine Program, Animal and Plant Health Inspection Service.

[FR Doc. 78-8631 Filed 3-30-78; 8:45 am]

[3410-02]

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

[Valencia Orange Reg. 581]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh California-Arizona Valencia oranges shipped to market from Districts 1, 2, and 3 of the production area to be at least 2.32 inches in diameter. This regulation is needed to provide for orderly marketing in the interest of producers and consumers.

EFFECTIVE DATES: March 31, 1978, through January 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: On March 13, 1978, notice was published in the FEDERAL REGISTER (43 FR 10370) inviting written comments not later than March 24, 1978, on proposed minimum diameter requirements for shipments of 1977-78 season Valencia oranges, under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. None were received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The specified minimum size requirement reflects the Secretary's appraisal of the crop and current and prospective marketing conditions. The 1977-78 season crop of Valencia oranges is currently estimated by the committee at 55,600 carlots. The demand in regulated fresh market channels is expected to require about 37 percent of this volume. The remaining 63 percent would be available for utilization in export and processing outlets. Fresh shipments of California-Arizona Valencia oranges are now in progress. The volume and size composition of the crop of Valencia oranges grown in the production area are such that ample supplies of the more desirable sizes will be available to satisfy the demand in regulated channels. The regulation is necessary to assure shipment of Valencia oranges of the more desirable sizes in the interest of growers and consumers, and it would contribute to the establishment and maintenance of orderly marketing conditions.

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

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipment of fruit from the production area is now in progress; (2) this regulation is the same as that which was specified in the notice, to which no exceptions were submitted; and (3) information concerning the provisions and effective time has been provided to handlers of Valencia oranges.

Accordingly, the minimum size requirement for the handling of Valencia oranges is as follows:

§ 908.881 Valencia Orange Regulation 581.

Order. (a) During the period March 31, 1978, through January 15, 1979, no handler shall handle any Valencia oranges grown in District 1 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(b) During the period April 7, 1978, through January 15, 1979, no handler shall handle any Valencia oranges grown in District 2 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(c) During the period April 14, 1978, through January 15, 1979, no handler shall handle any Valencia oranges grown in District 3 which are of a size smaller than 2.32 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided,* That not to exceed 5 percent, by count, of the Valencia oranges contained in any type of container may measure smaller than 2.32 inches in diameter.

(d) As used in this section, "handle", "handler", "District 1", "District 2", and "District 3" mean the same as defined in the marketing order.

Dated: March 27, 1978, to become effective March 31, 1978.

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

[FR Doc. 78-8486 Filed 3-30-78; 8:45 am]

[3410-02]

[Lemon Regulation 139]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period April 2-8, 1978. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: April 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, and upon other information, it is found that the limitations of handling of lemons, as hereafter

provided, will tend to effectuate the declared policy of the act.

The committee met on March 28, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is similar to last week.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.439 Lemon Regulation 139.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period April 2, 1978, through April 8, 1978, is established at 240,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

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

Dated: March 30, 1978.

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

[FR Doc. 78-8768 Filed 3-30-78; 11:53 am]

[3410-02]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Establishment of Grade Standards for Monukka Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes grading requirements for natural condition and packed Monukka raisins under the Federal marketing order for California raisins. The grade standards were unanimously recommended by the Raisin Administrative Committee to standardize the quality of Monukka raisins.

EFFECTIVE DATES: Grading requirements for natural condition Monukka raisins—August 1, 1978; grading requirements for packed Monukka raisins—December 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: On February 16, 1978, notice was published in the FEDERAL REGISTER (43 FR 6793) inviting written comments, not later than March 10, 1978, on the proposed amendment of §§ 989.701 and 989.702 of Subpart—Quality Control (7 CFR 989.701-989.702; 42 FR 52374). The purpose of these amendments is to standardize the quality of Monukka raisins. Two comments were received. This subpart is pursuant to the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 42 FR 37200), regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Raisin Administrative Committee is the agency established under the order to administer its terms and provisions.

The first commentator favored adoption of the proposal. He stated that if the raisin industry's philosophy is to maintain a high standard of quality under the raisin order, then the quality of all varieties of raisins should be standardized. Therefore, the establishment of quality standards for Monukka raisins is extremely timely and very proper.

The second commentator was against the proposal at this time. The commentator indicated that mold problems associated with Monukka raisins may make the meeting of the proposed requirements difficult, and that reconditioning of failing raisins would be difficult because of their tender skins. In the alternative, it was proposed that USDA perform courtesy inspection on Monukka raisins during the 1978 crop year after which a determination could be made to determine whether inspection is needed and whether any standards should be the same as for Natural seedless raisins.

However, as stated by this commentator, Monukkas are produced for a selective clientele who prefer a superior product. More careful production and harvesting practices and reconditioning techniques should enable Monukka growers to produce, and packers to pack, raisins which will meet the minimum quality requirements established, and also satisfy the superior product needs of their selective clientele. Therefore, this exception is denied.

The minimum grade and condition standards established for natural condition Monukka raisins are the same as those currently effective for Natural (sun-dried) Seedless raisins in category (a) of § 989.701. The minimum grade standards established for packed Monukka raisins are the same as those in § 989.702 for Natural (sun-dried) Seedless raisins except the allowance for moisture is 19 percent rather than 18 percent. This is because Monukka raisins are thin-skinned and absorb moisture more easily than Natural (sun-dried) Seedless raisins.

After consideration of all relevant matter presented, including that in the notice, the comments submitted, the information and recommendation submitted by the Committee, and other available information, it is found that the establishment of grading requirements for natural condition and packed Monukka raisins set forth below will tend to effectuate the declared policy of the act.

1. Section 989.701 of Subpart—Quality Control is amended by adding a new category "(g) Monukka Raisins" reading as follows:

§ 989.701 Minimum grade and condition standards for natural condition raisins.

* * * * *

(g) *Monukka raisins.* Natural condition Monukka raisins shall meet the requirements set forth for natural condition Natural (sun-dried) Seedless raisins in paragraph (a) of this section.

2. Section 989.702, Minimum standards for packed raisins, of Subpart—Quality Control, is amended by deleting the word "and" before the second last sentence marked "(d)" and by inserting the following sentence immediately before the last sentence reading as follows:

§ 989.702 Minimum standards for packed raisins.

* * * * *

(d) * * * "and with respect to Monukka raisins, the requirements for Natural (sun-dried) Seedless raisins set forth in this section, except that the allowance for moisture shall be 19 percent rather than 18 percent."

Dated: March 28, 1978.

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

[FR Doc. 78-8556 Filed 3-30-78; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 442.13]

PART 1823—ASSOCIATION LOANS AND GRANTS—COMMUNITY FACILITIES, DEVELOPMENT, CONSERVATION, UTILIZATION

Subpart P—Development Grants for Community Domestic Water and Waste Disposal Systems

INCREASED GRANT ASSISTANCE FOR LOWER INCOME COMMUNITIES

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule with comments requested.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations on development grants for community domestic water and waste disposal systems. This amendment will allow increased grant assistance for lower income communities while limiting the amount of grant assistance for which some higher income communities qualify. The amendment is the result of an administrative decision.

EFFECTIVE DATE: March 31, 1978.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Ken Lee, telephone 202-447-5717.

SUPPLEMENTARY INFORMATION: Section 1823.472 of appendix A to Subpart P of Part 1823, Chapter XVIII, Title 7 in the Code of Federal Regulations (39 CFR 20475, as amended at 40 FR 27475; 41 FR 53009; 41 FR 56626) is amended. Paragraph (b)(1), of this section is amended to provide more efficient and responsive service to rural communities that have need for grant assistance. Material presently covered under paragraph (b)(1) is being separated into two parts, and that part dealing with bulk service is being placed into a separate paragraph numbered (b)(2) of this section.

This amendment provides that ordinarily, an applicant will be considered for grant assistance only when the debt service portion of the average user cost for either water or waste service, for only those users in the applicants service area, exceeds the following percentages of median incomes:

.75 percent when the median income is under $6,000. 1.00 percent when the median income is $6,000 to $10,000. 1.25 percent when the median income is over $10,000.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since the purpose of the change is to provide lower income rural areas with grant determinations based on the revised formula. Because these rural areas are now in need of the increase assistance, any delay would be contrary to the public interest. The Agency, however, is interested in receiving comments which should be submitted to the address given above.

Accordingly, § 1823.472(b)(1) is amended, a new (b)(2) is added, and the present paragraphs (b)(2) and (3) are renumbered to (3) and (4) respectively.

§ 1823.472 Application processing.

* * * * *

(b) *Determining the need for development grant.* * * *

(1) Ordinarily, an applicant will be considered for grant assistance only when the debt service portion of the average user cost for either water or waste service, for only those users in the applicant service area, exceeds the following percentages of median incomes:

(i) .75 percent when the median income is under $6,000.

(ii) 1.00 percent when the median income is $6,000 to $10,000.

(iii) 1.25 percent when the median income is over $10,000.

Median income will be determined in accordance with paragraph (b)(4) of this section. The grant will be limited to an amount necessary to reduce the debt service portion of user cost to the applicable percent level listed above. If the median income is not available, the average income may be used. This procedure shall not be used to result in a rate below that deemed to be reasonable as defined in paragraph (b) of this section.

(2) When the applicant will be furnishing bulk service to rural residents served by another system, a grant to such applicant may also be considered for an amount to reduce the user costs on a similar basis as provided in this paragraph (b)(1) above for users of such other system. An agreement between the applicant and the other system (entity) will be obtained that clearly shows that the benefits of the grant will accrue only to the users intended to be benefited by the grant. For purposes of grant determination, all other systems which will receive bulk service may either:

(i) Be considered as part of the total by averaging the median incomes of the systems involved and averaging the debt service portion for the particular service of the other systems; or

(ii) Consider the median income and the debt service portion for the particular service for each entity separately.

* * * * *

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 24, 1978.

DENTON E. SPRAGUE,
Acting Administrator,
Farmers Home Administration.

[FR Doc. 78-8487 Filed 3-30-78; 8:45 am]

[4410-10]

Title 8—Aliens and Nationality

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

PART 341—CERTIFICATE OF CITIZENSHIP

Suspension of Regulatory Provision

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule, extension of suspension of rule.

SUMMARY: This notice further suspends until October 1, 1978, the special procedure provided in 8 CFR 341.1(b) which permits certain naturalization applicants to make application for certificates of citizenship for their children who are under 16 years of age and will derive citizenship under sections 320 or 321 of the Immigration and Nationality Act, in advance of the naturalization of the parents. This further suspension is necessitated by manpower considerations in the Service.

EFFECTIVE DATE: April 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Lowell R. Palmes, Deputy Assistant

Commissioner for Naturalization, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, telephone 202-376-8459.

SUPPLEMENTARY INFORMATION: On September 1, 1970, the Service implemented a procedure whereby applicants for naturalization who believed that their children under 16 years of age would derive United States citizenship under section 320 or 321 of the Immigration and Nationality Act could apply for certificates of citizenship on behalf of such children in advance of the parents' naturalization. However, due to manpower considerations which arose subsequently, it became necessary to suspend the operation of this procedure by notices published in the FEDERAL REGISTER October 21, 1974 (39 FR 37355), September 15, 1975 (40 FR 42532), March 17, 1976 (41 FR 11172), October 1, 1976 (41 FR 43393), March 28, 1977 (42 FR 16378) and September 26, 1977 (42 FR 48869). The provisions now stand suspended to April 1, 1978.

Due to the continuing manpower considerations which resulted in the temporary suspension of the special procedure provided by 8 CFR 341.1(b) as set forth in the above-cited prior notices, it is necessary to suspend the provisions of § 341.1(b) for an additional period, until October 1, 1978, unless manpower considerations render feasible or practicable their reinstitution at an earlier date.

In the light of the foregoing, the provisions of 8 CFR 341.1(b) are hereby suspended until October 1, 1978, unless the suspension is revoked prior thereto by notice published in the FEDERAL REGISTER.

Dated: March 28, 1978.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc. 78-8515 Filed 3-30-78; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards and Slaughtering Establishments

BRUCELLOSIS AREAS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Md., Room 805, 301-436-8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Barry and Newton Counties in Missouri.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Noncertified Areas in § 78.22 because it has been determined that they no longer come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Harding County in South Dakota.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Adams County in Iowa.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Jefferson County in Arkansas; Allamakee, Cerro Gordo, Clayton, and Sac Counties in Iowa; Jewell County in Kansas; Dakota and Thurston Counties in Nebraska; and Pecos and Presidio Counties in Texas.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.* Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*

Alabama. Dale, Geneva.

Arkansas. Baxter, Bradley, Carroll, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Jefferson, Johnson, Marion, Monroe, Montgomery, Newton, Ouachita, Searcy, Sharp, Stone, Union, Woodruff.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld, Yuma.

Florida. Baker, Bay, Citrus, Dixie, Escambia, Franklin, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, St. Johns, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Screven, Stephens, Taylor, Toombs, Treutlen, Twiggs, Upson, Ware, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Butte, Camas, Canyon, Clark, Clearwater, Custer, Gem, Idaho, Kootenai, Latah, Lemhi, Lewis, Minidoka, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian,

Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Allamakee, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Sac, Scott, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Barber, Brown, Chase, Cheyenne, Clark, Comanche, Decatur, Doniphan, Edwards, Ellsworth, Ford, Gove, Graham, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Jewell, Johnson, Kearny, Kingman, Kiowa, Lane, Logan, Marion, Marshall, Meade, Ness, Norton, Pawnee, Phillips, Pottawatomie, Pratt, Rawlins, Republic, Riley, Rooks, Rush, Saline, Scott, Shawnee, Sheridan, Sherman, Smith, Stanton, Thomas, Trego, Wallace, Washington, Wichita.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitely, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

Nebraska. Box Butte, Cheyenne, Dakota, Deuel, Thurston.

New Mexico. Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Zieback.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Davidson, Fentress, Grainger, Greene, Hamblen, Hancock, Jefferson, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren.

Texas. Armstrong, Borden, Brewster, Childress, Comal, Crane, Culberson, Ector, Gillespie, Glasscock, Gray, Hansford, Hartley, Hemphill, Hudspeth, Hutchinson, Irion, Jeff Davis, Kendall, Kerr, Kimble, Lipscomb, Llano, Loving, Martin, Mason, Menard, Midland, Moore, Newton, Ochiltree, Pecos, Presidio, Reagan, Real, Roberts, Schleicher, Sherman, Sterling, Sutton, Terrell, Val Verde, Ward, Winkler, Yoakum.

Utah. Beaver, Cache, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Vermont. Bennington, Caledonia, Essex, Grand Isle, Lamoille, Orange, Rutland, Washington, Windham, Windsor.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Hormigueros, Humacao, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.* Alaska, Louisiana, Oklahoma.

(b) *Specific Counties Within States.*

Alabama. Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Benton, Boone, Calhoun, Chicot, Clark, Clay, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Greene, Hemstead, Hot Spring, Howard, Independence, Izard, Jackson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Madison, Miller, Mississippi, Nevada, Perry, Phillips, Pike, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Yell.

Colorado. Mesa.

Florida. Alachua, Bradford, Brevard, Broward, Calhoun, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Flagler, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper, Jefferson, Jenkins, Jones, Lamar, Lee, Lincoln, Lowndes, Lump-

kin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Schley, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Telfair, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Washington, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bingham, Bonneville, Caribou, Cassia, Elmore, Franklin, Fremont, Gooding, Jefferson, Jerome, Lincoln, Madison, Oneida, Teton, Twin Falls.

Illinois. Massac.

Iowa. Adams, Appanoose, Guthrie, Ringgold, Wayne.

Kansas. Allen, Anderson, Atchison, Barton, Bourbon, Butler, Chautauqua, Cherokee, Clay, Cloud, Coffey, Cowley, Crawford, Dickinson, Douglas, Elk, Ellis, Finney, Franklin, Geary, Greenwood, Harper, Harvey, Jackson, Jefferson, Labette, Leavenworth, Lincoln, Linn, Lyon, McPherson, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Osage, Osborne, Ottawa, Reno, Rice, Russell, Sedgwick, Seward, Stafford, Stevens, Sumner, Wabaunsee, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, De Kalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jackson, Jasper, Jefferson, Johnson, Knox, Laclede, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, Morgan, New Madrid, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

Nebraska. Adams, Antelope, Arthur, Banner, Blaine, Boone, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Clay, Colfax, Cuming, Custer, Dawes, Dawson, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Redwillow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Valley, Washington, Wayne, Webster, Wheeler, York.

New Mexico. Bernalillo, Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Grundy, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Warren, Washington, Wayne, Weakley, White, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Goliad, Gonzales, Grayson, Gregg, Grimes, Gaudalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hunt, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamp, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLeannan, McMullen, Madison, Marion, Matagorda, Maverick, Medina, Milam, Mills, Mitchell, Montague, Montgomery, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Raines, Randall, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Scurry, Shackelford, Shelby, Smith, Somervell, Starr, Stephens, Stonewall, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Young, Zapata, Zavala.

Utah. Box Elder.

Vermont. Addison, Chittenden, Franklin, Orleans.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Gurabo, Hatillo, Isabela, Las Piedras, Naguabo, Quebradillas, San Sebastian.

§ 78.22 Noncertified Areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.* Yellowstone National Park.

(b) *Specific Counties Within States.*

Florida. Okeechobee.

Missouri. Barry, Newton.

South Dadota. Harding.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat.

693; and secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 23rd day of March.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-8278 Filed 3-30-78; 8:45 am]

[3410-34]

SUBCHAPTER E—VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS; ORGANISMS AND VECTORS

PART 113—STANDARD REQUIREMENTS

Autogenous Bacterin Sample Requirement; Reduction

AGENCY: Animal and Plant Health Inspection Service (APHIS).

ACTION: Final Rule.

SUMMARY: This amendment provides for a reduction in the number of autogenous bacterin samples being submitted to Veterinary Services for testing. At the present time, the same number of samples are required for autogenous bacterins as for other bacterins. Since most of these samples will not be used, this requirement is now considered unnecessarily wasteful, costly, and unjustified. This amendment specifies that a smaller number of samples be submitted for autogenous bacterins than for other bacterins.

EFFECTIVE DATE: This amendment becomes effective March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, Biologies Licensing and Standards Staff, USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, Md. 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: Autogenous bacterins are prepared for use in emergency situations from cultures of organisms thought to be responsible for sick or dead animals or birds. In most instances, immediate use is indicated and unnecessary delays are to be avoided including nonessential testing.

Most bacterins are subject to being tested for purity, safety, potency, and efficacy. Autogenous bacterins are tested for purity and safety only, and a smaller number of samples are needed for this purpose.

The present regulations issued under the Virus-Serum-Toxin Act require a minimum of 12 samples from each serial of autogenous bacterin. Since most of these samples will not be used, this requirement is now considered unnecessarily wasteful, costly, and unjustified.

§ 113.3 is amended by revising paragraph (b)(2) to read:

§ 113.3 Sampling of biological products.

* * * * *

(b) * * *

(2) *Bacterins and Bacterin-Toxoids.* Two samples from each serial of autogenous bacterins shall be selected. Samples from all other bacterins and bacterin-toxoids shall be selected as follows:

* * * * *

(21 U.S.C. 151 and 154; 37 FR 28477, 28646, 38 FR 19141.)

This amendment makes administrative changes to eliminate unnecessary and undesirable sampling of autogenous bacterins without making other substantive changes in the regulations. In order for it to be of maximum benefit, it must be made effective immediately.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure concerning this amendment is impracticable and unnecessary, and good cause is found for making this amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, DC, this 23rd day of March, 1978.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 78-8210 Filed 3-30-78; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 13, Amdt. 19]

PART 121—SMALL BUSINESS SIZE STANDARDS

Procedures for Size Determinations

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This amendment modifies and clarifies SBA size determination procedures to allow expedited and improved decisions in size status proceedings, to provide for summary dismissals of appeals to the SBA Size Appeals Board in appropriate cases, and to generally provide for appellate form of review by the SBA Size Appeals Board. The procedures provide SBA enforcement while emphasizing the need for affected parties to provide full information to SBA on relevant facts and issues. The regulation amendments would allow quicker disposition of many simpler cases, while narrowing the issues in more complicated proceedings and allowing fair opportunity for input by private parties.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Stephen Klein, Office of General Counsel, Small Business Administration, Washington, D.C. 20416, 202-653-6762.

SUPPLEMENTARY INFORMATION: On February 9, 1977, SBA published in the FEDERAL REGISTER a Notice of Proposed Rulemaking (42 FR 8148) to amend its size determination procedures. Public comments were received, major aspects of which are as follows.

1. Several comments questioned the concept of appellate review by the Board of field office size determinations. It was argued that the Board has a duty to correct all field office findings and to assure a complete and accurate SBA size decision by full de novo examination of all aspects of the case. This approach neglects the need for the parties to supply accurate information at the early stages. Board experience has indicated that if de

novo Board review is freely available as a matter of course, parties frequently fail to exercise due diligence in submitting necessary evidence and arguments to the SBA field offices for the initial size determinations. While the Board retains the right to exercise de novo review if it deems appropriate, it appears that an appellate form of review would be adequate in most cases and would not be unfair to parties which have exercised reasonable diligence.

2. A number of comments were received relating to the statements in the proposed regulations that SBA will ordinarily not raise additional issues concerning a firm's size status and that concerns would be given opportunity to rebut adverse data in SBA files which may be used in size determinations. SBA believes these concepts have relevance but the specific language was deleted as unnecessary and subject to possible misconstruction. SBA's investigative resources are limited and though appropriate additional inquiries will be made in size determination cases SBA must continue to rely heavily on the evidence submitted by the parties. Also, SBA of course will continue to regularly make known to the concern whose size status is in question the basic premises being considered in the case, to allow opportunity for timely rebuttal. This effort will consider both the needs for adequate rebuttal and the needs for efficient time periods. Size determinations will be kept sufficiently flexible in format to allow effective, reasonable, and fair procedures.

3. Some comments suggested additional provisions for notices to all interested parties at various stages of the field office and Board proceedings. The purpose of these notices would be to allow additional submissions by the parties. While we recognize the need to afford fair notice to parties of the essential elements in the case, it is not intended that the proceedings be unduly formalized or delayed. SBA continues to view size determinations as primarily administrative fact-finding rather than adversary litigation. More specific notice requirements were therefore not deemed necessary.

4. A few comments argued that there should be an automatic right to a hearing before the Board and the SBA field offices if desired. It is recognized that in certain cases oral hearings can be helpful. However, this is a matter which appears best left to the discretion of the Board and the field offices in light of the particular circumstances in the case, possible need for a prompt decision and other pertinent factors. Oral hearings are not necessarily more effective than documentary evidence in obtaining adequate information on which to base the decision.

5. Some comments suggested that protestors in procurement size cases should have to provide specific evidence as well as specific allegations prior to SBA initiating a size determination. It is argued that the size determination procedures can place a costly burden on the firm whose size is in question. There is a definite element of administrative burden in submitting the necessary information to SBA. However, since this data is uniquely within the knowledge and possession of such firm there is no real alternative to requiring it to provide the necessary information. Competitors bidding on small business set asides may have reason to question the size status of other bidders and it would not appear proper to foreclose this right directly affecting award of the procurement, even if specific evidence is not available.

6. A number of technical changes were made in the regulation to help effectuate the above noted purposes. The provision according a presumption of correctness to field office factual findings was deleted, and a provision added allowing dismissal by the Chairperson of appeals based primarily on issues or evidence which the appellant had unreasonably failed to present to the SBA field office. Unspecific appeals would be dismissed. Also in the interest of expedition the regulation would delete provision for additional extension of time for submissions by interested parties, and would specify that the findings and decision of the Board will be prepared and forwarded to the parties within a short period of time following the Board's determination. The regulation would specifically state that submission of incomplete SBA Form 355 size data to the SBA field office could be construed against the firm failing to submit such information. Appeals from size determinations on property sales would have to be made within 5 days, similar to procurement size determination appeals. The provisions that reconsideration by the Board would be granted only in extraordinary cases and that reconsideration would not apply to the procurement or sale in question were deleted.

7. In general, these amendments are being finalized in a form similar to that proposed. It is recognized that they would establish significant changes in SBA procedures applicable to size determinations by SBA field offices and the Size Appeals Board. After a period of implementing experience and adaptation it is expected that necessary or appropriate further modifications would be considered to provide any corrective and improving actions. SBA welcomes comment and suggestions from interested persons regarding SBA administration of these size determination procedures.

These amendments will be effective May 1, 1978.

Dated: March 15, 1978.

A. VERNON WEAVER,
Administrator.

13 CFR part 121 is amended as follows:

1. Section 121.3-2(u) is amended to read as follows:

§ 121.3-2 Definition of terms used in this part.

* * * * *

(u) "Protest" means a statement in writing from any bidder, offeror, or other interested party on a particular procurement or sale, alleging that another bidder or offeror on such procurement or sale is not a small business concern. See § 121.3-5(a).

2. Section 121.3-4 is amended to read as follows:

§ 121.3-4 Size determinations.

(a) Original size determinations shall be made by the regional director, or his delegatee, serving the region in which the principal office of the concern (not including its affiliates) whose size is in question is located, except that for lease guarantee reinsurance purposes such determinations shall be made by the Associate Administrator for Finance and Investment. The regional director or his delegatee, or the Associate Administrator for Finance and Investment promptly shall notify in writing, by certified mail, return receipt requested, the concern in question and other interested persons of his decision. Such determination shall become effective immediately and shall remain in full force and effect unless and until reversed by the Small Business Size Appeals Board pursuant to § 121.3-6. For the purpose of Government procurements or sales, a size determination shall be made only in the event of a protest pursuant to § 121.3-5, a request for recertification, a request for a Certificate of Competency, or if the Associate Administrator for Procurement Assistance or his delegatee or a regional director or his delegatee determines it necessary to question the size status of a concern for the purpose of any Small Business contracting program or Procurement Source Program, or for property sales purposes or for any other purpose relating to Government procurement or sales. For the purpose of SBA financial assistance, a formal size determination under this provision shall be made by the Regional Office only (1) where the regular review of the loan file or other substantial evidence indicates the need therefor and a request is made by the appropriate SBA financial assistance official, or (2) where an initial deter-

mination is made by the SBA financial assistance officer that the concern is other than small and a request is made by the loan applicant. Initial nonformal financial assistance size determinations may not be appealed to the Size Appeals Board under § 121.3-6.

(b) Once properly instituted (i.e., by filing of a protest or by an official request for a determination) formal size determinations may be completed, even if the particular application, bid, or offer is subsequently withdrawn, or the Government procurement or sale is cancelled or awarded.

(c) The size determination will be based primarily on facts and allegations supplied by the parties to the SBA. If deemed necessary or appropriate SBA may utilize other information in its files and may make inquiries including requests to the parties or other persons for additional specific information. The burden of establishing its small business size by submitting full information to SBA shall be upon the concern whose size status is under consideration. Specific signed factual evidence will be weighed more heavily by SBA than general unsupported allegations or opinions. In the case of refusal or failure to furnish requested information within a required time period, SBA may assume that disclosure would be contrary to the interests of the party failing to make disclosure. The SBA formal size determination shall be based upon the record, including reasonable inferences therefrom, and shall state in writing the basis for its findings and conclusions.

(d) If SBA has made a formal size determination that a particular concern is not small, the concern will not be deemed eligible within such applicable size standard for any assistance under the Small Business Act or Small Business Investment Act of 1958, unless it is thereafter recertified by SBA as a small business. Afer such an adverse size determination, the concern shall not self-certify itself as small within the same or a lower employee or annual receipts size standard (whichever is applicable) unless it is recertified. Applications for recertification shall be made to the SBA Regional Office which made the original size determination. Applications for recertification shall be accompanied by a current completed SBA Form 355 and by any other pertinent information necessary to show a significant change in its ownership, management, contractual relations, or in other factors bearing on its status as a small concern. If good cause is shown in extraordinary cases, as determined by the Chairperson of the Size Appeals Board, the original decision on the application for recertification may be made by the Size Appeals Board.

§ 121.3-5 [Amended].

3. Section 121.3-5(a), relating to protests of a firm's small business status, is amended by substituting "regional office" for "district office" wherever it appears and by adding at the end thereof the following:

(a) * * * A protest received after the time limits set forth herein shall not apply to the procurement or sale in question. A concern determined other than small business as a result of such late protest, however, shall be precluded from self-certification in any other procurement or sale in which the size standard is not higher than the standard in the procurement or sale in question. See § 121.3-4(d) for the procedure under which such a concern can be recertified as a small business. A protest must adequately set forth specific alleged grounds for the protest. A protest merely alleging that the protested concern is not small or is affiliated with unspecified other concerns will not be deemed to adequately specify grounds for the protest. Evidence supporting the protest may be submitted therewith. Protests which do not set forth specific alleged grounds for the protest will be dismissed.

* * * * *

4. Section 121.3-5(b), relating to notification of protest, is amended by substituting "regional director" for "district director" wherever it appears, and by amending the last sentence to read as follows:

* * * * *

(b) * * * If the bidder or offeror does not submit the completed SBA Form 355 within the period provided above, or within any additional period of time provided by SBA upon application for good cause shown, SBA may assume that the disclosure of the Form or any missing part thereof would be contrary to the interests of the party failing to make such disclosure.

§ 121.3-6 [Amended]

5. Section 121.3-6(a) is amended by deleting paragraphs (1) and (2) thereof and substituting the following:

(a) * * * The Size Appeals Board shall consist of five members, to wit: The Deputy Administrator (Chairperson); the Associate Administrator for Procurement Assistance (Vice Chairperson); the Associate Administrator for Finance and Investment; the Associate Administrator for Operations; and the Assistant Administrator for Planning, Research and Data Management. In the event the Vice Chairperson acts as Chairperson in the stead of the Deputy Administrator, the Director of the Office of Procurement and Technical Assistance shall become a member of the Board. Each member shall designate one alternate in writing to act in his stead, and in the event of an emergency, the Chairperson may designate a temporary additional alternate for any member. Each member or his alternate shall have one vote except that the Chairperson or the Vice Chairperson acting in his stead shall vote only in the event of a tie.

6. Section 121.3-6(b)(3)(i) is amended to read as follows:

* * * * *

(b) * * *

(3) Time for appeal. (i) An appeal from a size determination or product classification by a regional director, or his delegatee, may be taken at any time, except that because of the urgency of pending procurements, appeals concerning the small business status of a bidder or offeror in a pending procurement must be within 5 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a decision by a regional director or his delegatee. Unless written notice of such appeal is received by the Size Appeals Board before the close of business on the 5th working day, the appellant will be deemed to have waived its rights of appeal insofar as the pending procurement is concerned. Appeals from a size determination in a pending Government property sale must be within 5 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a decision by a regional director or his delegatee. Unless written notice of such appeal is received by the Board before the close of business on the 5th working day, the appellant will be deemed to have waived its rights of appeal insofar as the pending sale is concerned. An appeal received after the time limits set forth herein shall be acted on, but such determination shall not apply to the procurement or sale in question.

* * * * *

7. Section 121.3-6(b)(4) is amended to read as follows:

* * * * *

(b) * * *

(4) Appeal. No particular form is prescribed for the appeal. However, the appellant shall submit to the Board an original and one legible copy of such appeal. A copy of the appeal shall be simultaneously sent by the appellant to the contracting officer, if applicable, and also a simultaneous copy to the appropriate Regional Office. The appeal should include the following information:

(i) Name and address of concern on which the size determination was made;

(ii) The character of the determination from which appeal is taken and its date;

(iii) If applicable, the IFB or contract number and date, and the name, address and telephone number of the contracting officer;

(iv) A full and specific statement of the reasons why the decision of a regional director, or his delegatee, the contracting officer or the Associate Administrator for Finance and Investment is alleged to be erroneous;

(v) Arguments in support of such allegations; and

(vi) Action sought by the appellant.

Appeals must set forth specifically the alleged ground of material error in the original classification or size determination. The Board generally will not review issues or evidence not previously presented to the SBA office making the original size determination unless such review is determined to be necessary to prevent manifest injury to a party not due to any fault or omission of such party.

* * * * *

8. Section 121.3-6(d) is amended to read as follows:

* * * * *

(d) Statement of interested parties. After an appeal has been filed, any other interested parties may file with the Board a signed statement, together with one legible copy thereof, as to why the appeal should or should not be denied. Such statements shall be mailed or delivered to the Size Appeals Board, Small Business Administration, Washington, D.C. 20416, within 5 calendar days of the receipt of appropriate notification of appeal or other action in the proceeding. If the appellant is the concern whose size status is in question, the Board will provide copies of such statements submitted in connection with the appeal or a reconsideration thereof to such appellant.

* * * * *

9. Section 121.3-6(e)(1), relating to appeals to the Size Appeals Board, is amended by adding the following:

* * * * *

(e) * * *

(1) * * *

Time limitations on all submissions will be strictly applied. Late submissions and submissions additional to those provided for in the regulation or requested by SBA may be disregarded by the Board to avoid delay in disposition of the case. If deemed necessary the Board may request additional specific information from the parties or other persons. In the case of refusal or failure to promptly furnish such information, the Board may assume that disclosure would be contrary to the interests of the party failing to make such disclosure.

* * * * *

10. Section 121.3-6(g), relating to reconsiderations, is amended to read as follows:

* * * * *

(g) Reconsiderations. (1) Following a decision by the Size Appeals Board that a firm and its affiliates are not small business within an applicable size standard, any such firm or affiliate may petition the Size Appeals Board for reconsideration upon presentation of appropriate justification therefor. Such petition must be received by the Size Appeals Board within 10 business days following receipt by the firm of the formal written Findings and Decision of the Board. The Findings and Decision of the Board will be prepared and forwarded to the parties within a short period of time following the Board's determination. The petition for reconsideration may be in any form, with an original and one copy. The Board will notify interested parties that a petition for reconsideration has been received.

(2) The Chairperson shall consider the petition for reconsideration upon the statement and other evidence presented by the petitioners and any other evidence the Chairperson, in his discretion, deems necessary.

(3) Grounds for reconsideration. Grounds for reconsideration shall be:

(i) A material error of fact in the original decision; or

(ii) Relevant facts not previously considered by the Board and not previously available to the petitioner;

(iii) When a request for reconsideration is made, the petitioning firm must demonstrate that the grounds for reconsideration involve facts which were not previously presented to the Board through no fault or omission of such party.

(4) If the Chairperson denies the request for reconsideration, he shall notify all parties. If the request for reconsideration is granted by the Chairperson, he shall so notify all interested parties, setting forth a reasonable time within which the interested parties may, if appropriate, submit additional information. The Board may, in its discretion, provide interested parties with copies of appropriate information submitted by other parties where it determines that this is necessary in the interest of fairness or to better assist the Board in performing its fact-finding functions.

(5) Following its reconsideration of the matter, the Board will promptly render a decision pursuant to paragraph (f) of this section. The decision of the Board shall constitute the final administrative remedy afforded by this Agency.

* * * * *

11. Section 121.3-6, relating to appeals to the Size Appeals Board, is amended by adding the following new paragraph (h):

* * * * *

(h) The following may be summarily dismissed by the Chairperson:

(1) Untimely appeals and untimely petitions for reconsideration;

(2) Appeals not setting forth specifically the alleged grounds of material error in the initial size or classification determination;

(3) Appeals not within the Board's jurisdiction;

(4) Appeals where the allegation of error has no apparent ground of support in either the record before the Board or under the Regulations of this Part 121;

(5) Appeals on product or service classification/size standard determinations where the contract in question has already been awarded;

(6) Petitions for reconsideration which do not specify material errors of fact in the factual findings and conclusions of the Board's decision or do not specify relevant facts not previously presented to SBA through no fault or omission of the petitioning party; and

(7) Appeals primarily based upon issues or evidence that appellant had unreasonably failed to present to the SBA field office and there is no explanation for this failure. Failure to meet time limitations in making submissions to SBA field offices generally would not be a reasonable explanation.

Such summary dismissal by the Chairperson shall be final insofar as the pending procurement or sale is concerned. The Chairperson shall also refer size determination appeals dismissed solely by reason of untimeliness to the Board for a decision as regards eligibility for future procurements, sales, or other small business assistance. He shall not, however, refer to the Board untimely appeals from a product or service classification or size standard determination. The parties and other interested persons shall be promptly notified of the Chairperson's action and the basis thereof.

§ 121.3-8 [Amended]

12. Section 121.3-8, relating to definition of small business for Government procurement and to detemination of the appropriate product or service classification and the applicable size standard on a procurement by the contracting officer, is amended by adding after the words "provided in § 121.3-6" the following:

* * *; provided, however, that an unclear or incomplete classification action by the contracting officer may be supplied by the SBA field office or the Size Appeals Board or its Chairperson insofar a necessary in connection with a size determination or size appeal.

[FR Doc. 78-8489 Filed 3-30-78; 8:45 am]

[6320-01]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Dockets 30783 and 31272; Reg. ER-1046, Amdt. 4]

PART 296—CLASSIFICATION AND EXEMPTION OF AIR FREIGHT FORWARDERS, INTERNATIONAL AIR FREIGHT FORWARDERS, AND COOPERATIVE SHIPPERS ASSOCIATIONS

Liberalized Operating Authority for Air Freight Forwarders and Cooperative Shippers Associations

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., March 23, 1978.

AGENCY: Civil Aeronautics Board.

ACTION: Final Rule.

SUMMARY: This rule allows cooperative shippers associations, air freight forwarders, and international air freight forwarders to use other forwarders to ship air cargo. The rule also allows cooperative shippers associations to operate in international air transportation. This expanded authority for both forwarders and cooperatives increases the flexibility of these indirect air carriers to the benefit of shippers, forwarders, and cooperatives alike. The rule is based on two notices of proposed rulemakings which were in response to petitions from an air freight forwarder and a cooperative shippers association.

DATES: Effective: April 28, 1978. Adopted: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Joseph A. Brooks, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5442.

SUPPLEMENTARY INFORMATION: In response to a petition by Novo Airfreight, the Board issued notice of Proposed Rulemaking EDR-333, dated September 1, 1977, in Docket 30783, (42 FR 45691, 9/12/77), proposing to allow cooperative shippers associations to use domestic air freight forwarders, and to allow domestic air freight forwarders and international air freight forwarders to use other forwarders of the same class. Comments or reply comments have been received from ABC Air Freight, Trans World Airlines (TWA), Hawaii Air Cargo Shippers Association, the American Institute for Shippers' Associations (AISA), Novo Airfreight Corp. American Airlines, CF Air Freight, National Industrial Traffic League (NITL), Oxford Laboratories, and the Flying Tiger Line.

On October 27, 1977, the Board issued Notice of Proposed Rulemaking EDR-338, (42 FR 57326, 11/2/77), in response to a petition from Jet Age Shippers Association, which proposed to allow cooperative shippers associations to operate in overseas and foreign air transportation. Comments have been received from Western Electronics Manufacturers Association, Jet Age Shippers Association, jointly by Evergreen International Airlines, Rich International Airways, Trans International Airlines and World Airways (Supplementals), the Flying Tiger Line (FTL),[1] Frontier Freight Forwarders, and the American Institute for Shippers Associations.[2]

FTL, in its comments in both proceedings,[3] has stressed the impact of these proposals on international air transportation when taken together, and has requested that these proceedings be considered jointly. The Board agrees and has reviewed the comments submitted in both proceedings in light of FTL's suggestion.

The Board has decided to adopt the rules as proposed in each proceeding, with certain changes discussed below. It is the opinion of the Board that a need for these changes has been shown, and that these modifications remove unnecessary regulatory restrictions so as to benefit the shipping public. The two changes, taken together provide more options for shippers and flexibility within the air cargo industry.

As the Board stated in EDR-338, there are no legal or economic grounds for denying cooperative associations the authority to operate in international air transportation. The fact that international authority has not previously been established rather reflects the apparent lack of any interest by cooperatives in actively participating in international markets. According to the petition filed by Jet Age and the comments received in response to EDR-338, these circumstances have changed significantly.

FTL and Frontier Freight Forwarders, however, dispute this finding of need, and argue that such expanded authority for cooperatives could seriously undermine scheduled all-cargo service. FTL argues that in international air transportation a few large forwarders now dominate the air freight market, and that permitting the consolidation of cooperative traffic would increase the power of these few forwarders over the direct carriers. In addition, given the concentration of imports by commodity type in the transpacific markets, shipper associations could, under the proposed rules, become "shipping cartels" of particular types of commodities, with the economic power to obtain lower freight rates to the detriment of the scheduled U.S. flag all-cargo carriers. This, FTL contends, is an inappropriate use of the Board's antitrust immunity. FTL also contends that the potential size of these forwarder or cooperative consolidators would make it easier to avail themselves of charter freighter service, which would further damage the fragile condition of the international all-cargo direct carriers.

If the Board does expand the operating authority of cooperatives to include international air transportation, FTL also argues that more extensive reporting requirements should be imposed, and a review undertaken of the breadth of the cooperatives' antitrust immunity.

The Board disagrees with both the arguments and predictions of FTL and Frontier Freight Forwarders. The comments filed in Docket 31272 clearly show an interest by several shippers associations in international air freight markets. There appears to be no good reason why these associations should continue to be prohibited from providing their shipper members with the same savings in shipping costs as are available in domestic markets. The availability of cooperative shipping in international markets would thus particularly help the small cooperative or shipper of light-weight bulky items to expand sales and U.S. exports to new foreign markets, with the overall effect of developing traffic and markets, not just splitting the present market, as envisioned by FTL.

The concern expressed by FTL that the proposed change, without additional reporting requirements, could result in the development of international shipping cartels, appears unwar-

---

[1] The Flying Tiger Line verbally requested that its comment be accepted late. For good cause shown, the request is granted.

[2] AISA's comment included the statements of six cooperative shippers associations in support of the proposed rules. AISA also filed a Motion for Leave to File an Unauthorized Document with its reply comments to the comments of FTL. For good cause shown, the motion is granted.

[3] FTL also submitted a comment in Docket 30783, expressing its concern about both proposals, and incorporating by reference its comments in Docket 31272.

ranted in view of the commercial difficulties such an undertaking would confront. In addition, the Board is not granting blanket immunity from antitrust laws, as stated by FTL, and certainly would not condone or permit the type of practices envisioned by FTL, if they did indeed threaten competition.

For these reasons, we see no need to impose the reporting requirements suggested by FTL on international cooperatives, or to conduct an extensive review of their operating regulations at this time. There is no reason why international cooperatives should not play the same role in international operations that they have in the domestic arena, and hence we believe that they should be governed by the same rules and principles as apply in domestic markets.

In EDR-338 the Board proposed to require that any contract or agreement between a cooperative shippers association and a foreign agent of the association about matters contained in section 412 of the Act be filed with the Board for approval. In reviewing the comments in this proceeding, we find no apparent justification for this requirement. Since there is no regulatory purpose served, or known problem that requires such filings, we have not adopted this proposal in the final rule.

The Supplementals have requested the Board expressly to waive jurisdiction over foreign (non-U.S. citizen) cooperative shippers associations shipping cargo inbound to the United States, as well as to state its willingness to grant section 402 permits to these foreign cooperatives to engage in both inbound and outbound shipments of air freight. The Supplementals argue that the Board has previously made the same policy decisions in regard to foreign air freight forwarders, and that the extension of such authority to foreign cooperatives would encourage reciprocity by foreign governments.

The Board's reason for declining jurisdiction over foreign forwarders shipping inbound to the United States, as stated in the *International Airfreight Forwarder Investigation*, 27 C.A.B. 658, 720-722 (1958), is equally applicable to foreign cooperative shippers associations. Since the enforcement of Board regulations on foreign citizens outside the United States is difficult, and can invite retaliation by the foreign governments involved, there is no reason to attemp to exercise jurisdiction over such organizations. The qualifications of a foreign citizen cooperative shippers association under section 402 is, of course, to be decided in the context of a foreign permit proceeding.

The second request of the Supplementals is that the Board amend its general charter regulations (14 CFR Parts 207, 208, 212, and 214) to state that these foreign citizen cooperative shippers associations qualify to charter from direct air carriers. While this suggestion appears to have some merit, it is outside the scope of this proceeding and cannot be made a part of these final rules. We believe that it has sufficient merit, however, to warrant consideration in a separate proceeding, which we intend to institute in the near future.

In EDR-333, the Board proposed to allow cooperative shippers associations to use the services of air freight forwarders. The opposition cites various potential operating problems, focusing primarily on one forwarder using another forwarder (which will be discussed later), and on the belief that there is no clear need for the cooperatives to have this authority.[4] The Board disagrees on both points. As summarized in the comments of the National Industrial Traffic League, a shippers organization, it is the Board's conclusion that this expansion of authority to cooperative associations would increase the efficiency and flexibility of the air cargo system, without raising the kinds of problems mentioned by the opponents. The Board further agrees with AISA's statement that the ability of cooperatives to use air freight forwarders would permit easier entry for small cooperative shippers associations, thus furthering the Board and Congressional goal of increasing competition in the air freight industry. The Board also affirms its conclusion in EDR-333 that there is no longer a need to prohibit the use of forwarders merely to protect cooperatives from control by them. As we stated, the nature of the air cargo market and the Board's continuing supervision act effectively to ensure the independence of the cooperatives.

Although EDR-333 proposes only to permit cooperative shippers associations to use domestic air freight forwarders, this limitation was based on the fact that cooperatives operated solely in interstate air transportation. Since in this rule we now permit them to operate in international air transportation, however, they should be able to use both domestic and international air freight forwarders. The reasons expressed in EDR-338 for proposing the use of forwarders by cooperatives is not differentiated between one type of forwarder or another, but applies to the general principle. The final rule thus reflects the Board's conclusion that cooperatives should be permitted to use air freight forwarders operating in all forms of air transportation. It is our conclusion that this authority will help the international forwarder in building its own market, and at the same time enable the small cooperatives to develop new markets for U.S. goods abroad.

The most controversial of the Board's proposals in these two rulemakings is that of allowing air freight forwarders to use other air freight forwarders of the same class, as proposed in EDR-333. FTL's arguments in opposition are the same as in connection with cooperative shippers associations. The other opposition to the proposal relies on perceived operating difficulties which would work to the detriment of the shipper and the direct carrier. According to these arguments, if one forwarder uses another forwarder, the tracing of shipments becomes more difficult, responsibility and control becomes obscured, thereby confusing the shipper as to where to make claim for any damages to shipments, and collections and payments by all parties become complicated and unreasonably delayed. As argued by NITL, and supported by American Airlines, these difficulties would dilute the quality of service in the air freight consolidator industry. All of this, argues NITL, would in effect decrease competition in the forwarder industry. In addition, TWA, supported again by American, claims that permitting forwarders to use other forwarders will result in an erosion in direct carrier yields because shipments tendered to the direct carriers would tend to become larger and fewer in number. Because of this, carrier rates would rise, contends TWA, causing the cost to the underlying shipper to increase.

The Board does not find these arguments persuasive. Under the present system, once the shipper gives his shipment to the forwarder, he has no way of knowing which, or how many, direct carriers may eventually carry this shipment to its destination. This has not resulted in the confusion or difficulties predicted by the opponents, and there is no reason why this situation should change under the amended rules. As for TWA's argument that the shipper would not know to which carrier to make his claim, the system would again work as it does at present, with the shipper filing his claim with the initial forwarder for resolution. TWA's second argument, that this proposal would result in a decrease in direct carrier revenues, also appears to lack validity. If the result of the proposal is that larger consolidated shipments are given to the direct carrier, then the lower yields for these shipments would be offset by the ecomomies of handling larger, but fewer, shipments; the claimed lower yields would merely reflect lower costs.

The advantages resulting from this amendment also more than overcome

[4] Opposing comments were filed by Oxford Laboratories, CF Airfreight and FTL.

any minor technical difficulties it may cause to arise. Shippers and indirect carriers will now have increased flexibility and availability of services. Also, entry into the market will be eased for the smaller indirect carriers, and the geographic scope of their operations will expand dramatically. For these reasons, the Board has decided to make its proposal final, thereby allowing greater options in service and increased competition in the freight consolidation industry.

The Board is making a technical adjustment to the final rule, which was suggested by ABC Air Freight. As proposed, international air freight forwarders would have been limited to using only other international forwarders. ABC Air Freight points out that these international forwarders often ship traffic from a number of interior points to an international gateway for consolidation, either by use of surface transportation or by direct air carriers, some of which have no international authority. Since this limitation was based on the operating jurisdiction of the forwarder class, there is no reason why an international forwarder should not be allowed to use a domestic air freight forwarder to move this traffic to the gateway, and the final rule reflects this view.

By adopting these deletions of various restrictions on indirect cargo air carriers, the Board in no way intends to avoid its responsibility to monitor closely their operations and the impact on the shippers of this more freely operating market. If it becomes necessary to establish certain requirements, such as notice to shippers of multiple carriers, or procedures for claims, the Board will not hesitate to do so.

Accordingly, § 296.1 of the Economic Regulations (14 CFR 296.1) is amended as follows:

1. Revise paragraphs (b)(2), (c)(1), (c)(2), and (f)(2) of § 296.1 to read as follows:

§ 296.1 Definitions.

* * * * *

(b) * * *

(2) Which in the ordinary and usual course of its undertaking, assembles and consolidates or provides for assembling and consolidating of property or performs or provides for the performance of break-bulk and distributing operations with respect to consolidated shipments, is responsible for the transportation of property from the point of receipt to point of destination and utilizes for the whole or any part of such transportation either the services of a direct air carrier, as defined in § 296.1(d)(1) and (3), or those of another air freight forwarder.

* * * * *

(c) * * *

(1) Which engages in interstate, overseas, or foreign air transportation, and

(2) Which undertakes to ship property for the account of such association or its members, by air, in the name of either the association or the members, in order to secure the benefits of volume rates or improved services for the benefit of its members, and utilizes for the whole or any part of such transportation either the services of a direct air carrier as defined in § 296.1(d), or those of an air freight forwarder or an international air freight forwarder.

* * * * *

(f) * * *

(2) Which, in the ordinary and usual course of its undertaking, assembles and consolidates or provides for assembling and consolidating of property or performs or provides for the performance of break-bulk and distributing operations with respect to consolidated shipments, is responsible for the transportation of such property from the point of receipt to point of destination, and utilizes for the whole or any part of such transportation either the services of a direct air carrier as defined in § 296.1(d)(1), (2), and (4), or those of an air freight forwarder or of another international air freight forwarder.

(Secs. 101(3), 204(a), 416(a), Federal Aviation Act of 1958, as amended; 72 Stat. 737, 743, 771; (49 U.S.C. 1301(3), 1324(a), 1386(a)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-8558 Filed 3-30-78; 8:45 am]

[1505-01]

Title 21—Food and Drugs

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

SUBCHAPTER F—BIOLOGICS

[Docket No. 75N-0308]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

Revision and Updating of Standards

Correction

In FR Doc. 78-6525 appearing at page 10554 in the issue for Tuesday, March 14, 1978, make the following corrections:

(1) On page 10558, in the middle column, in § 660.33, the last two lines should read: "product: D, C, E, $\bar{c}$, $\bar{e}$, K, $\bar{k}$, Fy^a, Fy^b, Jk^a, Jk^b, Le^a, Le^b, P_1, M, N, S, and $\bar{s}$."

(2) On page 10559, in the first column, in § 660.635(j), the "Caution" note should have been printed in capital letters. As corrected, paragraph (j) reads as follows:

* * * * *

(j) The package insert shall bear the statement: "CAUTION: SOURCE MATERIAL FROM WHICH THIS PRODUCT WAS DERIVED WAS FOUND NONREACTIVE FOR HBsAg WHEN TESTED WITH LICENSED REAGENTS. NO KNOWN TEST METHOD CAN OFFER ASSURANCE THAT PRODUCTS DERIVED FROM HUMAN BLOOD WILL NOT TRANSMIT HEPATITIS."

* * * * *

[1505-01]

SUBCHAPTER G—COSMETICS

[Docket No. 75N-0005]

PART 701—COSMETIC LABELING

"Hypoallergenic" and Other Claims of Relative Safety

Correction

In FR Doc. 78-6425, appearing on page 10559 in the issue for Tuesday, March 14, 1978, in the first paragraph in the "SUPPLEMENTARY INFORMATION" section, in the last line, after the word "immediately", insert "upon publication of this notice in the FEDERAL REGISTER".

[4710-01]

Title 22—Foreign Relations

CHAPTER I—DEPARTMENT OF STATE

SUBCHAPTER G—INTERNATIONAL EDUCATIONAL AND CULTURAL EXCHANGE

[Dept. Reg. 108.752]

PART 63—EXCHANGE-VISITOR PROGRAM

Exchange-Visitor Programs for Alien Physicians

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This document amends the Department's regulations relating to Exchange-Visitor Programs which

are affected by provisions of Title VI of the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484), as amended by Pub. L. 95-83. The amendments set forth determinations which the Secretary of Health, Education, and Welfare is required to make pursuant to Pub. L. 94-484, as amended. These determinations were not available at the time the Department revised its Exchange-Visitor Program regulations.

The amendments set forth specific criteria which apply to alien physicians who come to the United States under the Exchange-Visitor Program either (1) to receive graduate medical education or training, or (2) to participate in programs involving observation, consultation, teaching or research.

EFFECTIVE DATE: January 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Paul A. Cook, 703-235-9436.

SUPPLEMENTAL INFORMATION: These regulations include specific sponsor obligations which apply to alien physicians admitted to the United States under the Exchange-Visitor Program. The regulation changes include two major categories for alien physicians, namely: (1) those regulations which are needed to implement the new legislation which imposes specific requirements regarding programs for alien physicians who come to the United States to receive graduate medical education or training, and (2) changes which are essential to control those programs involving observation, consultation, teaching, and research in which alien physicians can participate without regard to the requirements imposed by the new legislation because the aliens will not be coming to the United States to participate in programs in which they will receive graduate medical education or training.

It should be noted that the specific requirements of law which apply to alien physicians who come to the United States to receive graduate medical education or training do not apply to alien physicians who come to this country as exchange-visitors to observe, consult, teach, or conduct research.

Since these amendments are for the purpose of implementing certain provisions of Title VI of Pub. L. 94-484, as amended, which became effective on January 10, 1978, the Department finds that the notice of proposed rulemaking procedure and the delayed effective date under 5 U.S.C. 553 are impractical and unnecessary. However, consistent with the purpose and spirit of 5 U.S.C. 553, the Department will review and consider any written recommendations or comments submitted to the Department concerning these regulations with the view to making such further amendments as it deems warranted.

As criteria are developed for other categories under § 63.13, Sponsor obligations—Specific under the Exchange-Visitor Program, additional amendments will be issued.

Accordingly, Part 63 of Title 22, Code of Federal Regulations, is amended as set forth below.

1. The table of contents for Subpart B is amended by redesignating the present §§ 63.13-63.16 as §§ 63.14-63.17 and changing the title of § 63.12 to read "Sponsor obligations—General."

2. In § 63.1 immediately following the definition "Financed indirectly" the following definition is added:

§ 63.1 Definitions.

* * * * *

"Graduate medical education or training" means participation in a program in which the alien physician will receive graduate medical education or training, which generally consists of a residency or fellowship program involving health care services to patients, but does not include participation in a program involving observation, consultation, teaching or research in which there is no element or only incidental elements of patient care.

* * * * *

3. In § 63.12, paragraphs (c) and (f) are revised to read as follows:

§ 63.12 Sponsor obligations—General.

* * * * *

(c) Instruct any participant requiring an extension of temporary stay to apply to the Immigration and Naturalization Service between 15 and 60 days before the expiration of the participant's stay and provide the participant requiring the extension with a fully completed Form DSP-66 showing the period and terms of the extension desired;

* * * * *

(f) Comply with specific criteria required by the Department for certain types of programs (see § 63.13);

* * * * *

§§ 63.13—63.16 Redesignated as 63.14—17

4. By redesignating §§ 63.13-63.16 as §§ 63.14-63.17, as stated in Item 1, a new § 63.13 is added to read as follows:

§ 63.13 Sponsor obligations—Specific.

(a) *Alien physicians.* The following criteria shall apply to alien physicians admitted to the United States in Exchange-Visitor (J-1) status for the purpose of observation, consultation, teaching, and research or participation in programs under which alien physicians will receive graduate medical education or training. These criteria must be strictly adhered to by Exchange-Visitor Program sponsors involved with sponsorship of alien physicians. Failure to comply with these criteria can result in the immediate revocation of the Exchange-Visitor Program designation, pursuant to section 63.17 of the regulations.

(1) *Effective date.* Unless otherwise noted, these criteria apply on and after January 10, 1978 to requests for sponsorship of Exchange-Visitor alien physicians for two types of programs, namely: (i) programs under which they will receive graduate medical education or training; and (ii) medical programs under which they will observe, consult, teach or conduct research.

(2) *Exchange-Visitor sponsorship for programs in which the alien receives graduate medical education or training.* (i) Any alien physician who is coming to the United States as an Exchange-Visitor to participate in a program under which the physician will receive graduate medical education or training must be documented by the Educational Commission for Foreign Medical Graduates with a Certificate of Eligibility for Exchange-Visitor Status (Form DSP-66).

(ii) The Department of State entered into an agreement with the Educational Commission for Foreign Medical Graduates in 1971 whereby the latter was designated the authority to administer the issuance of the Form DSP-66 in all cases involving the admission, certification, transfer or extension of stay for foreign physicians in Exchange-Visitor status who are receiving graduate medical education or training as defined above.

(iii) The Educational Commission for Foreign Medical Graduates is located at 3624 Market Street, Philadelphia, Pa. 19104, U.S.A. The telephone number is area code 215-386-5900. The cable address is EDCOUNCIL, Philadelphia, Pa, U.S.A.

(3) *Eligibility requirements to participate in programs under which alien physicians will receive graduate medical education or training.* An Exchange-Visitor physician is eligible to pursue a program under which he/she will receive graduate medical education or training only if the following requirements are met:

(i) The school of medicine or one of the other health professions, which is offering the education or training, must be accredited by a body or bodies approved for the purpose by the Commissioner of Education. Such school must agree in writing to provide the graduate medical education or training under the program for which the alien

is coming to the United States or to assume responsibility for arranging for the provision thereof by an appropriate public or nonprofit private institution or agency. If such an agreement by a school of medicine involves one or more of its affiliated hospitals, the hospital must join in the agreement.

(ii) A list of medical schools accredited by a body approved by the Commissioner of Education for the purpose of providing medical education can be obtained from either the Health Resources Administration, Department of Health, Education, and Welfare, 3700 East West Highway, Hyattsville, Md. 20782 or the Educational Commission for Foreign Medical Graduates (see address above).

(iii) The agreement in writing must be dated and signed by both the alien physician who is applying to receive graduate medical education or training and a responsible official of the school of medicine or of one of the other health professions which is offering the education or training. Standard contracts currently used by schools of medicine and affiliated hospitals, if signed by both parties to the agreement and dated, will suffice to meet the "agreement in writing" requirement. Such agreements, when signed and dated, should be sent to the Educational Commission for Foreign Medical Graduates (see address above).

(iv) Before making such agreement, the accredited school of medicine must be satisfied that all alien applicants (A) have passed Parts I and II of the National Board of Medical Examiners Examination (or an examination which has been determined by the Secretary of Health, Education, and Welfare to be equivalent to Parts I and II of the National Board of Medical Examiners Examination), unless exempted by law, (B) have competency in oral and written English, (C) will be able to adapt to the educational and cultural environment in which they will be receiving their education or training, and (D) have adequate prior education and training to participate satisfactorily in the program for which they are coming to the United States. It should be noted that alien physicians who seek sponsorship of the Educational Commission for Foreign Medical Graduates will be required to submit evidence to the Commission that they are competent in oral and written English.

(v) The Secretary of Health, Education, and Welfare has determined, pursuant to authorization granted by Pub. L. 94-484, that the Visa Qualifying Examination (VQE) is an examination equivalent to the Part I and Part II examinations of the National Board of Medical Examiners (42 FR 45037, September 8, 1977). The Visa Qualifying Examination is prepared by the National Board of Medical Examiners and is administered by the Educational Commission for Foreign Medical Graduates. The first of these examinations was given on September 7th and 8th, 1977 and the next examination is scheduled to be given on September 6th and 7th, 1978. Details regarding the VQE can be obtained from the Educational Commission for Foreign Medical Graduates. (see paragraph (2)(iii) for address).

(vi) A graduate of a school of medicine, provided it has been accredited by the Liaison Committee on Medical Education, (a body approved for that purpose by the Commissioner of Education), regardless of whether the school is located in the United States, is exempted by law from the requirements of passing Parts I and II of the National Board of Medical Examiners Examination or the equivalent Visa Qualifying Examination (VQE).

(vii) The law also provides that alien physicians applying for Exchange-Visitor status are considered to have passed the Parts I and II examinations of the National Boards if they were, on January 9, 1977, fully and permanently licensed to practice medicine in a State and were on that date practicing medicine in a State and held on that date a valid specialty certificate issued by a constituent board of the American Board of Medical Specialties.

(viii) It is important to note that the Federation Licensing Examination (FLEX) and the Educational Commission for Foreign Medical Graduates examination are not currently considered by the Secretary of Health, Education, and Welfare to be the equivalent of Parts I and II examinations of the National Board of Medical Examiners for alien physicians wishing to come to the United States to receive graduate medical education or training. The Visa Qualifying Examination (VQE) is the only examination deemed equivalent by the Secretary of Health, Education, and Welfare for the purpose of Pub. L. 94-484.

(4) *Limitation of stay and written assurances.* Alien physicians must make a commitment to return to the country of their nationality or last residence upon completion of the education or training for which they are coming to the United States (including any extension of the duration thereof under paragraph (a)(4)(ii) of this section). The signature by the alien physician on the reverse side of the original copy of the Form DSP-66 constitutes a commitment to return in accordance with Pub. L. 94-484. This law states that all alien physicians coming to the United States on or after January 10, 1977 to receive graduate medical education or training are subject to the two-year home physical presence requirement of section 212(e) of the Immigration and Nationality Act, as amended, and that such physicians are not eligible for waivers based on a "No Objection" statement submitted by their respective governments to the Secretary of State, pursuant to section 212(e) of the Immigration and Nationality Act.

(i) The government of the country of the alien physician's nationality or last residence must provide written assurance, satisfactory to the Secretary of Health, Education, and Welfare, that there is a need in that country for persons with the skills the alien physician will acquire in such education or training. The following format, approved by the Secretary of Health, Education, and Welfare, must be submitted to the Educational Commission for Foreign Medical Graduates by foreign governments when providing the assurances required by Pub. L. 94-484 for alien physicians coming to the United States to receive graduate medical education or training. The statement by the foreign government must bear the seal of the government concerned and be signed by a duly designated official of that government.

Name of Applicant for Visa: _____
There currently exists in (country) a need for qualified medical practitioners in the specialty of _____. (Name of applicant for Visa) has filed a written assurance with the government of this country that he/she will return to this country upon completion of training in the United States and intends to enter the practice of medicine in the specialty for which training is being sought.
Stamp (or Seal and signature) of issuing official of named country.
Dated: _____

_____
Official of named Country.

(ii) The duration of the alien's participation in the program for which he or she is coming to the United States is limited to not more than two years, except that such duration may be extended for one year at the written request of the government of the individual's nationality or last foreign residence. Such an extension can be granted only if the accredited school providing or arranging for the provision of the education or training program agrees in writing to such an extension, and the extension is for the purpose of continuing the alien's education or training under the specific program for which he or she came to the United States. Written requests for extensions should follow the type of format described in paragraph (a)(4)(i) of this section.

(5) *"Substantial Disruption" provision of Pub. L. 94-484.* The requirements of paragraphs (a)(3)(i) and (3)(iv)(A) of this section shall not apply between January 10, 1978 and December 31, 1980, to any alien physician who seeks to come to the United States to participate in an accredited

program under which the alien will receive graduate medical education or training, if there would be a substantial disruption in the health services provided in such program because the alien was not permitted, because of his or her failure to meet these two requirements of Pub. L. 94-484, as amended, to enter the United States to participate in such program.

(i) In the administration of the "substantial disruption" provision the Attorney General will take such action as may be necessary to ensure that the total number of exchange visitors participating (at any time) in programs described immediately above does not, because of the "substantial disruption" exemption, exceed the total number of such aliens participating in such programs on January 10, 1978. Any alien physician admitted under the "substantial disruption" provision must have Educational Commission for Foreign Medical Graduates certification and be documented by the Educational Commission for Foreign Medical Graduates with a Form DSP-66 (Certificate of Eligibility for Exchange-Visitor status). The Educational Commission for Foreign Medical Graduates will assure that the total number of alien physicians admitted under the "substantial disruption" provision does not exceed the total number of alien physicians particpating in such training programs on January 10, 1978.

(ii) The Educational Commission for Foreign Medical Graduates currently administers the issuance of certificates of eligibility for exchange visitor visas for alien physicians coming to the United States to receive graduate medical education or training. The Educational Commission for Foreign Medical Graduates has the most complete data on alien physicians. Therefore, the Commission will process waiver requests under the "substantial disruption" provision of Pub. L. 94-484 within criteria to be provided by the Department of State on advice from the Department of Health, Education, and Welfare. These criteria and limits by which medical institutions and hospitals can predictably obtain waivers on a case-by-case basis will be for the period January 10, 1978, through December 31, 1980. Medical institutions and hospitals should submit the necessary data to the Educational Commission for Foreign Medical Graduates to demonstrate that the criteria have been met and the limits maintained. The issuance of eligibility certificates (DSP-66s) by the Educational Commission for Foreign Medical Graduates constitutes the granting of a waiver under the "substantial disruption" provision of the law.

Institutions which do not receive favorable consideration on applications for "substantial disruption" waivers may appeal the decision. Appeals should be sent to the Executive Director of the Educational Commission for Foreign Medical Graduates for transmittal to an Appeals Board which is chaired by the Administrator, Health Resources Administration, Department of Health, Education, and Welfare.

(6) *Eligibility to participate in public health and preventive medicine programs.* A United States university, academic medical center, school of public health, or other public health institution which has been designated as an Exchange-Visitor Program by the Secretary of State is authorized to issue Form DSP-66 to alien physicians to enable them to come to the United States for the purposes of entering into those programs which do not include any clinical activities involving direct patient care. Under these circumstances, the special eligibility requirements listed in paragraphs (a)(3)(i), (iii) and (3)(iv)(A) of this section need not be met. However, the Responsible Officer or alternate Responsible Officer of the Exchange-Visitor Program involved must append a certification to the Form DSP-66 which states:

"This certifies that the program in which (name of physician) is to be engaged does not include any clinical activities involving direct patient care."

(7) *Eligibility requirements to participate in programs involving observation, consultation, teaching, and research.* A United States university or academic medical center which has been designated an Exchange-Visitor Program by the Secretary of State is authorized to issue Form DSP-66 to alien physicians to enable them to come to the United States for the purposes of observation, consultation, teaching or research under the following two situations, neither of which requires that the special eligibility requirements listed in paragraphs (a)(3)(i), (iii) and (3)(iv)(A) of this section be met.

(i) If the alien physician is coming to the United States solely for the purpose of observation, consultation, teaching, or research, the Responsible Officer or duly designated alternate of the Exchange-Visitor Program involved must sign and append to the Form DSP-66 a certification which states "this certifies that the program in which (name of physician) is to be engaged is solely for the purpose of observation, consultation, teaching or research and that no element of patient care services is involved."

(ii) If the alien physician is coming to the United States to pursue a program involved with observation, consultation, teaching or research but which also involves incidental patient contact, the dean of the involved accredited United States medical school or his designee must certify to the following five points and the certification must be appended to the Form DSP-66 issued to the prospective Exchange-Visitor alien physician:

(A) The program in which (name of physician) will participate is predominantly involved with observation, consultation, teaching or research.

(B) Any incidental patient contact involving the alien physician will be under the direct supervision of a physician who is a U.S. citizen or resident alien and who is licensed to practice medicine in the State of ————.

(C) The alien physician will not be given final responsibility for the diagnosis and treatment of patients.

(D) Any activities of the alien physician will conform fully with the State licensing requirements and regulations for medical and health care professions in the State in which the alien physician is pursuing the program.

(E) Any experience gained in this program will not be creditable towards any clinical requirements for medical specialty board certification.

(iii) The Educational Commission for Foreign Medical Graduates is also authorized to issue Form DSP-66 to alien physicians who are coming to the United States to participate in a program of observation, consultation, teaching, or research provided the required letter of certification as outlined in paragraphs (a)(7) (i) or (ii) of this section is appended to the Form DSP-66. Hospitals, medical, and research centers which do not currently have Exchange-Visitor Programs designated by the Department of State may request the Educational Commission for Foreign Medical Graduates to document alien physicians with Form DSP-66 if such physicians are coming to this country primarily for observation, consultation, teaching, or research programs. Institutions should consult with the Educational Commission for Foreign Medical Graduates for information regarding the requirements to be met for Form DSP-66 documentation by the Educational Commission for Foreign Medical Graduates.

(8) *Applicability of section 212(e) of the Immigration and Nationality Act.* (i) Any exchange visitor physician coming to the United States on or after January 10, 1977 for the purpose of receiving graduate medical education or training is automatically subject to the two-year foreign residency requirement of section 212(e) of the Immigration and Nationality Act. Such physicians are not eligible to be considered for 212(e) waivers on the basis of "No Objection" statements issued by their governments.

(ii) Alien physicians coming to the United States for the purpose of observation, consultation, teaching, or research are not automatically subject

to the two-year foreign residence requirement of section 212(e) of the Immigration and Nationality Act but would be subject to the requirement only if they were governmentally financed or subject to the foreign residency requirement because of the Exchange-Visitor Skills List (Public Notice, 37 FR 8099, April 25, 1972 and 43 FR 5910, February 10, 1978). Such alien physicians are eligible for consideration of waivers under section 212(e) of the Immigration and Nationality Act on the basis of "No Objection" statements submitted by their governments in their behalf through diplomatic channels to the Secretary of State.

(9) *Alien physicians in training programs prior to January 10, 1978.* (i) Alien physicians in the United States in medical residency training programs which began prior to January 10, 1977, who qualify for the five-year general limitation of stay, will, in general, be sponsored for completion of their training objective, provided they have not obtained a waiver under section 212(e) of the Immigration and Nationality Act or become permanent residents of the United States. Specifically:

(ii) Alien physicians who completed in June 1977 the first or second year of an initial residency training program will be sponsored to complete the balance of their training objective, subject to the five-year general limitation of stay.

(iii) Alien physicians who completed initial residency training in June 1977 and who have a contract or clinical fellowship to pursue a subspecialty in a field directly related to their residency training will be sponsored to do so, provided the subspecialty training can be completed within the five-year time limitation.

(iv) Alien physicians who began their training in 1974, 1975, or 1976 will be sponsored to pursue their subspecialty training after completing their residency training programs only if: (A) they can provide evidence to show that their stated objective in coming to the United States was to pursue such subspecialty training; or (B) they can provide the Educational Commission for Foreign Medical Graduates with a strong written justification from the dean, vice dean or registrar, or chief executive officer of the concerned home country academic institution or from a government official, such as the Minister of Health, that there is a definite need in that country for persons with the skills the alien will acquire.

(v) Alien physicians who were in training programs prior to January 10, 1977, and who are continuing to pursue the same program objective are still eligible to be considered for a waiver on the basis of a "No Objection" statement from their respective governments.

(vi) Alien physicians who began their graduate medical education or training programs between January 10, 1977, and January 9, 1978, will be permitted to complete their initial training program objectives provided they have not become immigrants or obtained waivers of the two-year foreign residence requirement. Initial training program objective is defined as the completion of the basic residency requirement or fellowship program for which the alien physician came to the United States. If, after completing their basic residency or fellowship programs, the alien physicians wish to pursue additional training in a directly-related subspecialty, they will be required to furnish documentation from their home-country governments that there is a definite need in the countries concerned for persons with the additional skills which the physician(s) will acquire. The alien physicians must also certify that they will return home on completion of any extension of stay.

5. In § 63.22 (b)(1) and (c)(1), change 15 and 30 days to read 15 and 60 days.

6. In section 63.31, paragraph (a)(1) is amended to read as follows:

§ 63.31 Requests for waivers of the home-country physical presence requirement of the Immigration and Nationality Act, as amended.

(a) *General provisions.* * * *

(1) No person admitted under section 101(a)(15)(J) of the Immigration and Nationality Act or acquiring such status after admission (i) whose participation in the program was financed in whole or in part, directly or indirectly, by an agency of the Government of the United States or by the government of the country of the participant's nationality or his last residence, or (ii) who at the time of admission or acquisition of status under section 101(a)(15)(J) was a national or resident of a country which the Secretary of State, pursuant to regulations prescribed by the Secretary, had designated as clearly requiring the services of persons engaged in the field of specialized knowledge or skill in which the participant was engaged, or (iii) who came to the United States under section 101(a)(15)(J) or acquired such status after entry in order to receive graduate medical education or training, shall be eligible for an immigrant visa, or for permanent residence, or for a nonimmigrant visa under section 101(a)(15)(H) or section 101(a)(15)(L) until it is established that such person has resided and been physically present in the country of such person's nationality or last residence for an aggregate of at least two years following departure from the United States.

* * * * *

(Sec. 4, 63 Stat. 111, as amended; secs. 102, 109(a)(b), (d) (75 Stat. 527, 534, 535); secs. 101(a), (15)(J), 104(a), 212(e) (66 Stat. 166, 174, 182, 184); sec. 2, 84 Stat. 116, 117 (22 U.S.C. 2658, 2452); 8 U.S.C. 1101(a)(15)(J), 1104(a), 1182(e), 1258; Title VI, Pub. L. 94-484 (90 Stat. 2300); Pub. L. 95-83 (91 Stat. 394, 395).)

Dated: March 27, 1978.

BEN H. READ,
Deputy Under Secretary for Management.

[FR Doc. 78-8601 Filed 3-30-78; 8:45 am]

[6820-32]

CHAPTER VI—U.S. ARMS CONTROL AND DISARMAMENT AGENCY

PART 601—STATEMENT OF ORGANIZATION

Revision

AGENCY: U.S. Arms Control and Disarmament Agency.

ACTION: Final rule.

SUMMARY: The U.S. Arms Control and Disarmament Agency is revising its regulations relating to its statement of organization. The purpose of the amendment is to update the regulation as in effect January 1, 1978.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Sidney D. Anderson, Deputy Administrative Director, U.S. Arms Control and Disarmament Agency, 320 21st Street NW., Washington, D.C. 20451, phone: 202-623-3442.

22 CFR Part 601 is revised to read as follows:

Sec.
601.1 Definition.

Subpart A—Agency Responsibilities and Structure

601.5 Responsibilities.
601.6 Structure.
601.7 General Advisory Committee.

Subpart B—Functional Statements

601.10 Office of the Director.
601.11 Bureau of International Security Programs.
601.12 Bureau of Multilateral Affairs.
601.13 Bureau of Non-Proliferation.
601.14 Bureau of Weapons Evaluation and Control.
601.15 Office of the General Counsel.
601.16 Office of Public Affairs.
601.17 Office of Operations Analysis.
601.18 Office of Administration.

AUTHORITY: Sec. 1, 81 Stat. 54; 5 U.S.C. 552; sec. 41, 75 Stat. 631; 22 U.S.C. 2581, and sec. 501, 65 Stat. 290; 31 U.S.C. 483a.

§ 601.1 Definition.

As used throughout this part, the term "Agency" and the acronym "ACDA" stand for the U.S. Arms Control and Disarmament Agency.

Subpart A—Agency Responsibilities and Structure

§ 601.5 Responsibilities.

(a) The Agency is charged with providing the President, the Secretary of State, other officials of the executive branch, and the Congress with recommendations concerning United States arms control and disarmament policy, and assessing the effect of these recommendations upon our foreign policies, our national security policies, and our economy.

(b) The Agency also has the capacity for providing the essential scientific, economic, political, legal, social, pyschological, military and technological information on which realistic arms control and disarmament policy must be based, and the authority, under the direction of the President and the Secretary of State, to carry out the following primary functions:

(1) The conduct, support, and coordination of research for arms control and disarmament policy formulation;

(2) The preparation for and management of United States participation in international negotiations in the arms control and disarmament field;

(3) The dissemination and coordination of public information concerning arms control and disarmament; and

(4) The preparation for, operation of, or as appropriate, direction of United States participation in such control systems as may become part of United States arms control and disarmament activities.

(c) The Agency works at the highest level of the U.S. Government, and under the direction of the Secretary of State, conducts U.S. participation in international arms control and disarmament negotiations. It does not normally hand down decisions or engage in regulations affecting the general public, since its functions are principally in the advisory or diplomatic areas, as noted above. Copies of publications resulting from the Agency's activities, such as its Annual Report, may be ordered from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, or requested directly from the U.S. Arms Control and Disarmament Agency, 321 21st Street NW., Washington, D.C. 20451.

§ 601.6 Structure.

(a) The Agency is headed by a Director, appointed by the President with the advice and consent of the Senate, who is responsible for the executive direction of the Agency. He also functions as the principal adviser to the Secretary of State, the National Security Council, and the President on arms control and disarmament matters and, under the direction of the Secretary, has primary responsibility within the Government for such matters. In addition to his duties as head of the Agency, the Director serves as chairman of the U.S. delegation to the Strategic Arms Limitation Talks (SALT) with the rank of Ambassador and participates in other arms control negotiations on behalf of the President. He is assisted by a Deputy Director, similarly appointed by the President with the advice and consent of the Senate, who acts for him in his absence.

(b) The Director is supported by a personal staff which includes the Counselor of the Agency, the Executive Secretary, and officials who provide military, verification, scientific and intelligence advice. Other senior officials included within the Director's immediate office are the Special Representative for Arms Control and Disarmament Negotiations, the U.S. Commissioner on the Standing Consultative Commission (SCC), and the U.S. Representative to the Conference of the Committee on Disarmament (CCD). The Office of the Director also supports the General Advisory Committee, and calls upon select consultants to furnish special expertise to the Director.

(c) In its deliberations during the establishment of the Agency, Congress made it clear that the Director of ACDA would rank with the Under Secretary (now Deputy Secretary) of State and report directly to the Secretary; the Deputy Director would rank with the Deputy Under Secretary of State. Congress also made it clear that although he has a special and close relationship to the Secretary of State, the Director also has direct access to the President when necessary and that he has sufficient authority and independence to deal directly with the heads of other agencies, such as the Department of Defense, on matters not falling within the competence of the Department of State.

(d) The Agency's program responsibilities are primarily discharged through four bureaus, each of which is headed by an Assistant Director appointed by the President with the advice and consent of the Senate. These are the Bureau of International Security Programs, the Bureau of Multilateral Affairs, the Bureau of Non-Proliferation, and the Bureau of Weapons Evaluation and Control. Within the range of its program responsibilities, each bureau is responsible for generating policy proposals, and for working closely with other ACDA bureaus and Government agencies on matters related to its program areas. Other organizational units with staff responsibilities are the Office of the General Counsel, the Office of Public Affairs, the Office of Operations Analysis, and the Office of Administration.

§ 601.7 General Advisory Committee.

The Act creating the Agency authorized the President, by and with the advice and consent of the Senate, to appoint a General Advisory Committee (GAC) of not to exceed 15 members. This committee must meet at least twice each year. From time to time, it advises the President, the Secretary of State, and the Director of ACDA on matters affecting arms control, disarmament and world peace. Under the Federal Advisory Committee Act (Pub. L. 92-463) and Executive Order 11796, as implemented by the General Services Administration (GSA), the Agency exercises significant support functions for the GAC.

Subpart B—Functional Statements

§ 601.10 Office of the Director.

(a) The Director of the U.S. Arms Control and Disarmament Agency is the principal adviser to the Secretary of State, the National Security Council (NSC), and the President on arms control matters. Under the direction of the Secretary of State, he has primary responsibility within the Government for formulation of policy recommendations and for operations in such matters. He is responsible for the executive direction and coordination of all activities of the Agency and the Agency's relations with the Congress. With the rank of Ambassador he serves as Chairman of the U.S. delegation to the Strategic Arms Limitations Talks (SALT) with the rank of Ambassador, and participates in other arms control negotiations on behalf of the President.

(b) The Deputy Director assists the Director in carrying out his responsibilities as head of the Agency, and acts for and exercises the powers of the Director during his absence.

(c) The Special Representative for Arms Control and Disarmament Negotiations, with the rank of Ambassador, serves as Alternate Chairman of the U.S. Delegation to SALT, and acts as Chief SALT negotiator in the absence of the Director of ACDA. He may also represent the Director at other key arms control negotiations as required.

(d) The U.S. Commissioner to the SCC, under the President and the Director of ACDA and with the rank of Ambassador, serves as U.S. Commissioner and heads the U.S. component of the Standing Consultative Commission.

(e) The U.S. Representative to the CCD, with the rank of Ambassador, serves as U.S. Representative to the Conference of the Committee on Disarmament, may represent arms control interests on the U.S. delegation to

the UN and its constituent bodies, and also represents the Director at other negotiations having arms control significance as required.

(f) The Special Assistant to the Director and Executive Secretary, ACDA, directs and coordinates staff work for the Director; conducts interagency and NSC liaison, as well as other White House and high level liaison assigned by the Director; serves as the link between the top Agency decision makers and principal staff; and assists the Director in keeping policy and management aspects of arms control matters in phase.

(g) The Counselor is responsible for such special projects essential to the formulation and implementation of arms control policy as may be assigned by the Director.

(h) The Senior Military Adviser to the Director is responsible for serving as the principal adviser to the Director on military affairs and is the principal representative of the Director to the Office of the Secretary of Defense and the Joint Chiefs of Staff. He evaluates arms control proposals from a military perspective, and assesses their potential contribution to the national security. He also serves as the Agency's focal point for verification matters, makes policy recommendations on verification issues, and monitors current verification procedures and systems in terms of their capabilities and limitations.

(i) The Chief Scientist serves as the principal scientific adviser to the Director and is the principal representative of the Director on all technical matters. He monitors scientific developments on behalf of the Agency, and reviews internal and proposed external research studies to ensure their technical soundness. He also advises the Director and other top officials on the technological aspects of the Agency's verification effort, coordinating his advice with the Senior Military Adviser.

(j) The Intelligence Staff briefs the Director and other principal staff on intelligence matters and serves as the official working liaison with the intelligence community.

(k) The Executive Director of the GAC provides substantive and administrative support to the General Advisory Committee, including White House and Congressional liaison, in its exercise of broad statutory responsibilities as a Presidential advisory body on arms control and disarmament activities.

§ 601.11 Bureau of International Security Programs.

(a) This bureau has responsibility within ACDA for the diplomatic, political and technical aspects of major strategic bilateral and regional arms control negotiations, including SALT, Mutual and Balanced Force Reductions (MBFR) in Europe and Indian Ocean arms control. The bureau develops U.S. proposals and analyzes proposals put forward by other parties to the negotiations. It takes the leading role in formulating ACDA positions bearing on the negotiations for which it has responsibility and on other policy questions, many of which require high level decisions within the Government.

(b) The bureau is comprised of the *Regional Division* and *Strategic Affairs Division.*

§ 601.12 Bureau of Multilateral Affairs.

(a) This bureau has operational responsibilities within ACDA for arms control negotiations that are or will be negotiated in multilateral forums, such as the CCD, the UN General Assembly, and specialized working groups dealing with subjects such as a Comprehensive Test Ban and chemical weapons. The bureau has technical and policy responsibilities for arms control in the areas of nuclear weapons tests, nuclear explosives for peaceful purposes, nuclear-free-zones, environmental modification, chemcial weapons, and radiological warfare. Officials in this bureau provide the Agency's principal point of contact with the U.S. Mission to the United Nations and provide technical and policy support to the Mission in arms control matters.

(b) The bureau is comprised of the *Advanced Technology Division* and the *International Relations Division.*

§ 601.13 Bureau of Non-Proliferation.

(a) This bureau has technical and policy responsibilities for ACDA's involvement in the U.S. Government's efforts to curb the proliferation of nuclear explosives. In coordination with the Department of State and other agencies, it is responsible for the Agency's participation in negotiations concerned with non-proliferation. The bureau also assesses the arms control implications of nuclear fuel cycles, fosters the development of alternative "proliferation resistant" nuclear technologies, and provides support for the International Atomic Energy Agency, including the development of safeguards techniques.

(b) The bureau is comprised of the *Nuclear Energy Division* and *Nuclear Exports Division.*

§ 601.14 Bureau of Weapons Evaluation and Control.

(a) This bureau assesses the policy implications and arms control impact of defense programs, and has prime responsibility within the Executive Branch for preparing arms control impact statements on major U.S. defense programs submitted by the White House to the Congress. It assesses and provides to the inter-agency decision-making process the arms control impact of U.S. transfers of arms and related technologies to other countries, and it participates in international negotiations on these questions. It also conducts other economic and social studies related to arms control. ACDA's annual publication, World Military Expenditures and Arms Transfers, is prepared in this bureau.

(b) The bureau is comprised of the *Arms Transfer Division,* the *Defense Program Impact Division,* the *Social Impact Staff,* and the *Special Analyses Staff.*

§ 601.15 Office of the General Counsel.

This office is responsible for all matters of domestic and international law. It provides advice and assistance in the preparation of drafts of proposed arms control treaties and agreements, and on questions regarding the implementation, interpretation and revision of treaties. The General Counsel's office has primary responsibility for Congressional matters, including all legislation. It also handles the legal aspects of Agency policies and operations in the areas of personnel, security, patents, contracts, procurement, fiscal, and administrative matters.

§ 601.16 Office of Public Affairs.

This office carries out the Agency's legislative mandate for the dissemination and coordination of public information concerning arms control matters. It is responsible for all contacts with the media and prepares daily guidance on questions relating to the Agency's business. It oversees the operation of the ACDA library. It also prepares publications, including the annual report to the Congress, and it handles the planning as well as the details of speaking engagements by ACDA officials. Within the office of Public Affairs, the ACDA Historian is responsible for the preparation of historical analyses on arms control topics and previous negotiations. It collects, screens, and distributes information to bureaus and offices to keep ACDA staff abreast of developments of interest and use in connection with their carrying out their responsibilities.

§ 601.17 Office of Operations Analysis.

This office supports current and proposed arms control and disarmament negotiations and policy formulation by providing quantitiative and qualitative assessments of the military, economic, and verification implications of arms control issues and options. It maintains an independent analytical and computer capability across a broad spectrum of disciplines. The office manages internal and external computer services for general Agency requirements and for interagency working groups on which ACDA is represented.

§ 601.18 Office of Administration.

This office is responsible for administrative management of the Agency and for providing support to all of its components. This includes all personnel, budget, fiscal, supply, security, communications and general administrative activities. The office maintains regular liaison with the Department of State and other organizations providing services for the agency.

Dated: March 27, 1978.

JAMES T. HACKETT,
Administrative Director.

[FR Doc. 78-8470 Filed 3-30-78; 8:45 am]

[4210-01]

Title 24—Department of Housing and Urban Development

CHAPTER II—ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER

[Docket No. R-78-522]

Miscellaneous Corrections

AGENCY: Office of Management, Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Corrections.

SUMMARY: This rule corrects various errors now contained in 24 CFR Chapter II, revised as of April 1, 1977.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

June Sheehan, Office of Management, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6623.

24 CFR Chapter II is corrected as follows:

§ 200.25 [Amended]

1. In Part 200, § 200.25(a) on page 238, lines 11, 12 and 13, delete the words "Atomic Energy Commission" and letters "AEC" and substitute "Energy Research and Development Administration" and letters "ERDA".

2. In Part 200, Subpart S, Appendix on page 288, second column, lines 1, 2, 3, and 4 should be corrected to read:

Resilient flooring:	
Asphalt tile (Type I)	FS SS-T-312A
Vinyl tile (Type II)	FS SS-T-312A
Linoleum	FS LLL-F-1238A

§ 203.400 [Amended]

3. In Part 203, Section 203.400, page 357 last line of column 1 should be deleted and replaced with the words, "claim shall be paid by issuing debentures".

4. In Part 203, Subpart C, "Authority", page 368, top of second column, third line, "1716B" should be "1715(a)."

§ 233.505 Incorporation by reference.

5. In Part 233, Section 233.505(a)(2)(i) on page 588, bottom of first column, the first five lines should be corrected to read as follows:

"(i) In cases involving new construction, such percentage shall be applied to the Commissioner's estimate of the cost of replacing the property using comparable conventional design, materials,"

6. In Part 880, Page 414, delete reference at top left of page to § 881.101 and replace with § 880.101.

7. In Parts 880, 881, and 883, all references to all Appendices should be deleted.

§ 880.110 [Amended]

8. In Part 880, Section 880.110(b)(1) on Page 420, the fifth line, delete the word "on" and replace with the word "and".

§ 882.110 [Amended]

9. In Part 882, Section 882.110(d), on Page 486, Line 1, "21(d)(3)" should be corrected to read "221(d)(3)".

§ 891.302 [Amended]

10. In Part 891, Section 891.302(a), on page 611, on the 14th line, "tions" should be corrected to read "conditions".

AUTHORITY: Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C., March 29, 1978.

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

[FR Doc. 78-8663 Filed 3-30-78; 8:45 am]

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER D—SOCIAL WELFARE

PART 20—FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

MARCH 24, 1978.

AGENCY: Bureau of Indian Affairs.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is amending its regulations relating to financial assistance and social services program. The purpose of this amendment is to insure provision of financial assistance under this part within the absolute limit imposed by appropriated funds.

EFFECTIVE DATE: This amendment shall become effective May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond V. Butler, Chief, Division of Social Services, Bureau of Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245, 202-343-7911; principal author, Raymond V. Butler.

SUPPLEMENTARY INFORMATION: It is generally the policy of the Department of the Interior to allow time for interested persons to take part in the rulemaking process. However, this amendment is entirely administrative in nature. The public rulemaking process is dispensed with under the exception provided in 5 U.S.C. 553(b)(B)(1970).

This amendment is made pursuant to the authority vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Subchapter D, Chapter 1, Title 25 of the Code of Federal Regulations is hereby amended as follows:

Part 20, § 20.1(s) is amended by adding the following phrase to the end of the existing section:

§ 20.1 Definitions.

* * * * *

(s) * * *; except that Bureau use of these established basic item/special item cost standards may be waived by the Assistant Secretary—Indian Affairs when required to insure provision of a level of financial assistance not exceeding the absolute limit of appropriated funds.

* * * * *

No further changes are made to Subchapter D.

These regulations will be effective May 1, 1978.

NOTE.—The Bureau of Indian Affairs has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

FORREST J. GERARD,
Assistant Secretary—Indian Affairs.

[FR Doc. 78-8549 Filed 3-30-78; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7536]

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Special Provisions Applicable to Retailers Excise Tax and to Manufacturers Excise Tax

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to special provisions applicable to manufacturers and retailers excise taxes. Permanent regulations have not previously been issued under most of the sections of the Internal Revenue Code of 1954 discussed in this document. These regulations provide necessary guidance to the public for compliance with the law, and they affect all persons required to pay retailers or manufacturers excise taxes.

DATE: The regulations are generally effective for sales made after December 31, 1958.

FOR FURTHER INFORMATION CONTACT:

Jonathan P. Marget of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3323).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 3, 1976, the FEDERAL REGISTER published proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under sections 4054 through 4058, 4216, 4217, 4218, and 4221 through 4227 of the Internal Revenue Code of 1954, 41 FR 48346. The amendments were proposed primarily to supersede all manufacturers excise tax regulations issued under the Internal Revenue Code of 1939 that had not previously been superseded by regulations issued under the 1954 Code. A public hearing was held on April 22, 1977. After consideration of all comments regarding the proposed amendments, those amendments, except for the amendments relating to constructive sale price for manufacturers excise tax purposes, are adopted as revised by this Treasury decision. The proposed amendments relating to constructive sale price are being given further consideration, and those amendments will be published later.

WITHDRAWAL AND DELETION OF SECTIONS MERELY REPRODUCING STATUTORY MATERIAL AND DELETION OF OBSOLETE MATERIAL

As part of the effort to reduce the bulk of the Code of Federal Regulations, those sections of the proposed regulations which merely reproduced various provisions of the Internal Revenue Code are withdrawn. For the same reason, several such sections are deleted from the Code of Federal Regulations by this document.

In addition, this document deletes many provisions that apply only to taxes repealed by the Excise Tax Reduction Act of 1965.

The regulations reflect some changes in codification made by the Tax Reform Act of 1976.

EXEMPTION CERTIFICATES

Several sections of the regulations, relating to tax-free sales, require a manufacturer or retailer to obtain an exemption certificate from the purchaser. As suggested by two comments on the proposed regulations, the final regulations provide that any form of exemption certificate will be acceptable if it includes all the information required to be included in such a certificate by the regulations relating to a particular exemption. This rule is contained in new § 48.0-5.

Also in response to comments from the public, the maximum duration of blanket exemption certificates authorized by several sections of the regulations has been extended from 4 calendar quarters to 12 calendar quarters.

MANUFACTURER'S SALE PRICE

The Internal Revenue Service is now considering revising the positions taken in some published rulings dealing with constructive sale price. As conclusions reached in connection with that study could affect some provisions of the regulations relating to constructive sale price, those proposed amendments to the regulations are not being adopted at this time.

In response to comments from the public, several relatively minor clarifying changes have been made to other rules dealing with a manufacturer's sale price.

DRAFTING INFORMATION

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

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly—

1. The following sections of the proposed regulations are withdrawn:

a. Sections 48.4054, 48.4055, 48.4056, 48.4057, and 48.4058, as set forth in paragraph 3 of the appendix of the notice of proposed rule making.

b. Sections 48.4216(a), 48.4216(b), 48.4216(c), and 48.4216(e), as set forth in paragraph 4 of the appendix to the notice of proposed rule making.

c. Sections 48.4216(g) and 48.4217, as set forth in paragraph 5 of the appendix to the notice of proposed rule making.

d. Sections 48.4221, 48.4222(a), 48.4222(b), 48.4222(c), 48.4222(d), 48.4222(e), 48.4223, 48.4225, 48.4226, and 48.4227, as set forth in paragraph 7 of the appendix to the notice of proposed rule making.

2. Sections 48.4216(b)-1 through 48.4216(b)-4 are not adopted hereby and will remain outstanding in proposed form.

3. The other amendments to 26 CFR Part 48 are hereby adopted, subject to the changes set forth below.

PARAGRAPH 1. Section 48.0-1 is amended by deleting paragraph (c) and by revising paragraph (b) to read as follows:

§ 48.0-1 Introduction.

* * * * *

(b) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (48.); the section, subsection, or paragraph of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4072 of the Code are designated § 48.4072-1. Subpart A of this part contains provisions relating to the arrangement and numbering of the sections of the regulations in this part and other provisions of general application to various taxes, such as general definitions and use of terms, scope of regulations, and the extent to which the regulations in this part supersede prior regulations relating to the excise taxes imposed by chapters 31 and 32 of the Internal Revenue Code.

PAR. 2. Section 48.0-2, as set forth in paragraph 1 of the appendix to the notice of proposed rule making, is changed by revising paragraph (a) (7) and (8) and paragraph (b) (1), (2), and (5) to read as follows:

§ 48.0-2 General definitions and attachment of tax.

(a) Meaning of terms. * * *

(7) The term "vendor" includes a lessor except that, with respect to the manufac-

turers excise taxes, this rule applies only where the lessor is also the manufacturer of the article.

(8) The term "purchaser" includes a lessee except that, with respect to the manufacturers excise taxes, this rule applies only where the lessor is also the manufacturer of the article.

* * * * *

(b) *Attachment of tax.* (1) For purposes of this part, the manufacturers excise tax generally attaches when the title to the article sold passes from the manufacturer to a purchaser, and the retailers excise tax generally attaches when the title to the article sold passes from the retailer to a purchaser.

(2) When title passes is dependent upon the intention of the parties as gathered from the contract of sale and the attendant circumstances. In the absence of expressed intention, the legal rules of presumption followed in the jurisdiction where the sale is made govern in determining when title passes.

* * * * *

(5) In the case of a lease, an installment sale, a conditional sale, or a chattel mortgage arrangement or similar arrangement creating a security interest, a proportionate part of the tax attaches to each payment. See section 4217 and the regulations thereunder for a limitation on the amount of tax payable on lease payments.

* * * * *

PAR. 3. The amendment to § 48.0–4, set forth in paragraph 2 of the appendix to the notice of proposed rule making, is changed by striking out "§§ 148.1–3, 148.1–4, and 148.1–5" and inserting in lieu thereof §§ 148.1–3 and 148.1–4".

PAR. 4. The following new section is inserted immediately after § 48.0–4:

§ 48.0–5 Exemption certificates.

Several sections of the regulations in this part, relating to sales exempt from retailers or manufacturers excise tax, require the retailer or manufacturer (as the case may be) to obtain an exemption certificate from the purchaser to substantiate the exempt character of the sale. Many of these sections also contain specimen forms of acceptable exemption certificates. However, any form of exemption certificate will be acceptable if it includes all the information required to be contained in such a certificate by the pertinent sections of the regulations in this part. If it contains all the required information, a form of exemption certificate that is processed by data processing equipment is acceptable.

PAR. 5. Subparts B (§§ 48.4001 through 48.4003–4, relating to jewelry), C (§§ 48.4011 through 4022–2, relating to furs), D (§§ 48.4021 through 4022–2, relating to toilet preparations), and E (§§ 48.4031 and 48.4031–1, relating to luggage, handbags, etc.) are deleted.

PAR. 6. Section 48.4041 is deleted.

PAR. 7. Section 48.4041–10 is deleted, and § 48.4041–11 is redesignated as § 48.4041–10.

PAR. 8. Section 48.4055–1, as set forth in paragraph 3 of the appendix to the notice of proposed rule making, is changed by (1) redesignating the section as § 48.4041–11, (2) striking out "clearly identified" from the second sentence of paragraph (b), and (3) striking out "section 4055" from the second line of the exemption certificate form set forth in paragraph (b) and inserting in lieu thereof "section 4041(g)(2)".

PAR. 9. Section 48.4056–1, as set forth in paragraph 3 of the appendix to the notice of proposed rule making, is redesignated as § 48.4041–12.

PAR. 10. Section 48.4057–1, as set forth in paragraph 3 of the appendix to the notice of proposed rule making, is changed by (1) redesignating the section as § 48.4041–13, (2) striking out "4 calendar quarters" in paragraph (e) and inserting in lieu thereof "12 calendar quarters", and (3) striking out "In the absence of circumstances indicating a different use, the" from paragraph (f) and inserting in lieu thereof "The".

PAR. 11. Sections 48.4061(a), 48.4061(b), 48.4062(a), 48.4062(b), 48.4063, 48.4071, 48.4072, 48.4073, 48.4081, 48.4082, 48.4083, 48.4091, 48.4092, 48.4093, 48.4101, and 48.4102 are deleted.

PAR. 12. Subparts I (§§ 48.4111 through 48.4131–3, relating to refrigeration equipment, electric, gas and oil appliances, and electric light bulbs) and J (§§ 48.4141 through 48.4151–2, relating to radio and television sets, phonographs, phonograph records, and musical instruments) are deleted.

PAR. 13. Sections 48.4161(a), 48.4161(b), 48.4171, 48.4181, and 48.4182 are deleted.

PAR. 14. Subpart L (§§ 48.4191 through 48.4211–3, relating to business machines, pens, mechanical pencils and lighters, and matches) is deleted.

PAR. 15. Section 48.4216(a)–1, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is changed by (1) striking out "section 4216(f) and § 48.4216(f)–1" from the sixth sentence of paragraph (a) and inserting in lieu thereof "section 4216(e) and § 48.4216(e)–1"; (2) revising the last sentence of paragraph (a) to read as set forth below; and (3) adding the following new paragraph (e) following paragraph (d):

§ 48.4216(a)–1 Charges to be included in sale price.

(a) *In general.* * * * In the case of sales on credit, a carrying, finance, or service charge is excludable from the sale price if it is reasonably related to the costs of carrying the deferred portion of the sale price (such as interest on the deferred portion of the sale price, expenses of bookkeeping necessary to keep the records of such sales, and expenses of correspondence and other communication in connection with collection).

* * * * *

(e) *Taxable and nontaxable articles sold as a unit.* Where a taxable article and a nontaxable article are sold by the manufacturer as a unit, the tax attaches to that portion of the manufacturer's sale price of the unit which is properly allocable to the taxable article. For example, where a fishing reel (an article subject to tax under section 4161(a)) is equipped with a fishing line (a nontaxable article) and the reel and line are sold as a unit, the tax imposed by section 4161(a) applies only to that portion of the manufacturer's sale price of the unit which is properly allocable to the fishing reel. Normally, the taxable portion of such a unit may be determined by applying to the manufacturer's sale price of the unit the ratio which the manufacturer's separate sale price of the taxable article bears to the sum of the sale prices of both the taxable and nontaxable articles, if such articles are sold separately by the manufacturer. Where the articles (or either one of them) are not sold separately by the manufacturer and do not have established sale prices, the taxable portion is to be determined from a comparison of the actual costs of the articles to the manufacturer. Thus, if the cost of the taxable article represents four-fifths of the total cost of the complete unit, the tax applies to four-fifths of the price charged by the manufacturer for the unit.

PAR. 16. Section 48.4216(a)–2, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is changed by (1) revising the third sentence of paragraph (a)(1); (2) inserting a new sentence after the first sentence of paragraph (b)(1); and (3) revising so much of paragraph (b)(2) as follows the fifth sentence. These revised and added provisions read as follows:

§ 48.4216(a)–2 Exclusions from sale price.

(a) *Tax—(1) Tax not part of taxable sale price.* * * * Where no separate charge is made as tax, it will be presumed that the price charged to the purchaser for the article includes the proper tax, and the proper percentage of such price will be allocated to the tax.

* * * * *

(b) *Transportation, delivery, insurance, or installation charges—(1) Charges incurred pursuant to sale.* * * * Such charges include all items of transportation, delivery, insurance, installation, and similar expense incurred after shipment to a customer beings, in response to the customer's order, pursuant to a bona fide sale. * * *

(2) *Only actual expenses to be excluded.* * * * In general, unless the taxpayer establishes to the satisfaction of the district director that another method reasonably apportions such freight expense between taxable and nontaxable articles, such expense should be apportioned on the basis of the relative weights (or, if available, the relative published tariff rates applicable to) the taxable and nontaxable articles. Where it is not feasible to apportion such expense on the basis of relative weights or tariff rates, the expense shall be apportioned on another reasonable basis; for example, in the case of a shipment including both taxable and nontaxable automotive parts which are subject to the same tariff rate, it may be appropriate to apportion the transportation expense on the basis of the relative sale prices. A charge for insurance in connection with the delivery of an article to a purchaser is con-

sidered to represent an expense actually incurred only to the extent that an amount equivalent to such charge is paid or payable by the manufacturer to a person authorized to assume such insurance risk.

* * * * *

PAR. 17. Section 48.4216(c)-1, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is changed by revising the first sentence of paragraph (b) to read as follows:

§ 48.4216(c)-1 Computation of tax on leases and installment sales.

* * * * *

(b) *Installation sales.* When a taxable article is sold under an installment payment contract with title reserved in the seller, or under a conditional sale contract, chattel mortgage arrangement or other arrangement creating a security interest with payments to be made in installments, tax shall be computed and paid on each payment made by the purchaser. * * *

* * * * *

PAR. 18. Section 48.4216(e)-1, as set forth in paragraph 4 of the appendix to the notice of proposed rule making, is changed by (1) redesignating the section as § 48.4216(d)-1 and (2) striking out "section 4216(e))" in paragraph (c) and inserting in lieu thereof "section 4216(d))".

PAR. 19. Section 48.4216(f) is deleted.

PAR. 20. Section 48.4216(f)-1 is amended as follows:

1. The section is redesignated § 48.4216(e)-1.

2. Paragraph (a) is revised by deleting "4216(f)" from the first, second, fourth, and fifth sentences and inserting in lieu thereof "4216(e)"; by deleting "§ 48.4216(f)-2" from the sixth sentence and inserting in lieu thereof "48.4216(e)-2"; and by deleting "§ 48.4216(f)-3" from the seventh sentence and inserting in lieu thereof "§ 48.4216(e)-3".

3. Paragraph (b) is revised by deleting "4216(f)" from the first sentence and inserting in lieu thereof "4216(e)".

4. Paragraph (c)(2) is revised by deleting "§ 48.4216(f)-2" from the fifth sentence and inserting in lieu thereof "§ 48.4216(e)-2".

PAR. 21. Section 48.4216(f)-2 is amended as follows:

1. The section is redesignated § 48.4216(e)-2.

2. Paragraph (a) is revised by deleting "section 4216(f)(1) and § 48.4216(f)-1," from the first sentence and inserting in lieu thereof "section 4216(e)(1) and § 48.4216(e)-1,".

3. Paragraph (b)(1) is revised by striking out "section 4216(f)(2)" from the first sentence and inserting in lieu thereof "section 4216(e)(2)".

4. Paragraph (b)(2) is revised by striking out "§ 48.4216(f)-1" and inserting in lieu thereof "§ 48.4216(e)-1".

5. Paragraph (b)(3) is revised by deleting "section 4216(f)(1) and § 48.4216(f)-1" from the second sentence and inserting in lieu thereof "section 4216(e)(1) and § 48.4216(e)-1".

6. Example (2) of paragraph (c) is revised by striking out "§ 48.4216(f)-1" from line 5 of the Computation as of close of first calendar quarter and inserting in lieu thereof "§ 48.4216(e)-1)".

PAR. 22. Section 48.4216(f)-3 is amended as follows:

1. The section is redesignated § 48.4216(e)-3.

2. Paragraph (a)(1) is revised by striking out "section 4216(f)(4) and paragraphs (a) and (b) of § 48.4216(f)-1, or" and inserting in lieu thereof "section 4216(e)(4) and paragraphs (a) and (b) of § 48.4216(e)-1, or".

3. Paragraph (a)(2) is revised by striking out "section 4216(f)(1) and paragraph (c) of § 48.4216(f)-1." and inserting in lieu thereof "section 4216(e)(1) and paragraph (c) of § 48.4216(e)-1.".

4. Paragraph (b)(1) is revised by striking out "section 4216(f)(4) and paragraph (b) of § 48.4216(f)-1, or" and inserting in lieu thereof "section 4216(e)(4) and paragraph (b) of § 48.4216(e)-1, or".

5. Paragraph (b)(2) is revised by striking out from the first sentence "section 4216(f)(2), as computed in accordance with § 48.4216(f)-2," and inserting in lieu thereof "section 4216(e)(2), as computed in accordance with § 48.4216(e)-2,".

PAR. 23. Section 48.4216(g)-1, as set forth in paragraph 5 of the appendix to the notice of proposed rule making, is changed by redesignating the section as § 48.4216(f)-1.

PAR. 24. Section 48.4218 is deleted.

PAR. 25. Section 48.4221-1, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is changed by (1) deleting the first sentence of paragraph (b)(4); (2) adding the new subparagraph (5) set forth below at the end of paragraph (b); and (3) by revising paragraph (c)(1) to read as set forth below:

§ 48.4221-1 Tax-free sales; general rule.

* * * * *

(b) * * *

(5) *Information to be furnished to purchaser.* A manufacturer selling articles free of tax under this section after December 31, 1978, shall indicate to the purchaser that (i) certain articles normally subject to tax are being sold tax free and (ii) the purchaser is obtaining those articles tax free for an exempt purpose under an exemption certificate or its equivalent. The manufacturer may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that he has obtained the articles tax free and—

(i) The purchaser can compute and remit the tax due if an article sold tax free for further manufacture is diverted to a taxable use,

(ii) The manufacturer can remit the tax due with respect to an article purchased tax free for resale for use in further manufacture or for export if, within the 6-month period described in § 48.4221-2(c) or § 48.4221-3(c), the manufacturer does not receive proof that the article has been exported or resold for use in further manufacture, or

(iii) The purchaser can notify the manufacturer if an article otherwise purchased tax free is diverted to a taxable use.

(c) *Evidence required in support of tax-free sales—*(1) *Purchasers required to be registered.* Every purchaser who is required to be registered (see § 48.4222(a)-1) shall furnish to the seller, as evidence in support of each tax-free sale made by the seller to such purchaser, the exempt purpose for which the article or articles are being purchased and the registration number of the purchaser. Such information must be in writing and may be noted on the purchase order or other document furnished by the purchaser to the seller in connection with each sale.

* * * * *

PAR. 26. Section 48.4221-2, as set forth in paragraph 7 of the appendix to the notice of proposed rulemaking, is changed by deleting the third and fourth sentences of paragraph (a)(1).

PAR. 27. Section 48.4221-4, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is changed by (1) striking out "4 calendar quarters" from the second sentence of paragraph (d)(2)(ii) and from the exemption certificate set forth in paragraph (d)(2)(iii), and inserting in lieu thereof "12 calendar quarters"; and (2) revising paragraph (b)(8) to read as follows:

§ 48.4221-4 Tax—free sale of articles for use by the purchaser as supplies for vessels or aircraft.

* * * * *

(b) *Meaning of terms.* * * *

(8) *Trade.* The term "trade" includes the transportation of persons or property for hire and the making of the necessary preparations for such transportation. The term "trade" also includes the transportation of property on a vessel or aircraft owned or chartered by the owner of the property in connection with the purchase, sale, or exchange of the property in a commerical business operation. However, a vessel owned or chartered by a company and used in the transportation of personnel or property of such company to or from its business properties located in a foreign country, or in a possession of the United States, is not engaged in "trade".

PAR. 28. Section 48.4221-5, as set forth in paragraph 7 of the appendix to the notice of proposed rule making, is changed by striking out "four calendar quarters" from the third sentence of paragraph (c)(1) and "4 calendar quarters" from the exemption certificate set forth in paragraph (c)(1), and inserting in lieu thereof "12 calendar quarters".

PAR. 29. Section 48.4221-9, as set forth in paragraph 7 of the appendix to the notice of proposed rule making,

is changed by (1) striking out "section 6416(b)(2)(R)" from paragraph (f) and inserting in lieu thereof "section 6416(b)(2)(I)", and (2) revising paragraph (e) to read a follows:

§ 48.4221-9 Tax-free sale of school buses.

* * * * *

(e) *Duty of seller to ascertain validity of tax-free sale.* If the manufacturer of the bus has knowledge at the time of its sale of the bus that the purchaser does not intend to use the bus as prescribed in section 4221(e)(5), the manufacturer is liable for the tax and is not relieved of liability by reason of the registration of the purchaser, or the provisions of section 4221(c). In any case where the manufacturer of a bus has knowledge, at the time the bus is sold tax free for use as a school bus, that the purchaser has a contract with a school operated by a State or local government or by a nonprofit educational organization for the transportation of students or employees of the school during the school year in which delivery of the bus is to be made to the purchaser (or during the next school year if delivery is to be made between school years), the seller will be considered to have accepted in good faith the purchaser's certification that the bus will be used as prescribed in section 4221(e)(5).

* * * * *

PAR. 30. Sections 48.6011(a), 48.6011(c), 48.6011(c)-1, 48.6071(a), 48.6091, 48.6109, 48.6151, 48.6206, 48.6302(c), 48.6416(a), 48.6416(b), 48.6416(c), 48.6416(d), 48.6416(d)-1, 48.6416(e), 48.6416(f), 48.6416(g), 48.6416(h), 48.6416(i), 48.6420(a), 48.6420(b), 48.6420(c), 48.6420(d), 48.6420(e), 48.6420(f), 48.6420(g), 48.6420(h), 48.6421(a), 48.6421(b), 48.6421(c), 48.6421(d), 48.6421(e), 48.6421(f), 48.6421(g), 48.6421(h), 48.6421(i), and 48.6675 are deleted.

(Section 7805 of the Internal Revenue Code of 1954 (88 Stat. 898, 68A Stat. 917; 26 U.S.C. 7805).)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: March 24, 1978.

ROBERT H. MUNDHEIM,
General Counsel.

PARAGRAPH 1. Section 48.0-1 is amended by deleting paragraph (c) and by revising paragraph (b) to read as follows:

§ 48.0-1 Introduction.

* * * * *

(b) *Arrangement and numbering.* Each section of the regulations in this part (other than subpart A) is designated by a number composed of the part number followed by a decimal point (48.); the section, subsection, or paragraph of the Internal Revenue Code which it interprets; a hyphen (-); and a number identifying the section. By use of these designations one can ascertain the sections of the regulations relating to a provision of the Code. For example, the regulations pertaining to section 4072 of the Code are designated § 48.4072-1. Subpart A of this part contains provisions relating to the arrangement and numbering of the sections of the regulations in this part and other provisions of general application to various taxes, such as general definitions and use of terms, scope of regulations, and the extent to which the regulations in this part supersede prior regulations relating to the excise taxes imposed by chapters 31 and 32 of the Internal Revenue Code.

PAR. 2. Section 48.0-2 is amended to read as follows:

§ 48.0-2 General definitions and attachment of tax.

(a) *Meaning of terms.* As used in the regulations in this part, unless otherwise expressly indicated—

(1) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.

(2) The term "district director" means district director of internal revenue for an internal revenue district. The term also includes, where appropriate, the Director of International Operations.

(3) The term "calendar quarter" means a period of 3 calendar months ending on March 31, June 30, September 30, or December 31.

(4) (i) The term "manufacturer" includes any person who produces a taxable article from scrap, salvage, or junk material, or from new or raw material, by processing, manipulating, or changing the form of an article or by combining or assembling two or more articles. The term also includes a "producer" and an "importer". An "importer" of a taxable article is any person who brings such an article into the United States from a source outside the United States, or who withdraws such an article from a customs bonded warehouse for sale or use in the United States. If the nominal importer of a taxable article is not its beneficial owner (for example, the nominal importer is a customs broker engaged by the beneficial owner), the beneficial owner is the "importer" of the article for purposes of chapter 32 and is liable for tax on his sale or use of the article in the United States. See section 4219 and the regulations thereunder for the circumstances under which sales by persons other than the manufacturer or importer are subject to the manufacturers excise tax.

(ii) Under certain circumstances, as where a person manufactures or produces a taxable article for another person who furnishes materials under an agreement whereby the person who furnished the materials retains title thereto and to the finished article, the person for whom the taxable article is manufactured or produced, and not the person who actually manufactures or produces it, will be considered the manufacturer.

(iii) A manufacturer who sells a taxable article in a knockdown condition is liable for the tax as a manufacturer. Whether the person who buys such component parts and assembles a taxable article from them will also be liable for tax as a further manufacturer of a taxable article will depend on the relative amount of labor, material, and overhead required to assemble the completed article and on whether the article is assembled for a business or personal use. See section 4218 and the regulations thereunder.

(5) The term "sale" means an agreement whereby the seller transfers the property (that is, the title or the substantial incidents of ownership) in goods to the buyer for a consideration called the price, which may consist of money, services, or other things.

(6) The term "taxable article" means any article taxable under section 4041 or chapter 32, Subtitle D, of the Code.

(7) The term "vendor" includes a lessor except that, with respect to the manufacturers excise taxes, this rule applies only where the lessor is also the manufacturer of the article.

(8) The term "purchaser" includes a lessee except that, with respect to the manufacturers excise taxes, this rule applies only where the lessor is also the manufacturer of the article.

(9) The term "exporter" means the person named as shipper or consignor in the export bill of lading.

(10) The term "exportation" means the severance of an article from the mass of things belonging within the United States with the intention of uniting it with the mass of things belonging within some foreign country or within a possession of the United States.

(11) The term "possession of the United States" includes Guam, the Midway Islands, Palmyra, the Panama Canal Zone, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Wake Island.

(b) *Attachment of tax.* (1) For purposes of this part, the manufacturers excise tax generally attaches when the title to the article sold passes from the manufacturer to a purchaser, and the retailers excise tax generally attaches when the title to the article sold passes from the retailer to a purchaser.

(2) When title passes is dependent upon the intention of the parties as gathered from the contract of sale and the attendant circumstances. In the absence of expressed intention, the legal rules of presumption followed in the jurisdiction where the sale is made govern in determining when title passes.

(3) In the case of a sale on credit, the tax attaches whether or not the purchase price is actually collected.

(4) Where a consignor (such as a manufacturer) consigns articles to a consignee (such as a dealer), retaining ownership in them until they are disposed of by the consignee, title does not pass, and the tax does not attach, until sale by the consignee. Where the relationship between a manufacturer and a dealer is that of principal and agent, title does not pass, and the tax does not attach, until sale by the dealer.

(5) In the case of a lease, an installment sale, a conditional sale, or a chattel mortgage arrangement or similar arrangement creating a security interest, a proportionate part of the tax attaches to each payment. See section 4217 and the regulations thereunder for a limitation on the amount of tax payable on lease payments.

(6) In the case of use by the manufacturer, the tax attaches at the time the use begins.

PAR. 3. Section 48.0-4 is amended by adding the following new sentence at the end thereof:

§ 48.0-4 Extent to which the regulations in this part supersede prior regulations.

* * * * *

In addition, the regulations in this part supersede the regulations in Part 330 (26 CFR (1939) Part 330) (Determination of Price and Price Readjustments); §§ 145.3, 145.3-1, 145.4, and 145.4-1 of the Temporary Regulations in Connection with the Excise Tax Reduction Act of 1965 (Part 145 of this chapter); and §§ 148.1-3 and 148.1-4 of the regulations relating to Certain Excise Tax Matters Under the Excise Tax Technical Changes Act of 1958 (Part 148 of this chapter).

PAR. 4. The following new section is inserted immediately after § 48.0-4:

§ 48.0-5 Exemption certificates.

Several sections of the regulations in this part, relating to sales exempt from retailers or manufacturers excise tax, require the retailer or manufacturer (as the case may be) to obtain an exemption certificate from the purchaser to substantiate the exempt character of the sale. Many of these sections also contain specimen forms of acceptable exemption certificates. However, any form of exemption certificate will be acceptable if it includes all the information required to be contained in such a certificate by the pertinent sections of the regulations in this part. If it contains all the required information, a form of exemption certificate that is processed by data processing equipment is acceptable.

PAR. 5. Subparts B (§§ 48.4001 through 48.4003-4, relating to jewelry), C (§§ 48.4011 through 4022-2, relating to furs), D (§§ 48.4021 through 4022-2, relating to toilet preparations), and E (§§ 48.4031 and 48.4031-1, relating to luggage, handbags, etc.) are deleted.

PAR. 6. Section 48.4041 is deleted.

PAR. 7. Section 48.4041-10 is deleted, and § 48.4041-11 is redesignated as § 48.4041-10.

PAR. 8. The following new sections are added immediately after § 48.4041-10:

Subpart G—Special Provisions Applicable to Retailers Tax

§ 48.4041-11 Sales to States or political subdivisions thereof.

(a) *Application of exemption.* The taxes imposed by section 4041 do not apply in the case of a sale of any liquid by any person for the exclusive use of any State or any political subdivision thereof, the District of Columbia, or in the case of the use of any liquid by any State or any political subdivision thereof, or the District of Columbia, as a fuel in a a motor vehicle, motorboat, or aircraft.

(b) *Evidence required to establish exemption.* Any vendor claiming exemption under this section shall be prepared to produce evidence that will establish the right to exemption from the tax imposed by section 4041. Generally, orders or contracts of a State or a political subdivision thereof, or the District of Columbia, when signed by an authorized officer thereof will be accepted in support of the exemption. However, in the absence of such orders or contracts, a certificate signed by such an authorized officer that the liquid sold was purchased for the exclusive use of a State or political subdivision thereof, or the District of Columbia, will be acceptable. The certificate shall be in substantially the following form:

EXEMPTION CERTIFICATE

(For use by States and local governments. (section 4041(g)(2) of the Internal Revenue Code).)

Date ———, 19———.

I hereby certify that I am ——— of ——— (State or local government) that I am authorized to execute this certificate; and that

(Check applicable type of certificate)

———the liquid or liquids specified in the accompanying order, or on the reverse side hereof, (or)

———all orders placed by the purchaser for the period commencing ——— (Date) and ending ——— (Date) (period not to exceed 12 calendar quarters) are, or will be, purchased from ——— (Name of vendor) for the exclusive use of ——— (Governmental unit) of ——— (State or local government).

I understand that the exemption from tax in the case of sales of liquids under this exemption certificate is limited to the sale of articles purchased for the exclusive use of a State, etc. I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

Signature ———

Address ———

§ 48.4041-12 Sales for export.

(a) *General rule.* In order for a sale to be exempt from tax under section 4041 as a sale for export, it is necessary that the liquid be (1) identified as having been sold by the retailer for export and (2) exported in due course. To establish exemption from tax in the case of a taxable article for export, it is necessary that the retailer maintain adequate records and have in his possession documentary evidence showing that the article was so sold.

(b) *Proof of exportation.* Exportation may be evidenced by any one of (1) a copy of the export bill of lading issued by the delivering carrier, (2) a certificate by the agent or representative of the export carrier showing actual exportation of the liquid, (3) a certificate of landing signed by a customs officer of the foreign country to which the liquid is exported, or (4) a statement of the foreign consignee showing receipt of the liquid.

(c) *Shipment to possessions of the United States.* The same provisions as relate to sales for export and proof of exportation will apply to sales for shipment to a possession of the United States, within the meaning of § 48.0-2.

§ 48.4041-13 Tax-free retail sales to certain nonprofit educational organizations.

(a) *In general.* The taxes imposed by section 4041 do not apply in the case of a sale of any liquid by any person to a nonprofit educational organization (as defined in paragraph (b) of this section) for its exclusive use, or in the case of the use of any liquid by such an organization. In the case of a school operated as an activity of an organization described in section 501(c)(3), as referred to in paragraph (b) of this section, the liquid must be sold for the exclusive use of the school, or the liquid must be used exclusively by the school.

(b) *Definition of nonprofit educational organization.* For purposes of section 4041(g)(4) and this section, the term "nonprofit educational organization" means an organization described in section 170(b)(1)(A)(ii), that is exempt from income tax under section 501(a), whose primary function is the presentation of formal instruction and which normally maintains a regular faculty and curriculum and normally

has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501 (a), provided such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

(c) *Evidence required to establish tax-free sales to a nonprofit educational organization; general rule.* To establish the right to exemption, the retailer must obtain from the purchaser and retain in its possesson a properly executed certificate as set forth in paragraph (d) of this section.

(d) *Forms of exemption certificates.* The following forms of exemption certificates will be acceptable for the purpose of this section and must be adhered to in substance.

(1) Form of certificate for exemption from retailers excise taxes for use by a nonprofit educational organization, other than a school operated as an activity of a church or other exempt organization that in itself is not a nonprofit educational organization.

EXEMPTION CERTIFICATE

(For use by a nonprofit educational organization (other than a school operated as an activity of a church or other exempt organization that in itself is not a nonprofit educational organization) purchasing articles subject to retailers excise tax for its exclusive use) ——, 19— (Date) I hereby certify that I am ———— (Title) of ———— (Exempt organization); that I am authorized to execute this certificate; and that the articles specified in the accompanying order or on the reverse side hereof are purchased by such organization exclusively for use in its educational activities.

I understand that this exemption certificate is for use only by a nonprofit educational organization in the tax-free purchase for its exclusive use of articles subject to the retailers excise tax; and it is agreed that if any article purchased tax free under this exemption certificate is used otherwise, such fact will be reported to the retailer from whom the tax-free purchase was made.

The organization claiming exemption under this certificate has received a determination letter (or a ruling) from the Internal Revenue Service holding the organization to be exempt from income tax as an organization described in section 170(b)(1)(A)(ii) that is exempt from income tax under section 501(a) of the Internal Revenue Code (or has received a determination letter (or ruling) under the corresponding provisions of prior revenue laws). The date of such determination letter (or ruling) is —— and such determination letter (or ruling) has not been withdrawn or revoked.

I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

———————————

(Signature of authorized individual)

———————————

(Address)

(2) Form of certificate for exemption from retailers excise taxes for use by a school operated as an activity of a church or other organization described in section 501(c)(3) that in itself is not an educational organization described in section 170(b)(1)(A)(ii) of the Code:

EXEMPTION CERTIFICATE

(For use by or for a school operated as an activity of a church or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954, that is not, in itself, an educational organization described in section 170(b)(1)(A)(ii), purchasing articles subject to retailers excise tax for the exclusive use of the school) ——, 19— (Date) I hereby certify that I am ———— (Title) of ———— (School, church, parish, etc.); that I am authorized to execute this certificate; and that the articles specified in the accompanying order or on the reverse side hereof are purchased by such institution exclusively for use in its educational activities.

I understand that this exemption certificate is for use only by a school operated as an activity of a church or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954, in the tax-free purchase for its exclusive use of articles subject to the retailers excise tax; or by a church, or other organization in the tax-free purchase of any such article for the exclusive use of its school which qualifies for the exemption; and it is agreed that if any article purchased tax free under this exemption certificate is used otherwise, such fact will be reported to the retailer from whom the tax-free purchase was made.

The school operated as an activity of the church or other organization described in section 501(c)(3) of the Internal Revenue Code of 1954, normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

———————————

(Signature of authorized individual)

———————————

(Address)

(e) *Frequency of certificates.* Where only occasional sales are made by a retailer to a nonprofit educational organization, as defined in paragraph (b) of this section, a separate exemption certificate should be furnished for each order. However, where sales by the retailer to the educational organization are regularly or frequently made, a certificate covering all orders for a specified period not to exceed 12 calendar quarters will be acceptable. Such certificate and proper records of invoices, orders, etc., relative to tax-free sales must be readily accessible for inspection by internal revenue officers and retained as provided in section 6001 of the Code and the regulations thereunder.

(f) *Prima facie evidence of exempt use.* The exemption certificate procured by the retailer from the purchasing nonprofit educational organization will be acceptable as prima facie evidence that the article is purchased for the exclusive use of such organization.

(g) *Exemption certificate not obtained prior to filing of retailer's excise tax return.* If the sale is otherwise exempt but the exemption certificate is not obtained prior to the time the retailer files a return covering taxes due for the period in which the sale was made, the retailer must include the tax on such sale in its return for that period. However, if the certificate is later obtained, a credit may be taken on a subsequent return or a claim for refund of the tax paid on such sale may be filed, within the period of limitation prescribed by section 6511(b) of the Code and § 301.6511(b)-1 of this chapter.

PAR. 9. Sections 48.4061(a), 48.4061(b), 48.4062(a), 48.4062(b), 48.4063, 48.4071, 48.4072, 48.4073, 48.4081, 48.4082, 48.4083, 48.4091, 48.4092, 48.4093, 48.4101, and 48.4102 are deleted.

PAR. 10. Subparts I (§§ 48.4111 through 48.4131-3, relating to refrigeration equipment, electric, gas and oil appliances, and electric light bulbs) and J (§§ 48.4141 through 48.4151-2, relating to radio and television sets, phonographs, phonograph records, and musical instruments) are deleted.

PAR. 11. Sections 48.4161(a), 48.4161(b), 48.4171, 48.4181, and 48.4182 are deleted.

PAR. 12. Subpart L (§§ 48.4191 through 48.4211-3, relating to business machines, pens, mechanical pencils and lighters, and matches) is deleted.

PAR. 13. The following new provisions are added immediately before § 48.4216(f):

§ 48.4216 (a)-1 Charges to be included in sale price.

(a) *In general.* The "price" for which an article is sold includes the total consideration paid for the article, whether that consideration is in the form of money, services, or other things. See § 48.0-2 (a) (5). However, for purposes of the taxes imposed under chapter 32 certain collateral charges made in connection with the sale of a taxable article must be included in the taxable sale price,

whereas others may be excluded. Any charge which is required by a manufacturer, producer, or importer to be paid as a condition of its sale of a taxable article and which is not attributable to an expense falling within one of the exclusions provided in section 4216 or the regulations thereunder is includible in the taxable sale price. It is immaterial for this purpose that the charge may be paid to a person other than the manufacturer, producer, or importer, or that it may be separately billed to the purchaser as a charge earmarked for expenses incurred or to be incurred in his behalf, such as charges for demonstration or display of the article, for sales promotion programs, or otherwise. With respect to the rules relating to exclusion (in the case of sales after December 31, 1960) of charges for local advertising of a manufacturer's products, see section 4216(e) and § 48.4216(e)-1. In the case of sales on credit, a carrying, finance, or service charge is excludable from the sale price if it is reasonably related to the costs of carrying the deferred portion of the sale price (such as interest on the deferred portion of the sale price, expenses of bookkeeping necessary to keep the records of such sales, and expenses of correspondence and other communication in connection with collection).

(b) *Tools and dies.* Separate charges for tools and dies used in the manufacture or production of a taxable article are to be included, in whole or in part, in the sale price on which the tax is based. It is immaterial whether the charges for such items are billed in a lump sum or are amortized or allocated to each of the taxable articles. If, at the termination of a contract to manufacture taxable articles, the tools and dies used in production pass to the purchaser, only the amount of depreciation of the tools and dies incurred in production, computed on a "production output" basis, should be included in the sale price. If the purchaser furnishes the tools and dies, the amount of the cost thereof, to the extent that such cost has been depreciated in the production of the taxable articles (computed on a "production output" basis), shall be included in determining the sale price of the articles for purposes of computing the tax. This paragraph applies to sales by manufacturers after May 5, 1974.

(c) *Charges for warranty.* A charge for a warranty of an article which the manufacturer, producer, or importer requires the purchaser to pay in order to obtain the article shall be included in the sale price of the article on which the tax is computed. On the other hand, a charge for a warranty of a taxable article paid at the purchaser's option shall not be included in the sale price for purposes of computing tax thereon.

(d) *Charges for coverings, containers, and packing.* Any charge by the manufacturer, producer, or importer for coverings and containers of whatever nature used to pack an article for shipment shall be included as part of the sale price for the purpose of computing the tax, whether or not the charges are identified as such on the invoice or are billed separately. Even though there is an agreement that the manufacturer, producer, or importer will repay all or a portion of the charge for the coverings or containers upon the return thereof, the full charge nevertheless shall be included in the sale price. It is immaterial whether the charge made at the time of sale is more or less than the actual value of the covering or container. See paragraph (b)(4) of § 48.6416(b)-1 for provisions relating to the claiming of a credit or refund in the case of a price readjustment due to the return or repossession of a covering or container. Packing charges are to be included in the sale price whether the charges cover normal packing or special packing services, such as for extra protection of the article or for odd-lot quantities. This rule shall apply whether the packing services are initiated by the manufacturer, producer, or importer or are furnished at the request of the purchaser and whether the packing is performed by the manufacturer, producer, or importer or by another person at his request. If the purchaser supplies packing materials, the fair market value of such materials must be included in the tax base when computing tax liability on the sale of the article.

(e) *Taxable and nontaxable articles sold as a unit.* Where a taxable article and a nontaxable article are sold by the manufacturer as a unit, the tax attaches to that portion of the manufacturer's sale price of the unit which is properly allocable to the taxable article. For example, where a fishing reel (an article subject to tax under section 4161(a)) is equipped with a fishing line (a nontaxable article) and the reel and line are sold as a unit, the tax imposed by section 4161(a) applies only to that portion of the manufacturer's sale price of the unit which is properly allocable to the fishing reel. Normally, the taxable portion of such a unit may be determined by applying to the manufacturer's sale price of the unit the ratio which the manufacturer's separate sale price of the taxable article bears to the sum of the sale prices of both the taxable and nontaxable articles, if such articles are sold separately by the manufacturer. Where the articles (or either one of them) are not sold separately by the manufacturer and do not have established sale prices, the taxable portion is to be determined from a comparison of the actual costs of the articles to the manufacturer. Thus, if the cost of the taxable article represents four-fifths of the total cost of the complete unit, the tax applies to four-fifths of the price charged by the manufacturer for the unit.

§ 48.4216(a)-2 Exclusions from sale price.

(a) *Tax—(1) Tax not part of taxable sale price.* The tax imposed by chapter 32 of the Code on the sale of an article is not part of the taxable sale price of the article. Thus, if a manufacturer computes the tax on a sale price which is determined without regard to the tax, and it charges the proper tax as a separate item, the amount of tax so charged does not become a part of the taxable sale price and no tax is due on the tax so charged. Where no separate charge is made as tax, it will be presumed that the price charged to the purchaser for the article includes the proper tax, and the proper percentage of such price will be allocated to the tax.

(2) *Computation of tax.* If an article subject to tax at the rate of 10 percent is sold for $100 and an additional item of $10 is billed as tax, $100 is the taxable selling price and $10 is the amount of tax due thereon. However, if the article is sold for $100 with no separate billing or indication of the amount of the tax, it will be presumed that the tax is included in the $100, and a computation will be necessary to determine what portion of the total amount represents the sale price of the article and what portion represents the tax. The computation is as follows:

Taxable sale price = sale price including tax/100 + rate of tax.

Thus, if the tax rate is 10 percent and the sale price including tax is $100, the taxable sale price is $90.91 (that is, $100 divided by (100+10)), and the tax is 10 percent of $90.91, or $9.09.

(b) *Transportation, delivery, insurance, or installation charges—(1) Charges incurred pursuant to sale.* Charges for transportation, delivery, insurance, installation, and other expenses actually incurred in connection with the delivery of an article to a purchaser pursuant to a bona fide sale shall be excluded from the sale price in computing the tax. Such charges include all items of transportation, delivery, insurance, installation, and similar expense incurred after shipment to a customer begins, in response to the customer's order, pursuant to a bona fide sale. However, costs of such nature incurred by a manufacturer, producer, or importer in transporting, in the normal course of business and for its benefit and convenience, articles from a factory or port of entry to a warehouse or other facility (regardless of the location of such warehouse or facility) are not considered as being

incurred in connection with the delivery of an article to a purchaser pursuant to a bona find sale, and charges therefor cannot be excluded from the sale price in computing tax liability. Similarly, an allowance granted by a manufacturer as reimbursement for expenses incurred by the purchaser in shipping used articles to the manufacturer for credit against the purchase price of taxable articles shall not be excluded from the sale price when computing tax due on the sale of the taxable articles. In any event, no charge may be excluded from the sale price unless the conditions set forth in subparagraph (2) of this paragraph are complied with. Said conditions are prescribed under the authority granted the Secretary or his delegate in section 4216(a).

(2) *Only actual expenses to be excluded.* Where a separate charge is made for transportation or other expenses incurred in connection with the delivery of an article to the purchaser pursuant to a bona fide sale, there shall be excluded in arriving at the sale price subject to tax only that portion of the charge which represents the actual expenses incurred for the transportation or other excludible expenses. Where a separate charge is less than the actual expense, the difference is presumed to be included in the billed price. Such difference, together with the separate charge, shall be excluded in arriving at the sale price on which the tax is computed. Similarly, where no separate charge is made but the manufacturer, producer, or importer incurs an expense of the type to which this paragraph has application, the amount of such expense actually incurred shall be included from the sale price on which the tax is computed. Where transportation expense is incurred in conjunction with a shipment composed of both taxable and nontaxable articles, only the portion of the expense allocable to the taxable articles shall be excludible. In general, unless the taxpayer establishes to the satisfaction of the district director that another method reasonably apportions such freight expense between taxable and nontaxable articles, such expense should be apportioned on the basis of the relative weights (or, if available, the relative published tariff rates applicable to) the taxable and nontaxable articles. Where it is not feasible to apportion such expense on the basis of relative weights or tariff rates, the expense shall be apportioned on another reasonable basis; for example, in the case of a shipment including both taxable and nontaxable automotive parts which are subject to the same tariff rate, it may be appropriate to apportion the transportation expense on the basis of the relative sale prices. A charge for insurance in connection with the delivery of an article to a purchaser is considered to represent an expense actually incurred only to the extent that an amount equivalent to such charge is paid or payable by the manufacturer to a person authorized to assume such insurance risk.

(3) *Transportation, delivery, or installation services performed by manufacturer.* For purposes of computing the taxable sale price of articles, it is immaterial whether the transportation, delivery, or other services of the type to which this paragraph has application are performed by a common carrier or independent agency for or on behalf of the manufacturer, producer, or importer, or are performed by the manufacturer, producer, or importer with the use of its own vehicles or other facilities. Thus, where a manufacturer, producer, or importer performs the transportation, delivery, or other services with its equipment, tools, employees, etc., the cost of such services allocable to the sale of the taxable article shall be excluded. In determining whether an expense is an excludible transportation or delivery expense, only those expenses incurred by reason of the fact that the purchaser accepts delivery at some point other than the manufacturer's place of business shall be considered excludible transportation or delivery expenses. All expenses incurred in placing an article packed, ready for shipment on the loading dock at the manufacturer's factory are not excludible transportation or delivery expenses. An allowance granted by the manufacturer, producer, or importer to the purchaser for transportation, delivery, or other expenses incurred or to be incurred by the purchaser in connection with the sale shall be excluded in computing the taxable sale price, if charges for similar expenses would be excludible if incurred by the manufacturer.

(4) *Records in support of exclusion.* Every manufacturer, producer, or importer making sales of taxable articles shall keep records which will disclose the amount of transportation, delivery, insurance, installation or other expense actually incurred by it in connection with the delivery of a taxable article to a purchaser pursuant to a bona fide sale.

(c) *Other charges.* A charge or expense not within the scope of paragraph (a) or (b) of this section, whether or not separately stated, may not be excluded in computing the taxable sale price unless it can be shown by adequate records that the charge or expense properly is not to be included as a manufacturing or selling expense or is in no way incidental to placing the article in condition packed ready for shipment. Commissions to manufacturers' agents, or allowances, payments, or adjustments made to, and for the benefit of, persons other than the purchaser may not be excluded or deducted, under any condition, in computing the sale price upon which the tax is computed.

§ 48.4216(a)-3 Other items relating to tax on sale price.

(a) *Exchanges.* If, in connection with the sale of an article subject to a tax imposed under chapter 32 on the price for which sold, a manufacturer receives from its vendee another article in exchange, the tax on the manufacturer's sale shall be computed on the basis of the amount allowed for the article received from the vendee, plus any additional amount charged the vendee.

(b) *Replacements under warranty.* If an article, subject to a tax imposed under chapter 32 on the price for which sold, is returned to the manufacturer by reason of the failure of the article under a warranty as to its quality or service, and a new article is given by the manufacturer, free, or at a reduced price, the tax on the new article shall be computed on the actual amount, if any, to be paid to the manufacturer for the new article. See paragraph (b)(2) of § 48.6416(b)-1 for the circumstances under which the allowance made by the manufacturer, producer, or importer upon the return of the first article constitutes a price readjustment of the sale price of first article and the extent, if any, to which a credit may be allowed, or refund made, of the tax paid by the manufacturer, producer, or importer on the sale of the first article.

(c) *Readjustments in sale price.* Readjustment in sale price (such as allowable discounts, rebates, bonuses, etc.) cannot be anticipated. The tax must be based upon the original price unless the readjustments have actually been made prior to the close of the period for which the tax upon the sale is returned. However, if the price upon which the tax was computed is subsequently readjusted, credit may be taken against the tax due on a subsequent return or a claim for refund filed as provided by section 6416(b)(1) and the regulations thereunder.

§ 48.4216(c)-1 Computation of tax on leases and installment sales.

(a) *Leases.* When a taxable article is leased by a manufacturer, producer, or importer, liability for tax is incurred, except as provided by section 4217(b) and § 48.4217-2, on each payment made with respect to such lease. Tax is payable on each lease payment as long as the article is leased by the manufacturer, producer, or importer. The tax payable with respect to each lease payment is a percentage of each payment based on the rate of tax, if any, in effect on the date the lease payment is due. If the article is subsequently sold

by the manufacturer, producer, or importer, the tax applies also to such sale, without regard to the tax paid when the article was leased. For definition of the term "lease", see paragraph (a) of § 48.4217-1(a).

(b) *Installment sales.* When a taxable article is sold under an installment payment contract with title reserved in the seller, or under a conditional sale contract, chattel mortgage arrangement or other arrangement creating a security interest with payments to be made in installments, tax shall be computed and paid on each payment made by the purchaser. The tax payable with each payment is a percentage of each payment based on the rate of tax, if any, in effect on the date the payment is due. The part of each payment that is subject to tax is that portion of the payment equal to the percentage of the total charge for the article that is subject to tax. For example, if the total charge for the article is $1,000, and of the total amount charged only 90 percent thereof, or $900, is subject to tax by reason of exclusions, then only 90 percent of the installment payment is subject to tax. If the tax base is a constructive sale price computed under section 4216(b) that is less than the actual sale price of the article, the portion of each payment subject to tax is the percentage of such payment equal to the percentage that the constructive sale price bears to the actual sale price. For example, if an article is sold at retail for $100, and the constructive sale price for such an article computed under the provisions of section 4216(b)(1)(A) is $75, the percentage which the constructive sale price bears to the actual sale price is 75 percent. Accordingly, only 75 percent of each installment payment is subject to tax.

(c) *Sales on credit.* Where articles are sold on credit under conditions other than those specified in paragraph (b) of this section, the entire tax shall be reported and paid with the return covering the period in which the sale is made, even though the price may not be paid to the manufacturer, producer, or importer until a later date, or not paid at all.

(d) *Effective dates of paragraphs (a) and (b) of this section.* The rules set forth in paragraphs (a) and (b) of this section are effective as of June 22, 1965. As in effect before June 22, 1965, section 4216(c) required, in the case of a transaction described in section 4216(c) (1), (2), (3), or (4), that there be paid upon each payment with respect to an article that portion of the total tax which was proportionate to the portion of the total amount to be paid represented by such payment.

§ 48.4216(d)-1 Sales of installment accounts.

(a) *In general.* Except as provided in paragraph (d) of this section, in case of a sale or other disposition by a manufacturer, producer, or importer of an installment account of the type specified in section 4216(c), the tax shall not apply to subsequent installment payments on such account. Instead, there shall be paid an amount equal to the difference between the tax previously paid on such installment account and the total tax computed by applying—

(1) To each installment due before the sale of the installment account, the rate of tax applicable at the time payment thereof was due, and

(2) To each installment, the time for payment of which has not arrived, the rate of tax which, under the provisions of chapter 32 as in effect on the date of the sale of the installment account, is (or is to be) in effect on the date such installment is due.

However, see paragraph (b) of this section if the sale is made in a bankruptcy or insolvency proceeding. The tax due under this paragraph shall be included in the return for the period in which the account is sold.

(b) *Sale in bankruptcy or insolvency proceeding.* In the case of a sale of an installment account of a manufacturer, producer, or importer pursuant to the order of, or subject to the approval of, a court of competent jurisdiction in a bankruptcy or insolvency proceeding, the amount of tax due shall be computed and paid as provided in paragraph (a) of this section but shall not exceed the amount of tax computed by multiplying (1) the proportionate share of the amount for which such accounts are sold which is allocable to each unpaid installment payment, by (2) the rate of tax which, under the provisions of chapter 32 as in effect on the date of the sale of the installment account, is (or is to be) in effect on the date such payment is due.

(c) *Collection of installment accounts on behalf of the manufacturer.* Where a manufacturer, producer, or importer retains title to an installment account but turns it over to another person for collection on a fee basis, no sale of such account (or other disposition as contemplated in section 4216(d)) has been made. The tax shall continue to be paid as provided by section 4216(c).

(d) *Returned installment accounts.* Where an installment account which has been sold or otherwise disposed of is returned to the manufacturer, producer, or importer who sold it under an agreement under which the account was sold, and credit or refund has been allowed under section 6416(b)(5) and the regulations thereunder, the manufacturer, producer, or importer shall pay tax as provided by section 4216(c) and § 48.4216(c)-1 on any subsequent payments made on such returned installment account until such time as there shall have been paid the total tax liability with respect to the account as computed under paragraph (a) of this section.

(e) *Limitation.* The sum of the amounts payable under this section and § 48.4216(c)-1 on an installment account shall not exceed the total amount of tax which would be payable if such installment account had not been sold or otherwise disposed of (computed as provided in subsection (c)).

(f) *Applicability of paragraphs (a) and (b) of this section.* The rules set forth in paragraphs (a) and (b) of this section apply in the case of installment accounts sold after June 21, 1965. In the case of installment accounts sold before June 22, 1965, paragraph (b) of this section shall be applied by substituting, in lieu of subparagraph (2) thereof, "the rate of tax, as set forth in chapter 32 of the Code, which applied on the day on which the transaction giving rise to such installment accounts took place."

PAR. 14. Section 48.4216(f) is deleted.

PAR. 15. Section 48.4216(f)-1 is amended as follows:

1. The section is redesignated § 48.4216(e)-1.

2. Paragraph (a) is revised by deleting "4216(f)" from the first, second, fourth, and fifth sentences and inserting in lieu thereof "4216(e)"; by deleting "§ 48.4216(f)-2" from the sixth sentence and inserting in lieu thereof "48.4216(e)-2"; and by deleting "§ 48.4216(f)-3" from the seventh sentence and inserting in lieu thereof "§ 48.4216(e)-3".

3. Paragraph (b) is revised by deleting "4216(f)" from the first sentence and inserting in lieu thereof "4216(e)".

4. Paragraph (c)(2) is revised by deleting "§ 48.4216(f)-2" from the fifth sentence and inserting in lieu thereof "§ 48.4216(e)-2".

PAR. 16. Section 48.4216(f)-2 is amended as follows:

1. The section is redesignated § 48.4216(e)-2.

2. Paragraph (a) is revised by deleting "section 4216(f)(1) and § 48.4216(f)-1," from the first sentence and inserting in lieu thereof "section 4216(e)(1) and § 48.4216(e)-1,".

3. Paragraph (b)(1) is revised by striking out "section 4216(f)(2)" from the first sentence and inserting in lieu thereof "section 4216(e)(2)".

4. Paragraph (b)(2) is revised by striking out "§ 48.4216(f)-1" and inserting in lieu thereof "§ 48.4216(e)-1".

5. Paragraph (b)(3) is revised by deleting "section 4216(f)(1) and § 48.4216(f)-1" from the second sentence and inserting in lieu thereof "section 4216(e)(1) and § 48.4216(e)-1".

6. Example (2) of paragraph (c) is revised by striking out "§ 48.4216(f)-1" from line 5 of the Computation as of close of first calendar quarter and in-

serting in lieu thereof "§ 48.4216(e)-1)".

PAR. 17. Section 48.4216(f)-3 is amended as follows:

1. The section is redesignated § 48.4216(e)-3.

2. Paragraph (a)(1) is revised by striking out "section 4216(f)(4) and paragraphs (a) and (b) of § 48.4216(f)-1, or" and inserting in lieu thereof "section 4216(e)(4) and paragraphs (a) and (b) of § 48.4216(e)-1, or".

3. Paragraph (a)(2) is revised by striking out "section 4216(f)(1) and paragraph (c) of § 48.4216(f)-1." and inserting in lieu thereof "section 4216(e)(1) and paragraph (c) of § 48.4216(e)-1."

4. Paragraph (b)(1) is revised by striking out "section 4216(f)(4) and paragraph (b) of § 48.4216(f)-1, or" and inserting in lieu thereof "section 4216(e)(4) and paragraph (b) of § 48.4216(e)-1, or".

5. Paragraph (b)(2) is revised by striking out from the first sentence "section 4216(f)(2), as computed in accordance with § 48.4216(f)-2," and inserting in lieu thereof "section 4216(e)(2), as computed in accordance with § 48.4216(e)-2,".

PAR. 18. The following new sections are added immediately after § 48.4216(e)-3:

§ 48.4216(f)-1 Value of used components excluded from price of certain trucks.

For purposes of the tax imposed by section 4061(a)(1) (relating to trucks, buses, etc.), in determining the price for which an article is sold, the value of any previously used component of such article shall be excluded from the price if the person furnishing the component is the first user of the finished article. For example, where a manufacturer builds a truck for a customer who intends to use, rather than resell the truck, incorporating used parts furnished by the customer, the value of the previously used parts shall not be included in the price for which the truck is considered sold by the manufacturer.

§ 48.4217-1 Lease considered as sale.

For purposes of chapter 32 of the Code, the lease of an article by a manufacturer, producer, or importer shall be considered a sale of the article. The term "lease" means a contract or agreement, written or verbal, which gives the lessee an exclusive, continuous right to the possession or use of a particular article for a period of time. The term includes any renewal or extension of a lease or any subsequent lease of the article.

§ 48.4217-2 Limitation on amount of tax applicable to certain leases.

(a) *Conditions for eligibility.* Section 4217(b) provides for a limitation on the amount of tax that shall apply to the lease, any renewal, or further lease, of an article which, if sold, would be subject to tax on the basis of sale price. Such limitation on the amount of the tax applies with respect to the lease of an article only if, at the time of making the lease, the lessor is engaged in the business of selling in arm's length transactions the same type and model of article. In case of a lease to which section 4217(b) does not apply, tax shall be computed and paid as provided in section 4216(c) and paragraph (a) of § 48.4216(c)-1.

(b) *Lessor engaged in business of selling.* The lessor will be regarded as being engaged in the business of selling in arm's length transactions the same type and model of an article as the one being leased if it periodically and recurringly makes bona fide offers for sale of such articles in the regular course of operation of its business, which offers if accepted would constitute sales at arm's length. Whether the offers are bona fide shall be determined on the basis of the facts in each case, such as sales actually made, the nature of the advertising, sales literature, and other means used to effectuate sales. It is not necessary that the offers for sale be made to the same class of purchasers as those to whom the article is being leased.

(c) *Same type and model of article.* To qualify as the "same type and model of article", the article offered for sale must be an unused article essentially the same in size, design, and function as the article being leased. For example, a van-type truck trailer would not be the same type and model as a stake-body of flat-bed truck trailer. Neither would a 25-foot van-type trailer be the same type and model as a 35-foot van-type trailer. Slight differences in appearance or accessories will not render articles dissimilar which are identical in all other respects.

(d) *Basis for tax—(1) Tax payable until total tax is paid.* In case of a lease of an article to which section 4217 (b) applies, tax shall be paid on each lease payment in an amount computed by applying to such lease payment a percentage equal to the rate of tax in effect on the date of the lease payment. Such tax payments shall continue to be made under such lease, or any subsequent lease of the article, until the cumulative total of the tax payments equals the total tax. Lease payments made thereafter with respect to that article shall not be subject to tax. For definition of the term "total tax", see paragraph (e) of this section.

(2) *Changes in tax rates.* Except as provided in—

(i) Section 701 (a) (3) of the Excise Tax Reduction Act of 1965 (79 Stat. 155) in the case of certain reductions in tax rates effective June 22, 1965, or January 1, 1966, and

(ii) Section 401(h)(3) of the Revenue Act of 1971 (85 Stat. 534) in the case of certain reductions in tax rates effective December 11, 1971, if the rate of tax is increased or decreased during a lease period, the new rate shall apply to the lease payments made on and after the date of the change, but the amount of the total tax shall remain the same.

(e) *Total tax.* For purposes of this section, the term "total tax" means the amount of tax, computed at the rate in effect on the date of the first lease of the article to which section 4217(b) applies, which would be due on the constructive sale price of the article as determined under section 4216(b) and § 48.4216(b)-2, as if the article had been sold by a manufacturer at retail on such date.

(f) *Sale of article before total tax becomes payable.* If the lessor sells the article before the total tax has become payable, the tax payable on the sale shall be the lesser of the following amounts—

(1) The difference between (i) the total tax, and (ii) the aggregate tax applicable to lease payments already received; or

(2) A tax computed, at the rate in effect on the date of the sale, on the price for which the article is sold.

For purposes of subparagraph (2) of this paragraph, the provisions of section 4216(b) for determining a constructive sale price shall not apply if the sale is at arm's length. If the sale is not at arm's length, the tax referred to in subparagraph (2) of this paragraph shall be computed on a constructive sale price as provided in § 48.4216(b)-2.

(g) *Sale of article after total tax has become payable.* If the lessor sells an article after the total tax has become payable, the tax imposed under chapter 32 of the Code shall not apply to such sale.

(h) *Special rules applicable to certain leases entered into before January 1, 1959.* For purposes of this section, in the case of any lease entered into before, and existing on, January 1, 1959—

(1) Such lease shall be considered to have been entered into on January 1, 1959.

(2) The total tax shall be computed on the fair market value of the article on January 1, 1959.

(3) The lease payments under such lease shall include only payments attributable to periods beginning after December 31, 1958.

PAR. 19. Section 48.4218-4 is amended to read as follows:

§ 48.4218-4 Use in further manufacture.

For purposes of section 4218 and § 48.4218-1, an article is used as material in the manufacture or production of, or as a component part of, another

article, if it is incorporated in, or is a part or accessory of, the other article. Lubricating oil in the crankcase of a new truck is an example of a taxable article use as material in the manufacture or production of, or as a component part of, another article. In addition, an article (other than gasoline used as a fuel) is considered to be used as material in the manufacture of another article if it is partly or entirely consumed in testing such other article; for example, shells or cartridges used in testing new firearms. Similarly, if an article is partly or wholly consumed in quality testing a production run of like articles (as, for example, an automotive part destroyed in stress testing) such article is also considered to have been used as material in the manufacture of another article. However, if a taxable article that has been used tax free and only partly consumed in testing is later sold, or put to a taxable use, by the manufacturer, tax attaches to such sale or use. An article that is consumed in the manufacturing process other than in testing, so that it is not a physical part of the manufactured article, is not used as material in the manufacture or production of, or as a component part of, such other article. Thus, lubricating oil consumed in operating plant machinery in the course of the manufacture of automobile truck chassis is not used as material in the manufacture or production of, or as a component part of, the truck chassis.

PAR. 20. Subpart N of Part 48 (26 CFR Part 48) is amended by striking out its existing sections and adding new sections to read as follows:

Subpart N—Exemptions, Registration, Etc.

Sec.

48.4221-1 Tax-free sales; general rule.
48.4221-2 Tax-free sale of articles to be used for, or resold for, further manufacture.
48.4221-3 Tax-free sale of articles for export, or for resale by the purchaser to a second purchaser for export.
48.4221-4 Tax-free sale of articles for use by the purchaser as supplies for vessels or aircraft.
48.4221-5 Tax-free sale of articles to State and local governments for their exclusive use.
48.4221-6 Tax-free sales of articles to nonprofit educational institutions.
48.4221-7 Tax-free sales of tires and tubes.
48.4221-8 Tax-free sales of bicycle tires and tubes for use in further manufacture.
48.4221-9 Tax-free sales of school buses.
48.4221-10 Cross references; other exemptions.
48.4222 (a)-1 Registration.
48.4222 (b)-1 Exceptions to the requirement for registration.
48.4222 (c)-1 Revocation or suspension of registration.
48.4222 (d)-1 Registration in the case of certain other exemptions.
48.4223-1 Special rules relating to further manufacture.
48.4225-1 Exemption of articles manufactured or produced by Indians.

§ 48.4221-1 Tax-free sales; general rule.

(a) *In general.* Section 4221(a) sets forth the following exempt purposes for which an article subject to tax under chapter 32 may be sold tax free by the manufacturer, producer, or importer:

(1) For use by the purchaser for further manufacture, or for resale by the purchaser to a second purchaser for use by such second purchaser in further manufacture (except for tires or inner tubes taxable under section 4071, which articles are covered by sections 4221(e) (2) and (4), and §§ 48.4221-7 and 48.4221-8),

(2) For export, or for resale by the purchaser to a second purchaser for export,

(3) For use by the purchaser as supplies for vessels or aircraft,

(4) To a State or local government for the exclusive use of a State or local government, and

(5) To a nonprofit educational organization for its exclusive use.

Section 4221(a) applies only in those cases where the exportation or use referred to is to occur before any other use, and where the seller, first purchaser, and second purchaser, as may be appropriate, have registered as required under section 4222 and paragraph (a) of § 48.4222(a)-1. See § 48.4222(b)-1 for exceptions to the requirement for registration. See paragraphs (c) and (d) of this section for provisions relating to evidence required in support of tax-free sales. Where tax is paid on the sale of an article, but the article is used or resold for use for an exempt purpose, a claim for credit or refund may be filed in accordance with and to the extent provided in sections 6402(a) and 6416, and the regulations thereunder.

(b) *Manufacturer relieved of liability in certain cases*—(1) *General rule.* Under the provisions of section 4221(c), if an article subject to tax under chapter 32 of the Code is sold free of tax by the manufacturer of the article for an exempt purpose referred to in section 4221(c) and paragraph (b)(2) of this section, the manufacturer shall be relieved of any tax liability under chapter 32 with respect to such sale if the manufacturer in good faith accepts a proper certification by the purchaser that the article or articles will be used by the purchaser in the stated exempt manner. See paragraph (b)(2) of this section for a list of the exempt purposes referred to in section 4221(c).

(2) The following are situations wherein section 4221(c) is applicable with respect to sales made tax free on the assumption that one of the following sections of the Code provides exemption for such sales:

(i) Section 4221(a)(1), to the extent that it relates to sales for further manufacture by a first purchaser (see § 48.4221-2),

(ii) Section 4221(a)(3), relating to supplies for vessels and aircraft (see § 48.4221-4),

(iii) Section 4221(a)(4), relating to sales to State or local governments (see § 48.4221-5),

(iv) Section 4221(a)(5), relating to sales to nonprofit educational organizations (see § 48.4221-6),

(v) Section 4063(a)(6), relating to sales of bus chassis or bodies for use in mass transportation (see regulations thereunder),

(vi) Section 4063(a)(7), relating to sales of certain automotive articles as trash containers (see regulations thereunder),

(vii) Section 4063(b), relating to the sale of automotive bodies to manufacturers of trucks or other automobiles (see regulations thereunder),

(viii) Section 4083, relating to the sale of gasoline to a producer of gasoline (see regulations thereunder),

(ix) Section 4093, relating to the sale of lubricating oil to a manufacturer or producer of lubricating oil (see regulations thereunder), and

(x) Section 4221(e)(5), relating to certain sales of school buses (see § 48.4221-9).

(3) *Situations wherein section 4221(c) is not applicable.* The relief from liability for the payment of tax provided by section 4221(c) is not applicable with respect to sales made tax free on the assumption that one of the following sections of the Code provides exemption for such sales:

(i) Section 4221(a)(1), to the extent that it relates to sales for resale to a second purchaser for use by the second purchaser in further manufacture (see § 48.4221-2),

(ii) Section 4221(a)(2), relating to sales for export (see § 48.4221-3),

(iii) Section 4221(e)(2), relating to sales of tires and inner tubes (see § 48.4221-7), and

(iv) Section 4221(e)(4), relating to certain sales of bicycle tires and inner tubes (see § 48.4221-8).

(4) *Duty of seller to ascertain validity of tax-free sale.* If the manufacturer at the time of its sale has reason to believe that the article sold by it is not intended for the exempt purpose indicated by the purchaser, or that the purchaser has failed to register as required, the manufacturer is not considered to have accepted certification from the purchaser in good faith, and is not relieved from liability under the provisions of section 4221(c).

(5) *Information to be furnished to purchaser.* A manufacturer selling articles free of tax under this section after December 31, 1978, shall indicate to the purchaser that (i) certain articles normally subject to tax are being

sold tax free and (ii) the purchaser is obtaining those articles tax free for an exempt purpose under an exemption certificate or its equivalent. The manufacturer may transmit this information by any convenient means, such as coding of sales invoices, provided that the information is presented with sufficient particularity so that the purchaser is informed that he has obtained the articles tax free and—

(i) the purchaser can compute and remit the tax due if an article sold tax free for further manufacture is diverted to a taxable use,

(ii) The manufacturer can remit the tax due with respect to an article purchased tax free for resale for use in further manufacture or for export if, within the 6-month period described in § 48.4221-2(c) or § 48.4221-3(c), the manufacturer does not receive proof that the article has been exported or resold for use in further manufacture, or

(iii) the purchaser can notify the manufacturer if an article otherwise purchased tax free is diverted to a taxable use.

(c) *Evidence required in support of tax-free sales*—(1) *Purchasers required to be registered.* Every purchaser who is required to be registered (see § 48.4222(a)-1) shall furnish to the seller, as evidence in support of each tax-free sale made by the seller to such purchaser, the exempt purpose for which the article or articles are being purchased and the registration number of the purchaser. Such information must be in writing and may be noted on the purchase order or other document furnished by the purchaser to the seller in connection with each sale.

(2) *Purchasers not required to be registered.* For the evidence which purchasers not required to register must furnish to the seller in support of each tax-free sale made by the seller to such purchasers, see paragraph (b) of § 48.4221-3 for sales or resales to a foreign purchaser for export, paragraph (d) of § 48.4221-4 for sales of supplies to vessels or aircraft, paragraph (c) of § 48.4221-5 for sales to State and local governments, and paragraph (c) of § 48.4222(b)-1 for sales and purchases by the United States.

§ 48.4221-2 Tax-free sale of articles to be used for, or resold for, further manufacture.

(a) *Further manufacture*—(1) *In general.* Under prescribed conditions, an article subject to tax under chapter 32 (other than a tire or inner tube taxable under section 4071, which are given special treatment under sections 4221(e) (2) and (4), and §§ 48.4221-7 and 48.4221-8) may be sold tax free by the manufacturer, pursuant to section 4221(a)(1), for use by the purchaser in further manufacture, or for resale by the purchaser to a second purchaser for use by the second purchaser in further manufacture. See section 4221(d)(6) and paragraph (b) of this section for the circumstances under which an article is considered to have been sold for use in further manufacture. See section 6416(b)(3) and § 48.6416(b)-3 for the circumstances under which credit or refund is available when tax-paid articles are used in further manufacture.

(2) *Tires and tubes.* The provisions of this paragraph do not apply with respect to a tire or inner tube (including a bicycle tire or inner tube) taxable under section 4071. See §§ 48.4221-7 and 48.4221-8 for the circumstances under which such tires and tubes may be sold tax free for resale on or in connection with other articles.

(3) *Proof of resale for use in further manufacture.* See section 4221(b)(1) and paragraph (c) of this section for provisions under which the exemption provided in section 4221(a)(1) shall cease to apply in the case of an article sold by the manufacturer to a purchaser for resale to a second purchaser for use in further manufacture unless the manufacturer receives timely proof of resale for further manufacture.

(b) *Circumstances under which an article is considered to have been sold for use in further manufacture.* (1) For purposes of the exemption from the manufacturers excise tax provided by section 4221(a)(1), an article shall be treated as sold for use in further manufacture if—

(i) The article (other than an article referred to in subdivision (ii) of this paragraph (b)(1)) is sold for use by the purchaser as material in the manufacture or production of, or as a component part of, another article taxable under chapter 32 of the Code;

(ii) In the case of an automotive part or accessory taxable under section 4061(b), such article is sold for use by the purchaser as material in the manufacture or production of, or as a component part of, another article (whether or not taxable under chapter 32);

(iii) In the case of gasoline taxable under section 4081 and sold after September 30, 1961, the gasoline is sold for use by the purchaser, for nonfuel purposes, as a material in the manufacture or production of another article.

(2) An article is used as material in the manufacture or production of, or as a component of, another article if it is incorporated in, or is a part or accessory of, the other article when the other article is sold by the manufacturer. Lubricating oil in the crankcase of a new taxable truck is an example of a taxable article used as material in the manufacture or production of, or as a component part of, another article. In addition, an article (other than gasoline used as a fuel) is considered to be used as material in the manufacture of another article if it is consumed in whole or in part in testing such other article; for example, shells or cartridges that are used by the manufacturer of firearms to test new firearms. However, an article that is consumed in the manufacturing process other than in testing, so that it is not a physical part of the manufactured article, is not considered to have been used as material in the manufacture of, or as a component part of, another article. Thus, lubricating oil used in operating plant machinery in the course of the manufacture of automobile truck chassis, is not used as material in the manufacture of, or as a component part of, the truck chassis.

(3) Effective January 1, 1965, the rebuilding of automobile parts or accessories, exempt from tax under section 4063(c), shall not be considered as the manufacture or production of such parts or accessories. Therefore, a rebuilder may not purchase new parts or accessories tax free under section 4221(a)(1) or paragraph (a) of this section for use in the rebuilding by him of automobile parts or accessories. For application of the use tax to new parts or accessories used in rebuilding, see paragraph (d)(1) of § 48.4218-1.

(c) *Proof of resale for further manufacture*—(1) *Cessation of exemption.* The exemption provided in section 4221(a)(1) and described in paragraph (a) of this section in respect of an article sold by the manufacturer to a purchaser for resale to a second purchaser for use by the second purchaser in further manufacture shall cease to apply on the first day following the close of the 6-month period which begins on the date of the sale of such article by the manufacturer, or the date of shipment of the article by the manufacturer, whichever is earlier, unless, within such 6-month period, the manufacturer receives proof, in the form prescribed by paragraph (c)(2) of this section, that the article was actually resold by the purchaser to a second purchaser for such use. If, on the first day following the close of the 6-month period, such proof has not been received, the manufacturer shall become liable for tax at that time at the rate in effect when the sale was made but otherwise in the same manner as if the article had been sold by it on such first day at a taxable price equivalent to that at which the article was actually sold. If the manufacturer later obtains such proof, it may file a claim for refund or credit in accordance with and to the extent provided by section 6416(b)(3)(A). See section 4221(d)(6) and paragraph (b) of this section for the circumstances under which an article is considered to have been sold for use in further manufacture.

(2) *Proof of resale*—(i) *Certificate of purchaser.* The proof of resale to be received by the manufacturer, as required under section 4221(b)(1), may consist of either a copy of the invoice of the manufacturer's vendee directed to his purchaser which discloses the certificate of registry number held by each party or a statement described below. In the case of an invoice of manufacturer's vendee, it must appear from such invoice (or by statement attached thereto) that the article was in fact resold for use in further manufacture. In lieu of such an invoice, proof of resale may consist of a statement, executed and signed by the manufacturer's vendee. Such statement shall be in substantially the following form:

STATEMENT OF MANUFACTURER'S VENDEE

(To support tax-free sales of taxable articles to a purchaser for resale to a second purchaser for use in further manufacture (section 4221(a)(1) of the Internal Revenue Code).)

(Date) ———————, 19—.

The undersigned, or the ——————————— (Name of manufacturer's vendee if other than undersigned, of which I am ———— (Title), holds certificate of registry No. ——, issued by the District Director of Internal Revenue at ———————.

The article or articles specified below or on the reverse side hereof were purchased tax free by me, or by ——————————— (Name of manufacturer's vendee if other than undersigned), on ———— (Date) and were thereafter resold to a purchaser who holds certificate of registry No. ——, issued by the District Director of Internal Revenue at ———————, for use by it as material in the manufacture or production of, or as a component part or parts of, an article or articles taxable under chapter 32 of the Internal Revenue Code, or, if the article or articles are automobile parts or accessories (to which section 4061(b) applies) or gasoline, for use by it as material (for nonfuel uses in the case of gasoline) in the manufacture or production of, or as a component part or parts of, any article or articles.

The undersigned, or ——————————— (Name of manufacturer's vendee if other than undersigned), has in my/its possession proof of tax-free resale of such article or articles in the form of related purchase orders and sales invoices, and proof of tax-free resale will be retained by me or ——————————— (Name of manufacturer's vendee if other than undersigned), for at least 3 years from the date of this statement, and will be made readily available for inspection by Government officers during such 3-year period.

I have not previously executed a statement in respect of such certificate of resale, and I understand that the fraudulent use of this statement may subject me and all parties making such fraudulent use of this statement to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

———————————
(Signature)

———————————
(Address)

(ii) *Period covered.* Any statement executed and signed by the manufacturer's vendee, as provided in subdivision (i) of this paragraph (c)(2), may be executed with respect to any one or more articles purchased tax free from a manufacturer and resold for use in further manufacture within the 6-month period prescribed in section 4221 (a)(1) and paragraph (c)(1) of this section. Such statement (or other prescribed proof of resale) must be retained for inspection by the district director as provided in section 6001.

§ 48.4221-3 Tax-free sale of articles for export, or for resale by the purchaser to a second purchaser for export.

(a) *In general.* An article subject to tax under chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(2) and this section, for export, or for resale by the purchaser to a second purchaser for export. See paragraph (a)(10) of § 48.0-2 for the meaning of the term "export". An article may be sold tax free by the manufacturer under the provisions of this section only if the person to whom the manufacturer sells the article intends either to export the article or to resell it to a person who intends to export it. An article may not be sold tax free under the provisions of this section by a manufacturer to a purchaser for resale to a second purchaser which does not intend to export the article itself but plans to resell it to a third purchaser for export. See section 6416 (b)(2)(A) and paragraph (b)(1) of § 48.6416(b)-2 for the circumstances under which credit or refund of tax is available where tax-paid articles are exported from the United States.

(b) *Sales or resales to a foreign purchaser for export.* In the case of sales or resales to a foreign purchaser for export, where the first purchaser or the second purchaser is located in a foreign country or possession of the United States, such purchaser is not required to register as provided in section 4222(a) and § 48.4222(a)-1. To establish the right to sell articles tax free for export to a purchaser who is not registered and who is located in a foreign country or a possession of the United States, the manufacturer must obtain from such purchaser at the time title to the article passes or at the time of shipment, whichever is earlier, either—

(1) A written order or contract of sale showing that the manufacturer is to ship the article to a foreign destination; or

(2) Where delivery by the manufacturer is to be made within the United States, a statement from the purchaser showing—

(i) That the article is purchased either to fill existing or future orders for delivery to a foreign destination or for resale to another person engaged in the business of exporting who will export the article, and

(ii) That such article will be transported to its foreign destination in due course prior to use or further manufacture and prior to any resale except for export.

See section 4221(b) and paragraphs (c) and (d) of this section for requirements as to timely proof of exportation and cessation of the exemption for export unless the evidence to show actual exportation has been received by the manufacturer.

(c) *Cessation of exemption.* The exemption provided in section 4221(a)(2) and paragraph (a) of this section for an article sold by the manufacturer for export or for resale by the purchaser to a second purchaser for export shall cease to apply on the first day following the close of the 6-month period which begins on the date of the sale of the article by the manufacturer, or the date of shipment of the article by the manufacturer, whichever is earlier, unless within the 6-month period the manufacturer receives proof, in the form prescribed by paragraph (d) of this section, that the article was actually exported. If, on the first day following the close of the 6-month period, the proof has not been received, the manufacturer shall become liable for tax at that time at the rate in effect when the sale was made but otherwise in the same manner as if the article had been sold by it on such first day at a taxable price equivalent to that at which the article was actually sold.

(d) *Proof of exportation.* (1) Exportation may be evidenced by—

(i) A copy of the export bill of lading issued by the delivering carrier,

(ii) A certificate by the agent or representative of the export carrier showing actual exportation of the article,

(iii) A certificate of landing signed by a customs officer of the foreign country to which the article is exported,

(iv) Where the foreign country has no customs administration, a statement of the foreign consignee showing receipt of the article, or

(v) Where a department or agency of the United States Government is unable to furnish any one of the foregoing four types of proof of exportation, a statement or certification on the department or agency stationery, executed by an authorized officer, that the listed or identified articles have, in fact, been exported.

(2) In any case where the manufacturer is not the exporter, the manufacturer must have in its possession a statement from the vendee to whom the manufacturer sold the article stating that the article was in fact exported in due course by the vendee or was

sold to another person who in due course exported the article. The statement must state what evidence is available to establish that the article was in fact exported in due course prior to use or further manufacture and prior to resale in the United States other than for export. Such evidence must be that described in paragraph (d)(1) of this section, and the statement must show where such evidence is readily available for inspection by Government officers, and should be in substantially the following form:

STATEMENT OF MANUFACTURER'S VENDEE

(To support tax-free sales of taxable articles to a purchaser for export or for resale to a second purchaser for export (section 4221(a)(2) of the Internal Revenue Code).)

The undersigned, or the _____ (Name of manufacturer's vendee if other than undersigned) of which I am _____ (Title) holds certificate of registry No. ——, issued by the District Director of Internal Revenue at _____.

The article or articles specified below or on the reverse side hereof were purchased tax free by me or by _____ (Name of manufacturer's vendee if other than undersigned) on _____ (Date), and were thereafter exported.

The undersigned or _____ (Name of manufacturer's vendee if other than undersigned) has in my/its possession proof of exportation in respect of such article or articles. The evidence of export available is _____ and is located at _____ (If other than address below). Such proof of exportation will be retained by _____ (Name of manufacturer's vendee) for at least 3 years from the date of this statement and will be made readily available for inspection by Government officers.

I have not previously executed a statement in respect of the article or articles covered by this statement, and I understand that the fraudulent use of this statement will subject me and all parties making such fraudulent use of this statement to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

_____
(Signature and date)

_____
(Address)

(3) The statement executed and signed by the manufacturer's vendee, as provided in paragraph (d)(2) of this section, may be executed with respect to any one or more articles purchased tax free from a manufacturer and exported within the 6-month period prescribed in section 4221(b)(2) and paragraph (c) of this section. Such statement shall be kept for inspection by the district director as provided in section 6001 and the regulations thereunder.

§ 48.4221–4 Tax-free sale of articles for use by the purchaser as supplies for vessels or aircraft.

(a) *Supplies for vessels or aircraft*—(1) *In general.* An article subject to tax under chapter 32 may be sold tax free by the manufacturer, pursuant to section 4221(a)(3) and this section, for use by the purchaser as supplies for vessels or aircraft. See paragraph (b) of this section for the meaning of the term "supplies for vessels or aircraft." An article may be sold tax free under the provisions of this section only in those cases where the sale of an article by the manufacturer is made directly to the owner, officer, charterer, or authorized agent of a vessel or aircraft for use as supplies for the vessel or aircraft. No sale may be made tax free to a dealer for resale for use as supplies for vessels or aircraft, even though it is known at the time of sale by the manufacturer that the article will be so resold. See section 6416(b)(2)(B) and paragraph (b)(2) of § 48.6416 (b)–2 for circumstances under which credit or refund of tax is available where tax-paid articles are used, or sold for use, as supplies for vessels or aircraft. An article may not be sold tax free under the provisions of this section by the manufacturer to passengers or members of the crew of a vessel or aircraft.

(2) *Civil aircraft of foreign registry.* In the case of any article sold by the manufacturer for use by the purchaser as supplies for civil aircraft of foreign registry employed in foreign trade or in trade between the United States and any of its possessions, the provisions of this paragraph apply only if the reciprocity requirements of section 4221(e)(1) are met. See paragraph (c) of this section.

(b) *Meaning of terms*—(1) *Supplies for vessels or aircraft.* The term "supplies for vessels or aircraft" means fuel supplies, ships' stores, sea stores, or legitimate equipment on vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or vessels actually engaged in foreign trade or trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions.

(2) *Fuel supplies, ships' stores, and legitimate equipment.* The terms "fuel supplies", "ships' stores", and "legitimate equipment" include all articles, materials, supplies, and equipment necessary for the navigation, propulsion, and upkeep of vessels of war of the United States or of any foreign nation, vessels employed in the fisheries or in the whaling business, or vessels actually engaged in foreign trade or in trade between the Atlantic and Pacific ports of the United States or between the United States and any of its possessions, even though such vessels may make intermediate stops in the United States. The term does not include supplies for vessels engaged in trade (i) between domestic ports in the Atlantic Ocean and the Gulf of Mexico, (ii) between domestic ports on the Pacific Ocean, (iii) between domestic ports on the Great Lakes, or (iv) on the inland waterways of the United States.

(3) *Sea stores.* The term "sea stores" includes any article purchased for use or consumption by the passengers or crew, or both, of a vessel during its voyage.

(4) *Vessels.* The term "vessel" includes (i) every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water, (ii) civil aircraft registered in the United States and employed in foreign trade or in trade between the United States and any of its possessions, and (iii) civil aircraft registered in a foreign country and employed in foreign trade or in trade between the United States and any of its possessions.

(5) *Vessels of war of the United States or of any foreign nation.* The term "vessels of war of the United States or of any foreign nation" includes (i) every description of watercraft or other contrivance used, or capable of being used, as a means of transportation on water and constituting equipment of the armed forces (including the U.S. Coast Guard and U.S. National Guard) of the United States or of a foreign nation, and (ii) aircraft owned by the United States or by any foreign nation and constituting equipment of the armed forces thereof. For purposes of this section, vessels or aircraft owned by armed forces are not considered to be equipment of such armed forces while on lease or loan to an organization that is not part of the armed forces.

(6) *Vessels used in fisheries or whaling business.* The exemption provided by section 4221(a)(3) and paragraph (a) of this section in the case of articles sold for the prescribed use on vessels employed in the fisheries or whaling business is limited to articles sold by the manufacturer for such use on vessles while employed, and to the extent employed, exclusively in the fisheries or in the whaling business. For purposes of this section, vessels engaged in sport fishing are not considered to be employed in the fisheries.

(7) *Civil aircraft.* The exemption provided by section 4221(a)(3) and paragraph (a) of this section relating to supplies for vessels or aircraft, with respect to civil aircraft, extends only to civil aircraft when employed in foreign trade, or in trade between the United States and any of its possessions. Sales of supplies to civil aircraft when engaged in trade between the Atlantic and the Pacific ports of the

United States are not exempt from the tax imposed under chapter 32. See section 4221(e)(1) and paragraph (c) of this section for requirement of reciprocal exemption in the case of a civil aircraft registered in a foreign country.

(8) *Trade.* The term "trade" includes the transportation of persons or property for hire and the making of the necessary preparations for such transportation. The term "trade" also includes the transportation of property on a vessel or aircraft owned or chartered by the owner of the property in connection with the purchase, sale, or exchange of the property in a commercial business operation. However, a vessel owned or chartered by a company and used in the transportation of personnel or property of such company to or from its business properties located in a foreign country, or in a possession of the United States, is not engaged in "trade".

(c) *Reciprocity required in the case of civil aircraft.* The exemption provided by section 4221(a)(3) and paragraph (a) of this section with respect to the sales of supplies for civil aircraft registered in a foreign country is further limited in that the privilege of exemption may be granted only if the Secretary of Commerce advises the Secretary of the Treasury that the foreign country allows, or will allow, substantially the same reciprocal privileges. If a foreign country discontinues the allowance of such substantially reciprocal exemption, the exemption allowed by the United States will not apply after the Secretary of the Treasury is notified by the Secretary of Commerce of the discontinuance of the exemption allowed by the foreign country.

(d) *Evidence required to establish exemption*—(1) *In general.* The exemption provided in section 4221(a)(3) and paragraph (a) of this section for articles sold for use by the purchaser as supplies for vessels or aircraft applies only (i) if both the manufacturer and purchaser are registered under the provisions of section 4222 or (ii) the purchaser or both the manufacturer and the purchaser are not registered but have satisfied the provisions of paragraph (d)(2) of this section. See paragraph (c) of § 48.4221-1 for the evidence required to establish exemption where the purchaser is registered pursuant to section 4222 and § 48.4222(a)-1.

(2) *Exemption certificates for use in support of tax-free sales of supplies for vessels and aircraft.* (i) In order to establish exemption from tax under section 4221(a)(3) in those instances where the purchaser or both the manufacturer and purchaser are not registered under section 4222, the manufacturer must obtain (prior to or at the time of the sale) from the owner, charterer, or authorized agent of the vessel or aircraft and retain in the manufacturer's possession a properly executed exemption certificate in the form prescribed by subdivision (iii) of this paragraph (d)(2). If articles are sold tax free for use as supplies for civil aircraft employed in foreign trade or in trade between the United States and any of its possessions, the exemption certificate must show the name of the country in which the aircraft is registered.

(ii) Where only occasional sales of articles are made to a purchaser for use as supplies for vessels or aircraft, a separate exemption certificate shall be furnished for each order. However, where sales are regularly or frequently made to a purchaser for such exempt use, a certificate covering all orders for a specified period not to exceed 12 calendar quarters will be acceptable. Such certificates and proper records of invoices, orders, etc., relative to tax-free sales must be kept for inspection by the district director as provided in section 6001 and the regulations thereunder.

(iii) *Acceptable form of exemption certificate.* The following form of exemption certificate will be acceptable for the purposes of this section and must by adhered to in substance:

EXEMPTION CERTIFICATE

(For use by purchasers of articles for use as fuel supplies, ships stores, sea stores, of legitimate equipment on certain vessels or aircraft (sections 4221 and 4222 of the Internal Revenue Code of 1954).)

(Date)————————, 19——.

I, the undersigned purchaser, hereby certify that I am the ———— (Owner, charterer, or authorized agent) of ———— (Name of company and vessel) and that: (Check applicable type of certificate)

—— the article or articles specified in the accompanying order, or on the reverse side hereof, (or)

—— all orders placed by the purchaser for the period commencing (Date) —— and ending (Date) —— (period not to exceed 12 calendar quarters), will be used only for fuel supplies, ships' stores, sea stores, or legitimate equipment on a vessel belonging to one of the following classes of vessels to which section 4221 of the Internal Revenue Code applies: (Check class to which vessel belongs.)

..... (1) Vessels engaged in foreign trade.
..... (2) Vessels engaged in trade between the Atlantic and Pacific ports of the United States.
..... (3) Vessels engaged in trade between the United States and any of its possessions.
..... (4) Vessels employed in the fisheries or whaling business.
..... (5) Vessels of war of the United States or a foreign nation.

If the articles are purchased for use on civil aircraft engaged in trade as specified in (1) or (3) above, state the name of the country in which the aircraft is registered:

————————

I understand that if the articles are used for any purpose other than as stated in this certificate, or are resold or otherwise disposed of, I must report such fact to the manufacturer. I understand that this certificate may not be used in purchasing articles tax free for use as fuel supplies, etc., on pleasure vessels, or on any type of aircraft except that (i) civil aircraft employed in foreign trade or trade between the United States and any of its possessions, and (ii) aircraft owned by the United States or any foreign country and constituting a part of the armed forces thereof.

I understand that the fraudulent use of this certificate to secure exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution. I also understand that I must be prepared to establish by satisfactory evidence the purpose for which the article was used.

————————
(Signature)

————————
(Address)

§ 48.4221-5 Tax-free sale of articles to States and local governments for their exclusive use.

(a) *In general.* An article subject to tax under chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(4) and this section, to a State or local government for the exclusive use of such State of local government. See paragraph (b) of this section for the meaning of the term "State or local government". An article may be sold tax free by the manufacturer under this paragraph only in those cases where the sale is made directly to a State or local government for its exclusive use. Accordingly, no sale may be made tax free to a dealer for resale to a State or local government for its exclusive use, even though it is known at the time of sale by the manufacturer that the article will be so resold. A sale of an article to a State or local government for resale is not considered to be a sale for the "exclusive use" of the State or local government, within the meaning of section 4221(a)(4), and, therefore, such sales may not be made tax free. Such sales are not exempt regardless of whether the resales are made to government employees, or the fact that the article is an item of equipment the employee is required to possess in carrying out his duties. For example, pistols or revolvers may not be sold tax free to a State or local government for resale to its police officers. See section 6416(b)(2)(C), and paragraph (b)(3) of § 48.6416(b)-2, for the circumstances under which credit or refund of tax is available where tax-paid articles are sold for the exclusive use of a State or local government.

(b) *State or local government.* The term "State or local government" includes any State, the District of Columbia, and any political subdivision of any of the foregoing.

(c) *Evidence required in support of tax-free sales to States or local governments.* (1) In the case of a State or local government which is registered (see § 48.4222(b)-1 for provisions under which a State or local government may register if it so desires), the provisions of paragraph (c) of § 48.4221-1 have application as to the evidence required in support of tax-free sales. If a State or local government is not registered, the evidence required in support of a tax-free sale to the State or local government shall, except as provided in paragraph (c)(2) of this section, consist of a certificate, executed and signed by an officer or employee authorized by the State or local government to execute and sign the certificate. If it is impracticable to furnish a separate certificate for each order or contract because of a frequency of purchases, a certificate covering all orders between given dates (such period not to exceed 12 calendar quarters) will be acceptable. The certificates and proper records of invoices, orders, etc., relative to tax-free sales must be retained by the manufacturer as provided in section 6001 and the regulations thereunder. The certificate shall be in substantially the following form:

EXEMPTION CERTIFICATE

(For use by States and local governments (section 4221(a)(4) of the Internal Revenue Code))

(Date) ———————, 19——.

I hereby certify that I am ——————— (Title of Officer) of ——————— (State or local government) that I am authorized to execute this certificate; and that:

(Check applicable type of certificate)

—— the article or articles specified in the accompanying order, or on the reverse side hereof, (or)

—— all orders placed by the purchaser for the period commencing ——————— (Date) and ending ——————— (Date) (period not to exceed 12 calendar quarters), are, or will be, purchased from ——————— (Name of manufacturer) for the exclusive use of ——————— (Governmental unit) of ——————— (State or local government).

I understand that the exemption from tax in the case of sales of articles under this exemption certificate to a State, etc., is limited to the sale of articles purchased for its exclusive use. I understand that the fraudulent use of this certificate for the purpose of securing this exemption will subject me and all parties making such fraudulent use of this certificate to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

———————
(Signature)

———————
(Address)

(2) A purchase order, provided that all of the information required by paragraph (c)(1) of this section is included therein, is acceptable in lieu of a separate exemption certificate.

(d) *Resale of articles purchased tax free by a State or local government.* If articles purchased tax free for the exclusive use of a State or local government (whether on the basis of a registration number or an exemption certificate) are prior to use by the State or local government resold under circumstances that do not amount to an exclusive use by the State or local government (such as gasoline that is resold by a volunteer fire department to volunteer firemen), the parties responsible in the State or local government are required to inform the manufacturer, producer, or importer from whom the articles were purchased that they were disposed of in a manner that did not amount to an exclusive use by the State or local government. A willful failure to supply the manufacturer, producer, or importer with the information required by this subparagraph will subject responsible parties to the penalties provided by section 7203.

§ 48.4221-6 Tax-free sales of articles to nonprofit educational organizations.

(a) *In general.* An article subject to tax under chapter 32 of the Code may be sold tax free by the manufacturer, pursuant to section 4221(a)(5) and this section, to a nonprofit educational organization for its exclusive use. See paragraph (b) of this section for the meaning of the term "nonprofit educational organization". An article may be sold tax free by the manufacturer under this paragraph only in those cases where the sale of an article by the manufacturer is made directly to a nonprofit educational organization for its exclusive use. Accordingly, no sale may be made tax free to a dealer for resale to a nonprofit educational organization for its exclusive use even though it is known at the time of sale by the manufacturer that the article will be so resold. See section 6416(b)(2)(D), and paragraph (b)(4) of section 48.6416(b)-2, for the circumstances under which credit or refund of tax is available where tax-paid articles are sold for the exclusive use of a nonprofit educational organization.

(b) *Nonprofit educational organization.* The term "nonprofit educational organization" means an organization described in section 170(b)(1)(A)(ii) that is exempt from income tax under section 501(a). Section 170(b)(1)(A)(ii) describes an "educational organization" as one that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. The term also includes a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a), provided the primary function of such school is the presentation of formal instruction and provided such school normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on.

(c) *Evidence required in support of tax-free sales to nonprofit educational organizations.* Every nonprofit educational organization purchasing tax free under section 4221(a)(5) must furnish the following information to the seller:

(1) The exempt purpose for which the article or articles are being purchased, and

(2) Its registration number, and the district director's office that issued the registration number.

Such information must be in writing and may be noted on the purchase order or other document furnished by the purchaser to the seller in connection with each sale. See paragraph (c) of § 48.4221-1 for the evidence required to establish exemption.

§ 48.4221-7 Tax-free sales of tires and tubes.

(a) *In general.* A manufacturer of tires or inner tubes that are taxable under section 4071 may sell such articles tax free if the sale meets the conditions prescribed in section 4221(e)(2) and paragraph (a) (1) and (2) of this section. The following are conditions under which articles taxable under section 4071 may be sold tax free:

(1) The tire or tube is sold for use by the purchaser for sale on or in connection with the sale of another article manufactured or produced by the purchaser; and

(2) The other article is to be sold in a tax-free sale by the purchaser for export, for use as supplies for vessels or aircraft, to a State or local government for its exclusive use, or to a nonprofit educational organization for its exclusive use, or the other article is to be sold by the purchaser for any of such purposes in a sale which would be tax-free but for the fact that the other article is not subject to tax under chapter 32 of the Code.

See section 6416(b)(2)(F) and paragraph (b)(6) of § 48.6416(b)-2 for the circumstances under which credit or refund of tax is available for tax-paid tires or tubes that are resold for the purposes described in this paragraph (a).

(b) *Registration requirements.* In order to effect a tax-free sale under section 4221(e)(2)(A), both the manufacturer and purchaser (except for purchasers who are exempt from the registration requirement under § 48.4222(b)-1) must be registered with

the District Director of Internal Revenue as required in § 48.4222(a)-1. At the time of sale, the registration number assigned to the purchaser by the district director together with the purpose for which the article was purchased must be shown on (or attached to) the invoice, purchase order, or other document used for the sale.

(c) *Proof required in support of tax-free sales of tires and tubes.*—(1) *Cessation of exemption.* The exemption allowed under section 4221(e)(2)(A) and this section on the sale of a tire or inner tube shall cease to apply unless, within the 6-month period which begins on the date of the tax-free sale by the manufacturer of such article (or, if earlier, on the date of shipment by such manufacturer), the manufacturer receives proof from the purchaser that such article has been used on or in connection with the sale of another article which has been sold for one of the tax-exempt purposes referred to in paragraph (a)(2) of this section. If the manufacturer has not received the required information within such 6-month period, the temporary suspension of the liability for the payment of the tax ceases, and the manufacturer shall include the tax on the sale of the tire or inner tube in his return for the period in which the 6-month period expires. If the required information is received after the expiration of the 6-month period, the manufacturer may file a claim for credit or refund of tax so paid on his sale of the tire or inner tube.

(2) *Required information.* The information which the manufacturer must receive within the 6-month period, referred to in paragraph (c)(1) of this section, shall be in substantially the following form:

STATEMENT OF MANUFACTURER'S VENDEE

(To support tax-free sales of tires or inner tubes by the manufacturer thereof for use on or in connection with the sale of another article (section 4221(e)(2) of the Internal Revenue Code))

(Date) ————————, 19——.

I certify that I, or the ————————, (Name of purchaser if other than undersigned) of which I am ———— (Title) am/is in the business of selling ———— (Products handled) and hold(s) certificate of registry No. —— issued by the District Director of Internal Revenue at ————————; and that the tires or inner tubes which were purchased or shipped on ————, 19——, as specified on the back hereof, have been used on or in connection with the sale of ———— (Products sold) by such undersigned.

Check one

—— for export by ———— (Name of carrier) to ———— (Name of foreign country or U.S. possession) and was so exported on ————, 19—— (Date). (A copy of the bill of lading or other proof of exportation is attached.)

—— for use as supplies on ———— (Name of vessel or aircraft) which is registered in ———— (Name of country in which vessel or aircraft is registered).

—— to ———— (Name of State or local government).

—— to ———— (Name and address of the nonprofit educational organization).

I understand that the fraudulent use of this certificate for the purpose of substantiating the tax-free sale will subject me and all parties making such fraudulent use of this certificate to revocation of the privilege of purchasing articles tax free and to a fine of not more than $10,000 or to imprisonment for not more than 5 years, or both, together with costs of prosecution.

————————
(Signature)

————————
(Address)

§ 48.4221-8 Tax-free sales of bicycle tires or tubes for use in further manufacture.

(a) *Exemption.* Under section 4221(e)(4), no tax attaches under chapter 32 of the Code with respect to the sale on or after May 1, 1960, of a bicycle tire, or an inner tube for a bicycle tire, by the manufacturer thereof if the tire or tube is sold for use by the purchaser as material in the manufacture of, or as a component part of, a new bicycle. However, a bicycle tire, or an inner tube for a bicycle tire, may not be sold tax free under section 4221(e)(4) for use by the purchaser as stock for resale or for use in connection with a rebuilt or reconditioned bicycle. See section 6416(b)(3)(E) for provisions relating to credit or refund of taxes paid by the manufacturer if a bicycle tire, or an inner tube for a bicycle tire, is used by the purchaser as material in the manufacture of, or as a component part of, a new bicycle.

(b) *Bicycle tire defined.* As used in paragraph (a) of this section, the term "bicycle tire" means a tire composed of rubber (as "rubber" is defined in section 4072) in combination with fabric or other reinforcing element which is not more than 28 inches in diameter and not more than 2¼ inches in cross section and which is primarily designed or adapted for use on bicycles.

(c) *Evidence of tax-free sale.* The purchaser shall note on the purchase order or other document furnished to the manufacturer by the purchaser the registration number assigned to the purchaser by the District Director of Internal Revenue as provided in § 48.4222(a)-1 and information to the effect that the bicycle tires, or inner tubes for bicycle tires, are being purchase for use in connection with his manufacture of, or as a component part of, a new bicycle.

(d) *Failure to register.* If either the manufacturer of the bicycle tires, or inner tubes for such tires, or the purchaser thereof is not registered, as provided in § 48.4222(a)-1, a tax-free sale may not be made under section 4221(e)(4) and paragraph (a) of this section.

(e) *Proof of use.* The exemption allowed under section 4221(e)(4) and paragraph (a) of this section shall cease to apply in respect of such sale to the purchaser of the bicycle tire or inner tube, unless, within the 6-month period which begins on the date of the sale by the manufacturer of such article to the purchaser (or, if earlier, on the date of shipment by the manufacturer) the manufacturer receives proof that the bicycle tire of inner tube has been used in connection with the manufacture by such purchaser of a new bicycle, or as a component part thereof. Such proof shall be in the form of a signed statement as to such use. If within the 6-month period the manufacturer has not received such statement, the temporary suspension of the liability for the payment of the tax ceases and the manufacturer shall include the tax on the sale of the tire or inner tube in his return for the period in which the 6-month period expires. If such statement is received after such 6-month period, the manufacturer may claim a credit or refund of tax paid with respect to the sale. See section 6416(b)(3)(E) and paragraph (b)(5) of § 48.6416(b)-2.

§ 4221-9 Tax-free sales of school buses.

(a) *In general.* Under section 4221(e)(5), the tax imposed by section 4061(a) shall not apply to the sale on or after June 22, 1965, of a bus chassis and a bus body (which have been assembled into a bus) by the manufacturer of the chassis or body or both to any person for use exclusively as a school bus in transporting students and employees of schools operated by a State or local government or by a nonprofit educational organization, if both the seller and the purchaser are registered as provided in paragraph (d) of this section. The exemption provided in section 4221(e)(5) does not apply to a bus chassis or a bus body sold separately. However, see section 4063 and the regulations thereunder, which provide an exemption from the tax imposed by section 4061(a) in the case of the sale of a body to a manufacturer of automobile trucks or other automobiles. Also, see paragraph (f) of this section for provisions relating to the credit or refund of the tax paid under section 4061(a) on a bus chassis or a bus body which has been incorporated in a bus to be used exclusively in transporting students and employees of schools operated by a State or local government or by a nonprofit educational organization.

(b) *Incidental use disregarded.* In determining whether a bus is used, or to

be used, exclusively in transporting students and employees of schools operated by a State or local government or by a nonprofit educational organization, there shall be disregarded any incidental use of the bus in providing transportation for a State or local government or a nonprofit organization described in section 501(c) which is exempt from tax under section 501(a).

(c) *Definitions*—(1) *School bus.* The term "school bus" means any type of motor vehicle consisting of a chassis and a body otherwise subject to the tax imposed by section 4061(a), that is used by any person exclusively for transporting students and employees of public schools and nonprofit educational organizations. Such vehicles may include conventional buses, converted panel trucks, etc.

(2) *State or local government.* The term "State or local government" includes any State, the District of Columbia, or any political subdivision of any of the foregoing.

(3) *Nonprofit eductional organization.* The term "nonprofit educational organization" has the same meaning as that set forth in paragraph (b) of § 48.4221-6.

(d) *Registration.* The exemption from tax provided by section 4221(e)(5) on the sale of a bus chassis and bus body by the manufacturer shall apply only if both the seller and the purchaser are registered in the manner prescribed by paragraph (a) of § 48.4222(a)-1 and if the purchaser complies with the requirements of subparagraph (1) of § 48.4221-1(c).

(e) *Duty of seller to ascertain validity of tax/free sale.* If the manufacturer of the bus has knowledge at the time of its sale of the bus that the purchaser does not intend to use the bus as prescribed in section 4221(e)(5), the manufacturer is liable for the tax and is not relieved of liability by reason of the registration of the purchaser, or the provisions of section 4221(c). In any case where the manufacturer of a bus has knowledge, at the time the bus is sold tax free for use as a school bus, that the purchaser has a contract with a school operated by a State or local government or by a nonprofit educational organization for the transportation of students or employees of the school during the school year in which delivery of the bus is to be made to the purchaser (or during the next school year if delivery is to be made between school years), the seller will be considered to have accepted in good faith the purchaser's certification that the bus will be used as prescribed in section 4221(e)(5)

(f) *Credit or refund.* See section 6416(b)(2)(I) for provisions relating to credit or refund of taxes paid by the manufacturer on the sale of a chassis or body which is, prior to any other use, sold to a purchaser by any person (either separately or as part of an assembled bus) for use (as a bus or part of a bus) exclusively in transporting students or employees of a school operated by a State or local government or by a nonprofit educational organization.

§ 48.4221-10 Cross references; other exemptions.

For exemption for articles of native Indian Handicraft manufactured or produced by Indians, see section 4225 and § 48.4225-1.

§ 48.4222(a)-1 Registration.

(a) *General rule.* Except as provided in § 48.4222(b)-1, tax-free sales under section 4221 of the Code may be made only if the manufacturer, first purchaser, and second purchaser, as the case may be, have registered as required by this section. To secure a Certificate of Registry, the applicant must furnish the information required in paragraph (b) of this section. The Commissioner, on July 3, 1973, revoked all Certificates of Registry, Form 637, issued prior to January 23, 1970, as of the close of business on December 31, 1973. Therefore, all persons subject to the registration requirements of section 4222 must hold a certificate of registry (Form 637) issued after January 22, 1970, in order to make tax-free sales or purchases after December 31, 1973.

(b) *Information to be submitted.* Except as provided in § 48.4222(b)-1, any person who is eligible to sell or purchase articles free of a tax imposed by chapter 32 and who has not registered in accordance with the provisions of this section shall, prior to making a tax-free sale or purchase, file Form 637, in duplicate, executed in accordance with the instruction contained on the reverse of Form 637. This form shall be filed with the District Director of Internal Revenue for the district in which the principal place of business of the applicant is located (or if the applicant has no principal place of business in the United States, with the Internal Revenue Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155). Copies of Form 637 may be obtained from any district director. The person who receives a validated Certificate of Registry (Validated Form 637) shall be considered to be registered for purposes of selling or purchasing articles tax free as provided in this section. In the case of a nonprofit educational organization, information shall be furnished showing that the organization is an educational organization described in section 170(b)(1)(A)(ii) that is exempt from income tax under section 501(a), or is a school operated as an activity of an organization described in section 501(c)(3) that is exempt from income tax under section 501(a).

(c) *Evidence required in support of tax-free sales.* See subparagraph (1) of § 48.4221-1(c) for evidence required in support of tax-free sales to purchasers who are required to be registered.

(d) *Failure to register.* If either the seller or purchaser is not registered as required by this section of the regulations, tax-free sales may not be made, except as indicated in § 48.4222(b)-1.

(e) *Cross references.* (1) For exceptions to the requirement for registration, see section 4222(b) and § 48.4222(b)-1.

(2) For revocation or suspension of registration, see § 48.4222(c)-1.

(3) For applicability of section 4222 and these regulations to exemptions provided by sections 4063(b), 4182(b), and 4293, see § 48.4222(d)-1

§ 48.4222(b)-1 Exceptions to the requirement for registration.

(a) *State and local governments.* (1) A State or local government purchasing articles direct from the manufacturer for its exclusive use may, but is not required to, register as provided in § 48.4222(a)-1. To establish the right to sell articles tax free to a State or local government that is not registered, the manufacturer must obtain from an authorized official of the State or local government and retain in the manufacturer's possession either a properly executed exemption certificate, or a purchase order that contains the same information required to be furnished in an exemption certificate. See paragraph (c) of § 48.4221-5 for the information necessary to substantiate a tax-free sale under such circumstances.

(2) Each State requesting registration will be assigned one Certificate of Registry. The registration number shown on this certificate may be used by all agencies, boards, and commissions of the State that are authorized by the State to make purchases for the exclusive use of the State. However, the registration number assigned to a State may not be used by any political subdivision of that State, such as a county or municipality. Each political subdivision of a State desiring to obtain a Certificate of Registry must obtain a separate registration number.

(b) *Sales or resales to foreign purchasers for export.* Persons whose principal place of business is not within the United States may, but are not required to, register in order to purchase articles tax free for export. To establish the right to sell articles tax free for export to a purchaser who is not registered and who is located in a foreign country or a possession of the United States, the manufacturer must obtain the evidence required by paragraph (b) of § 48.4221-3.

(c) *United States.* Except as provided in paragraph (f) of § 48.4222 (d)-1 (relating to sales to the American Red

Cross) the registration requirements of the regulations in this part do not apply to purchases and sales by the United States or any of its agencies or instrumentalities. The evidence required in support of such tax-free purchases and sales is a notation on the purchase order or other document furnished to the seller clearly indicating that the article or articles are being purchased tax free as authorized by chapter 32 of the Code.

(d) *Supplies for vessels and aircraft.* An article subject to an excise tax imposed by chapter 32 of the Code may be sold tax free by the manufacturer under the provisions of § 48.4221-4 for use by the purchaser as supplies for a vessel or aircraft if both the manufacturer and the purchaser are registered under the provisions of § 48.4222 (a)-1. The article also may, on or after July 1, 1965, be sold tax free for such use even though neither the manufacturer nor the purchaser is so registered if the provisions of paragraph (d) of § 48.4221-4 are satisfied.

§ 48.4222 (c)-1 Revocation or suspension of registration.

The district director or the Director of International Operations, as the case may be, is authorized to revoke or temporarily suspend, upon written notice, the registration of any person and the right of such person to sell or purchase articles tax free under section 4221 of the Code in any case in which he finds that (1) the registrant is not a bona fide manufacturer, or a purchaser reselling direct to manufacturers or exporters; (2) the registrant is for some other reason not eligible under these regulations to retain a Certificate of Registry; (3) the registrant has used his registration to avoid the payment of any tax imposed by chapter 32 of the Code, or to postpone or interfere in any manner with the collection of such tax; (4) such revocation or suspension is necessary to protect the revenue; or (5) the registrant failed to comply with the requirements of paragraph (c) of § 48.4222 (a)-1, relating to the evidence required to support a tax-free sale. The revocation or suspension of registration is in addition to any other penalty that may apply under the law for any act or failure to act.

§ 48.4222 (d)-1 Registration in the case of certain other exemptions.

The registration procedure set forth in § 48.4222 (a)-1 also applies in the following cases:

(a) Tax-free sales on or after December 11, 1971, under section 4063(a)(6) of automobile bus chassis or bodies to be used predominantly by the purchaser in mass transportation in urban areas. Both the vendor and vendee must be registered. See section 4063(a)(6) and the regulations thereunder.

(b) Tax-free sales on or after December 11, 1971, under section 4063(a)(7) of boxes, containers, etc., (and parts or accessories therefor) that are to be used as trash containers. Both the vendor and vendee must be registered. See section 4063(a)(7) and the regulations thereunder.

(c) Tax-free sales under section 4063(b) of automobile bodies by the manufacturer, producer, or importer to a manufacturer or producer of automobiles to be sold by the vendee. Both the vendor and vendee must be registered. See section 4063(b) and the regulations thereunder.

(d) Tax-free sales under section 4083 of gasoline by the producer to another producer of gasoline. Both the vendor and vendee must be registered. See section 4083 and the regulations thereunder.

(e) Tax-free sales under section 4093 of lubricating oil by the manufacturer or producer direct to another manufacturer or producer of lubricating oil for resale by him. Both the vendor and the vendee must be registered. See section 4093 and the regulations thereunder.

(f) Tax-free sales under section 4293 to any corporation created by Act of Congress to act in matters of relief under the treaty of Geneva of August 22, 1864 (American Red Cross) for its exclusive use. Both the vendor and the vendee must be registered.

§ 48.4223-1 Special rules relating to further manufacture.

(a) *Purchasing manufacturer to be treated as the manufacturer.* For purposes of chapter 32, a manufacturer or producer to whom an article is sold or resold tax free under section 4221(a)(1) of the Code for use by it in further manufacture shall be treated as the manufacturer or producer of such article. If a manufacturer who purchases an article tax free for further manufacture does not use the article for further manufacture, the sale of the article by it, or its use of the article other than in further manufacture, shall, for purposes of the taxes imposed by chapter 32 of the Code, be treated as a sale or use of the article by the manufacturer thereof. See paragraphs (b) and (c) of this section for determination of taxable sale price where an article purchased tax free for further manufacture is resold, or used other than in further manufacture.

(b) *Computation of tax.* Except as provided in paragraph (c) of this section, the tax liability referred to in paragraph (a) of this section shall be based on the price for which the article was sold by the purchasing manufacturer, or, where the manufacturer uses the article for a purpose other than which it was purchased, the tax shall be based on the price at which such or similar articles are sold, in the ordinary course of trade by manufacturers, producers, or importers thereof. See section 4218(e) and § 48.4218-5.

(c) *Election.* (1) Instead of computing the tax as described under paragraph (b) of this section, the purchasing manufacturer who has incurred liability for tax on its sale or use of an article as provided by paragraph (a) of this section may compute the tax incurred under chapter 32 by using as the tax base either the price for which the article was sold to it by the first purchaser, if any, or the price for which such article was sold by the actual manufacturer, producer, or importer of such article. The purchasing manufacturer must have in its possession information upon which to substantiate such basis for tax. For purposes of this paragraph, the price for which the article was sold by the actual manufacturer or by the first purchaser shall be determined as provided in section 4216 and the regulations thereunder. However, such price shall not be adjusted for any discount, rebate, allowance, return, or repossession of a container or covering, or otherwise.

(2) The election under this paragraph shall be in the form of a statement attached to the return reporting the tax applicable to the sale or use of the article which gave rise to such tax liability. Such election, once made, may not be revoked.

§ 48.4225-1 Exemption of articles manufactured or produced by Indians.

The exemption provided under section 4225 applies to articles taxable under chapter 32 of the Code that are of native Indian handicraft and are manufactured or produced by Indians on Indian reservations or in Indian schools, or manufactured or produced by Indians who are under the jurisdiction of the United States Government in Alaska. For purposes of this section, Indians who reside on allotments of land adjacent to an Indian reservation and are subject to the supervision, control, and jurisdiction of the Bureau of Indian Affairs are considered to be "Indians on Indian reservations".

PAR. 21. Sections 48.6011(a), 48.6011(c), 48.6011(c)-1, 48.6071(a), 48.6091, 48.6109, 48.6151, 48.6206, 48.6302(c), 48.6416(a), 48.6416(b), 48.6416(c), 48.6416(d), 48.6416(d)-1, 48.6416(e), 48.6416(f), 48.6416(g), 48.6416(h), 48.6416(i), 48.6420(a), 48.6420(b), 48.6420(c), 48.6420(d), 48.6420(e), 48.6420(f), 48.6420(g), 48.6420(h), 48.6421(a), 48.6421(b), 48.6421(c), 48.6421(d), 48.6421(e), 48.6421(f), 48.6421(g), 48.6421(h), 48.6421(i), and 48.6675 are deleted.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (88 Stat. 898, 68A Stat. 917; 26 U.S.C. 7805).

[FR Doc. 78-8412 Filed 3-27-78; 3:31 pm]

[4810-31]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

[T.D. ATF-48]

TITLE AND DEFINITION CHANGES

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Final rules.

SUMMARY: Treasury Decision ATF-32 (41 FR 44038) described change of titles due to a reorganization of the Bureau of Alcohol, Tobacco and Firearms. The purpose of the amendments made by this Treasury decision is to implement those title changes in definitions and throughout Title 27, (except Part 71, which will be treated separately at a later date) while at the same time redefining certain other titles and phrases for the purpose of consistency throughout Title 27. Editorial changes have also been made.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Primary Author: Donald R. Royce, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, Washington, D.C. 20226. 202-566-7626.

SUPPLEMENTAL INFORMATION: This Treasury decision implements Treasury decision T.D. ATF-32 (41 FR 44038), published October 6, 1976. T.D. ATF-32 announced a reorganization of the Bureau of Alcohol, Tobacco and Firearms, which gave rise to changes in titles of various Bureau officials and redefined the functions of others. This document provides new definitions, to be used throughout Title 27 for consistency, for the new title "Regional regulatory administrator", (formerly assistant regional director, regulatory enforcement); for the titles "Special agent in charge"; "Regional administrative officer", "ATF officer"; "Customs officer"; and "District director of customs". A new definition is also provided for the term "Region", and a current definition is provided for the title "Director" to replace obsolete definitions.

Other changes include deletion of titles no longer applicable to the Bureau, since its creation as a separate entity within the Treasury Department in 1972; and replacement of obsolete titles with current ones throughout the text of all parts of Title 27, except Part 71, which is being completely revised, and will be published in the near future. Minor editorial changes and conforming changes to section numbers are also included. The definitions which will be used as new standard definitions are spelled out below:

Administrative law judge. The person appointed pursuant to 5 U.S.C. 3105, designated to preside over any administrative proceedings under this part.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional administrative officer. The regional official in charge of the administrative support program for all ATF functions within the region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Special agent in charge. The principal official responsible for the ATF criminal enforcement program within an ATF district.

PAR. 1. Subparts B of 27 CFR Parts 1-8, 18, 47, 70, 72, 173, 178, 179, 181, 186, 194-197, 200-201, 211-213, 231, 240, 245, 250-252, 270, 275, 285, 290, and 295 are completely revised, to read as set forth below.

PAR. 2. Part 170 is revised by (1) replacing the definition of "Assistant Regional Commissioner" with the above definition of "Regional regulatory administrator" in §§ 170.86, 170.303, and 170.612; (2) by deleting the definition of "Regional commissioner" in 170.86; (3) by replacing the definition "Director of Customs" with the above definition of "District director of customs" in 170.86; and (4) by replacing the definition of "Director" in 170.86 and 170.612 with the above definition of "Director".

PAR. 3. Part 296 is revised by (1) replacing the definition of "Assistant Regional Commissioner" with the above definition of "Regional regulatory administrator" in 296.2 and 296.72; (2) deleting the definition of "Commissioner" in 296.72; (3) deleting the definition of "Regional Commissioner" in 296.2; and (4) replacing the definition of "Director" with the above definition of "Director" in § 296.2.

PAR. 4. The titles "assistant regional commissioner", "Assistant Regional Commissioner", "assistant regional commissioner, alcohol and tobacco tax" and "regional director", wherever they occur in Title 27 except Parts 70, 71, 72 and Subparts C and D of Part 173 are replaced by the title "regional regulatory administrator".

PAR. 5. The titles "inspector", "assigned officer", "Alcohol, Tobacco and Firearms officer", and "internal revenue officer", wherever they occur in Title 27 (except Part 70), are replaced by the title "ATF officer".

PAR. 6. The title "regional director", wherever it occurs in 27 CFR Part 72, is replaced by the title "regional administrative officer".

PAR. 7. The titles "Director, Alcohol, Tobacco and Firearms Division", and "Director, Bureau of Alcohol, Tobacco and Firearms", wherever they occur in Title 27, are replaced by the title "Director".

PAR. 8. The titles "commissioner" and "regional commissioner" are replaced by the title "Director" wherever they occur in Parts 1, 178, 181, and in §§ 200.95, 200.98, 200.99, and 200.100.

PAR. 9. The title "Commissioner", is deleted in §§ 200.29, 200.85.

PAR. 10. Section 200.32 is deleted in its entirety.

PAR. 11. Section 200.116 is amended by replacing the title "Commissioner" with the title "Under Secretary", and by replacing the title "Assistant Commissioner" with the title "Assistant Secretary".

PAR. 12. The title "Assistant Regional Director" is deleted from § 70.23(b)(2).

PAR. 13. The wording "Any Assistant Commissioner of Internal Revenue, when designated to do so by the Commissioner, and" is deleted from § 1.35. The succeeding word "the" is capitalized as the beginning of a sentence.

PAR. 14. The titles "director of customs", and "collector of customs", wherever they occur in Title 27, are replaced by the title "district director of customs".

PAR. 15. Sections 70.21, 70.22(c)(1), and 70.23(b)(2) are amended by substituting the title "regional regulatory administrator" for the title "regional director".

PAR. 16. Sections 70.28, 70.36(a), 70.36(c), and 70.36(d) are amended by substituting the title "special agent in charge" for the title "regional director".

PAR. 17. The titles "examiner" and "hearing examiner", wherever they

occur in Part 200 and Subparts E of Parts 178 and 181 are replaced by the title "administrative law judge".

PAR. 18. Section 252.11 is amended by deleting the second definition of "Proprietor" which is an obsolete version.

PAR. 19. Section 4.39(b)(3) is amended by replacing the erroneous reference to § 4.1(h) with the new correct reference, § 4.10.

PAR. 20. Section 196.80 is amended by changing the section reference § 196.10 to § 196.5 to conform to the provisions of this document.

PAR. 21. Section 240.354 is amended by changing the section reference § 240.40b to § 240.10 to conform to the provisions of this document.

PAR. 22. Section 240.444 is amended by changing the section references §§ 240.40a and 240.40b to read § 240.10 "Liquid sugar" and "Invert sugar syrup" to conform to the provisions of this document.

PAR. 23. Section 290.14 (new § 290.11 "Cigar") is amended by replacing the section reference "paragraph (b) of § 290.15" with "the definition of 'Cigarette' in this section", to conform to the provisions of this document.

PAR. 24. The word "sulphur", wherever it occurs in any part of Title 27, is replaced by the word "sulfur" (the preferred modern spelling).

Because this Treasury decision merely makes editorial changes and conforms definitions concerning agency organization, procedure, and practice, it is found that it is unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitations of 5 U.S.C. 553(d).

Accordingly, this Treasury decision becomes effective March 31, 1978.

This Treasury decision is issued under the authority contained in 26 U.S.C. 7805 (68A Stat. 917), 27 U.S.C. 205 (49 Stat. 981 as amended), 18 U.S.C. 926 (82 Stat. 1226), 18 U.S.C. 827 (84 Stat. 959), and § 38, Arms Export Control Act (22 U.S.C. 2778, 90 Stat. 744).

Signed: February 17, 1978.

REX D. DAVIS,
Director.

Approved: March 6, 1978.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

PART 1—BASIC PERMIT REQUIREMENTS UNDER THE FEDERAL ALCOHOL ADMINISTRATION ACT

Subpart B—Definitions

§ 1.5 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

Act. "Act" shall mean the Federal Alcohol Administration Act.

Applicant. "Applicant" shall mean any person who has filed with the regional regulatory administrator an application for a basic permit under the Federal Alcohol Administration Act.

Basic permit. "Basic permit" shall mean a formal document issued under the Act in the form prescribed by the Director authorizing the person named therein to engage in the activities specified at the location stated.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Other term. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

Permittee. "Permittee" shall mean any person holding a basic permit issued under the Federal Alcohol Administration Act.

Person. "Person" shall mean any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Resale at wholesale. "Resale at wholesale" shall mean a sale to any trade buyer.

Trade buyer. "Trade buyer" shall mean any person who is a wholesaler or retailer of distilled spirits, wine or malt beverages.

PART 2—NONINDUSTRIAL USE OF DISTILLED SPIRITS AND WINE

Subpart B—Definitions

§ 2.5 Distilled spirits.

Section 17(a) of the Federal Alcohol Administration Act defines "distilled spirits" as ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof for nonindustrial use.

Wine. Section 17(a) of the Federal Alcohol Administration Act defines "wine" as (a) wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045), as now in force or hereafter amended, and (b) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake; in each instance only if containing not less than 7 per centum and not more than 24 per centum of alcohol by volume, and if for nonindustrial use.

PART 3—BULK SALES AND BOTTLING OF DISTILLED SPIRITS

Subpart B—Definitions

§ 3.5 Brandy.

As used in this part, the term "brandy" means brandy or wine spirits for addition to wines as permitted by Internal Revenue law and the term "alcohol" means ethyl alcohol distilled at or above 190° proof.

Distilled spirits. Section 17(a) of the Federal Alcohol Administration Act defines "distilled spirits" as ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

In bulk. As used in this part, the term "in bulk" shall mean in containers having a capacity in excess of 1 wine gallon.

Other terms. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by such act.

PART 4—LABELING AND ADVERTISING OF WINE

Subpart B—Definitions

§ 4.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

Act. "Act" means the Federal Alcohol Administration Act.

Added brandy or alcohol. As used in the phrase "added brandy or alcohol" the term "brandy" means brandy or wine spirits for use in the fortification of wine as permitted by internal revenue law. The term "alcohol" means ethyl alcohol distilled at or above 190° proof.

Brand label. "Brand label" means the label carrying, in the usual distinctive design, the brand name of the wine.

Container. "Container" means any bottle, barrel, cask or other closed receptacle irrespective of size or of the material from which made for use for the sale of wine at retail. The term "bottler" means any person who places wine in containers of a capacity of 1 gallon or less; and the term "packer" means any person who places wine in containers of a capacity in excess of 1 gallon.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Gallon. Means a United States gallon of 231 cubic inches of alcoholic beverages at 60° F.

Interstate commerce. "Interstate or foreign commerce" means commerce

between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

Liter or litre. Means a metric unit of capacity equal to 1000 cubic centimeters at 4° C., and equivalent to 33.814 U.S. fluid ounces. For purposes of this part, a liter is subdivided into 1000 equal milliliters (ml).

Permittee. "Permittee" means any person holding a basic permit under the Federal Alcohol Administration Act.

Person. "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent, and including an officer or employee of any agency of a State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

Pure condensed must. "Pure condensed must" means the dehydrated juice or must of sound, ripe grapes, or other fruit or agricultural products, concentrated to not more than 80° (Balling), the composition thereof remaining unaltered except for removal of water; the term "restored pure condensed must" means pure condensed must to which has been added an amount of water not exceeding the amount removed in the dehydration process; and the term "sugar" means pure cane, beet, or dextrose sugar in dry form containing, respectively, not less than 95 percent of actual sugar calculated on a dry basis.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

United States. "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Puerto Rico.

Use of other terms. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

Vintage wine. "Vintage wine" means a wine made in accordance with the standards prescribed in Classes 1, 2, and 3 of § 4.21, deriving not less than 95 percent of its volume from grapes gathered in the same calendar year, grown in the same viticultural area, and fermented in the State in which this viticultural area is located.

Wine. "Wine" means: (1) Wine as defined in section 610 and section 617 of the Revenue Act of 1918 (26 U.S.C. 3036, 3044, 3045) and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance only if containing not less than 7 percent, and not more than 24 percent of alcohol by volume, and if for nonindustrial use.

PART 5—LABELING AND ADVERTISING OF DISTILLED SPIRITS

Subpart B—Definitions

§ 5.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such Act.

Act. The Federal Alcohol Administration Act.

Age. The period during which, after distillation and before bottling, distilled spirits have been stored in oak containers. "Age" for bourbon whisky, rye whisky, wheat whisky, malt whisky, or rye malt whisky, and straight whiskies other than straight corn whisky, means the period the whisky has been stored in charred new oak containers.

Bottle. Any container, irrespective of the material from which made, used for the sale of distilled spirits at retail.

Brand label. The principal display panel that is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale, and any other label appearing on the same side of the bottle as the principal display panel. The principal display panel appearing on a cylindrical surface is that 40 percent of the circumference which is most likely to be displayed, presented, shown, or examined under normal and customary conditions of display for retail sale.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Distilled spirits. Ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whisky, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use, except that this term shall not include mixtures containing wine, botted at 48° proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

Gallon. U.S. gallon of 231 cubic inches of alcoholic beverage at 60° F.

In bulk. In containers having a capacity in excess of 1 wine gallon (3.785 liters).

Interstate or foreign commerce. Commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

Liter or litre. A metric unit of capacity equal to 1,000 cubic centimeters of distilled spirits at 15.56° C (60° F.), and equivalent to 33.814 U.S. fluid ounces. A liter is subdivided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

Permittee. Any person holding a basic permit under the Federal Alcohol Administration Act.

Person. Any individual, partnership, joint stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent and including an officer or employee of any agency of a State or political subdivision thereof; and the term "trade buyer" means any person who is a wholesaler or retailer.

Produced at. As used in §§ 5.22 and 5.52 in conjunction with specific degrees of proof to describe the standards of identity, means the composite proof of the spirits after completion of distillation and before reduction in proof.

Proof gallon. A gallon of liquid at 60° F. which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60° F. referred to water at 60° F. as unity, or the alcoholic equivalent thereof.

Assistant regional commissioner. Whenever used in this part shall mean a regional director as defined in this section.

United States. The several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means the Commonwealth of Puerto Rico.

PART 6—INDUCEMENTS FURNISHED TO RETAILERS

Subpart B—Definitions

§ 6.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

Industry member. "Industry member" shall mean any person engaged in business as a distiller, brewer, rectifier, blender, or other producer, or as an importer or wholesaler, of distilled spirits, wine or malt beverages, or as a bottler, or warehouseman and bottler, of distilled spirits, but shall not include an agency of a State or political subdivision thereof, or an officer or employee of such agency.

Other terms. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the meaning assigned to it by such act.

Product. "Product" shall mean distilled spirits, wine or malt beverages, as defined in the Federal Alcohol Administration Act.

Retailer. "Retailer" shall mean any person engaged in the sale of distilled spirits, wine or malt beverages to consumers.

Retail establishment. "Retail establishment" shall mean any premises where distilled spirits, wine or malt beverages are sold or offered for sale to consumers, whether for consumption on or off the premises where sold.

PART 7—LABELING AND ADVERTISING OF MALT BEVERAGES

Subpart B—Definitions

§ 7.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

Act. "Act" means the Federal Alcohol Administration Act.

Any other term used. Any other term defined in the Federal Alcohol Administration Act and used in this part shall have the same meaning assigned to it by such act.

Brand label. "Brand label" means the label carrying, in the usual distinctive design, the brand name of the malt beverage.

Container. "Container" means any can, bottle, barrel, keg, or other closed receptacle, irrespective of size or of the material from which made, for use for the sale of malt beverages at retail. The term "bottler" means any person who places malt beverages in containers of a capacity of 1 gallon or less; and the term "packer" means any person who places malt beverages in containers of a capacity in excess of 1 gallon.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Gallon. "Gallon" means United States gallon of 231 cubic inches of malt beverages at 39.2° F. (4° C.). All other liquid measures used are subdivisions of the gallon as so defined.

Interstate commerce. "Interstate or foreign commerce" means commerce between any State and any place outside thereof, or commerce within any Territory or the District of Columbia, or between points within the same State but through any place outside thereof.

Malt beverage. "Malt beverage" means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

Person. "Person" means any individual, partnership, joint-stock company, business trust, association, corporation, or other form of business enterprise, including a receiver, trustee, or liquidating agent, and including an officer or employee of any agency of a State or political subdivision thereof.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

United States. "United States" means the several States and Territories and the District of Columbia; the term "State" includes a Territory and the District of Columbia; and the term "Territory" means Puerto Rico.

PART 8—CREDIT PERIOD TO BE EXTENDED TO RETAILERS OF ALCOHOLIC BEVERAGES

Subpart B—Definitions

§ 8.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this part.

Act. "Act" means the Federal Alcohol Administration Act.

Distilled spirits. "Distilled spirits" means ethyl alcohol, hydrated oxide of ethyl spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use.

Malt beverage. "Malt beverage" means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption.

Wine. "Wine" means (1) wine as defined in the section 610 and section 617 of the Revenue Act of 1918 (U.S.C., title 26, secs. 441 and 444), as now in force or hereafter amended, and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine compounds sold as wine, vermouth, cider, perry and sake; in each instance only if containing not less than 7 per centum and not more than 24 per centum of alcohol by volume, and if for non-industrial use.

PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

Subpart B—Definitions

§ 18.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Bonded wine cellar. Premises established under the provisions of 26 CFR Part 240 for the production, blending, cellar treatment, storage, bottling, or packaging of untaxpaid wine, and includes premises designated as "bonded winery."

Bureau. Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C. 20226.

Concentrate. Any volatile fruit-flavor concentrate (essence) produced by any process which includes evaporation from any fruit mash or juice.

Concentrate plant. An establishment qualified under this part for the production of concentrates.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the application, report, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this ———— (insert type of document, such as application or report), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct and complete."

Flashed mash or juice. The spent fruit mash or juice from which the volatile fruit flavors have been removed.

Fold. The ratio of the volume of the fruit mash or juice to the volume of the concentrate produced from such fruit mash or juice. For example, one gallon of concentrate of 100-fold would be the product from 100 gallons of fruit mash or juice.

Fruit. All products commonly known and classified as fruit, berries, or grapes.

High-proof concentrate. For the purposes of this part, "high-proof concentrate" shall mean a concentrate (essence), as defined in this section, having an alcohol content of more than 24 percent by volume but which is deemed unfit for beverage use because of its natural constituents.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Processing material. The fruit mash or juice from which concentrate is to be made.

Proprietor. The person qualified under this part to operate the volatile fruit-flavor concentrate plant.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Registry number. The number assigned to a volatile fruit-flavor concentrate plant by the regional director.

U.S.C. The United State Code.

PART 47—IMPORTATION OF ARMS, AMMUNITION, AND IMPLEMENTS OF WAR

Subpart B—Definitions

§ 47.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words imparting the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

ATF Officer. Any officer of the Bureau of Alcohol, Tobacco and Firearms or any agent or other person authorized by law or by the Secretary of the Treasury, or appointed by a Regional Director of the Bureau, or by another principal ATF Officer under delegated authority to perform the duties of an officer of the Bureau of Alcohol, Tobacco and Firearms.

Article. The term "article" shall mean any of the arms, ammunition, and implements of war enumerated in the U.S. Munitions Import List.

Bureau. Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury.

Carbine. A "carbine" is a short barrelled rifle whose barrel is generally not longer than 22 inches and is characterized by light weight.

CFR. The Code of Federal Regulations.

Chemical agent. A "chemical agent" is a substance useful in war which, by its ordinary and direct chemical action, produces a powerful physiological effect.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Firearms. As used in this part, the term "firearm" denotes a weapon not over .50 caliber which will or is designed to or may be readily converted to expel a projectile by the action of an explosive, but shall not include BB and pellet guns or firearms covered by Category I (a) and (e) established to have been manufactured before 1898.

Import or Importation. The term "import" or "importation" means bringing into the United States from a foreign country any of the articles on the Import List, but shall not include intransit, temporary import or temporary export transactions subject to Department of State controls under Title 22, Code of Federal Regulations.

Import List. The list of articles contained in § 47.21 and identified therein as "The U.S. Munitions Import List".

Machinegun. A "machinegun", "machine pistol", "submachinegun", or "automatic rifle" is a firearm originally designed to fire, or capable of being fired fully automatically by a single pull of the trigger.

Permit. The term "permit" means the same as "license" for purposes of 22 U.S.C. 1934(c).

Person. The "person" includes a partnership, company, association or corporation, as well as a natural person.

Pistol. A "pistol" is a hand-operated firearm having a chamber integral with, or permanently aligned with, the bore.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Revolver. A "revolver" is a hand-operated firearm with a revolving cylinder containing chambers for individual cartridges.

Rifle. A "rifle" is a shoulder firearm discharging bullets through a rifled barrel at least 16 inches in length, including combination and drilling guns.

Sporting type sight including optical. A telescopic sight suitable for daylight use on a rifle, shotgun, pistol, or revolver for hunting or target shooting.

This chapter. Chapter I, Title 27, Code of Federal Regulations.

United States. For the purposes of this part, the term "United States", when used in the geographical sense, unless otherwise expressly defined, includes the several States, the insular possessions of the United States, the Canal Zone, the District of Columbia, and any territory over which the United States exercises all and any powers of administration, legislation, and jurisdiction.

U.S.C. The United States Code.

PART 70—PROCEDURE AND ADMINISTRATION

Subpart B—Definitions

§ 70.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words imparting the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Bureau. The Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C. 20226.

CFR. The Code of Federal Regulations.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Special agent in charge. The principal official responsible for the ATF criminal enforcement program within an ATF district.

U.S.C. The United States Code.

PART 72—DISPOSITION OF SEIZED PERSONAL PROPERTY

Subpart B—Definitions

§ 72.11 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Appraised value. The value placed upon seized property or carriers by the appraiser or appraisers designated for the purpose of determining whether the property or carriers may be forfeited administratively.

Carrier. A vessel, vehicle, or aircraft siezed under title 49 U.S.C., chapter 11 for having been used to transport, carry, or conceal a contraband firearm. Vessels, vehicles, or aircraft seized under other provisions of applicable laws shall be considered personal property.

Commercial crimes. Any of the following types of crimes (Federal or State): Offenses against the revenue laws; burglary; counterfeiting; forgery; kidnapping; larceny; robbery; illegal sale or possession of deadly weapons; prostitution (including soliciting, procuring, pandering, white slaving, keeping house of ill fame, and like offenses); extortion; swindling and confidence games; and attempting to

commit, conspiring to commit, or compounding any of the foregoing crimes. Addiction to narcotic drugs and use of marihuana will be treated as if such were commercial crime.

Contraband firearm. A firearm with respect to which there has been committed a violation of the National Firearms Act (26 U.S.C., chapter 53) or any regulation issued thereunder.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Equity. As used in administrative action on petitions for remission or mitigation of forfeitures, shall mean that interest which a petitioner has in the personal property or carrier petitioned for at the time of final administrative action on the petition, but such interest shall not be considered to include any unearned finance charges from the date of seizure or the date of default, if later; any amount rebatable on account of paid insurance premiums; attorney's fees for collection; any amount identified as dealer's reserve; or any amount in the nature of liquidated damages that may have been agreed upon by the buyer and the petitioner.

Person. An individual, trust, estate, partnership, association, company, or a corporation.

Re-appraisal. An up-to-date statutory appraisal to determine the present value of the property or carrier involved in a petition for remission or mitigation of forfeiture made in the same manner as the original appraisal, and performed at the written request of the petitioner whose petition in regard to the property or carrier has been allowed and who, for reasonable cause, is not satisfied that the original appraisal represents the present value of the property or carrier.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional administrative officer. The regional official in charge of the administrative support program for all ATF functions within the region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

U.S.C. The United States Code.

PART 173—RETURNS OF SUBSTANCES, ARTICLES, OR CONTAINERS

Subpart B—Definitions

§ 173.5 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Articles. Denatured spirits or any product or preparation which contains more than 25 percent by volume of denatured spirits.

Bottler. A proprietor of a distilled spirits plant authorized to bottle spirits, a proprietor of a class 8 bonded warehouse qualified under customs laws, or an agency of the United States or any State or political subdivision thereof.

CFR. The Code of Federal Regulations.

Container. Any receptacle, vessel, barrel, cask, keg, bottle, jug, can, or jar of the character used for the packaging of distilled spirits.

Demand letter. The "demand letter" is the formal requirement of the assistant regional commissioner that a person disposing of any article, container, or substance shall render a correct return.

Denatured spirits. Spirits to which denaturants have been added pursuant to formulas prescribed in Part 212 of this chapter.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Dispose. "Dispose" and all forms of the word shall mean and include, but not by way of limitation, consign, sell, transfer, deliver, destroy, or lose, and all forms of those words.

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, and vodka and products produced in such manner that the person producing them is a rectifier within the meaning of section 5082 of the Internal Revenue Code of 1954, as amended.

Importer. A person authorized to import distilled spirits into the United States.

Liquor bottle. A bottle made of glass or earthenware, or of other suitable material approved by the Director, designed or intended for use as a container for distilled spirits for sale for beverage purposes.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Render. "Render" shall mean to deliver the completed return to the office indicated in the demand letter, not later than the date required by the demand letter, or to mail such completed return, in an envelope properly addressed and stamped, in sufficient time for such envelope to be postmarked by the Post Office Department not later than the date required by the demand letter. The time and date of the United States postmark shall constitute the time and date of delivery of the return to the designated office.

Substance. The term "substance" shall mean and include, but not by way of limitation, any of the following: Any grade or type of sugar, sirup, or molasses derived from sugar cane, sugar beets, corn, sorghum, or any other source; starch; potatoes; grain, or corn meal, corn chops, cracked corn, rye chops, middlings, shorts, bran, or any other grain derivative; malt; malt sugar, or malt sirup; oak chips, charred or not charred; yeast; cider; honey; fruits; grapes; berries; fruit, grape, or berry juices or concentrates; wine; caramel; burnt sugar; gin flavor; Chinese bean cake or Chinese wine cake; urea; ammonium phosphate, ammonium carbonate, ammonium sulphate, or any other yeast food; ethyl acetate or any other ethyl ester; any other material of the character used in the manufacture of distilled spirits, or any chemical or other material suitable for promoting or accelerating fermentation; any chemical or material of the character used for the production of distilled spirits by chemical reaction; or any combination of such materials or chemicals.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

United States. The several States and the District of Columbia.

U.S.C. "U.S.C." shall mean the United States Code.

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Subpart B—Definitions

§ 178.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

Act. Chapter 44 of title 18 of the United States Code.

Ammunition. Ammunition or cartridge cases, primers, bullets, or propellent powder designed for use in any firearm other than an antique firearm. The term shall not include (a) any

shotgun shot or pellet not designed for use as the single, complete projectile load for one shotgun hull or casing, nor (b) any unloaded, non-metallic shotgun hull or casing not having a primer.

Antique firearm. (a) Any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; and (b) any replica of any firearm described in paragraph (a) of this definition if such replica (1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.

Business premises. The property on which firearms or ammunition importing, manufacturing or dealing business is or will be conducted. A private dwelling, no part of which is open to the public, shall not be recognized as coming within the meaning of the term.

Collection premises. The premises described on the license of a collector as the location at which he maintains his collection of curios and relics.

Collector. Any person who acquires, holds, or disposes of firearms or ammunition as curios or relics.

Commerce. Travel, trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia and any State, or between any foreign country or any territory or possession and any State or the District of Columbia, or between points in the same State but through any other State or the District of Columbia or a foreign country.

Crime punishable by imprisonment for a term exceeding 1 year. Any offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term shall not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulations of business practices excluded from the meaning of the term under provisions contained in this part, or (b) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less.

Curios or relics. Firearms or ammunition which are of special interest to collectors by reason of some quality other than is ordinarily associated with firearms intended for sporting use or as offensive or defensive weapons. To be recognized as curios or relics, firearms and ammunition must fall within one of the following categories:

(a) Firearms and ammunition which were manufactured at least 50 years prior to the current date, but not including replicas thereof;

(b) Firearms and ammunition which are certified by the curator of a municipal, State, or Federal museum which exhibits firearms to be curios or relics of museum interest; and

(c) Any other firearms or ammunition which derive a substantial part of their monetary value from the fact that they are novel, rare, bizarre, or because of their association with some historical figure, period, or event. Proof of qualification of a particular firearm or item of ammunition under this category may be established by evidence of present value and evidence that like firearms or ammunition are not available except as collector's items, or that the value of like firearms or ammunition available in ordinary commercial channels is substantially less.

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

Dealer. Any person engaged in the business of selling firearms or ammunition at wholesale or retail; any person engaged in the business of repairing firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms; or any person who is a pawnbroker.

Destructive device. (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellant charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) device similar to any of the devices described in the preceding paragraphs of this definition; (b) any type of weapon (other than a shotgun or a shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore or more than one-half inch in diameter; and (c) any combination of parts either designed or intended for use in converting any device into any destructive device described in paragraph (a) or (b) of this section and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signalling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10, United States Code; or any other device which the Director finds is not likely to be used as a weapon, is an antique, or is a rifle which the owner intends to use solely for sporting, recreational, or cultural purposes.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Discharged under dishonorable conditions. Separation from the U.S. Armed Forces resulting from a Dishonorable Discharge.

District Director. A District Director of Internal Revenue.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Federal Firearms Act. Chapter 18 of title 15, United States Code, as in effect on December 15, 1968.

Felony. Any offense punishable by imprisonment for a term exceeding 1 year. The term shall not include any offense (other than one involving a firearm or explosive) classified as a misdemeanor under the laws of a State and punishable by a term of imprisonment of 2 years or less.

Firearm. Any weapon, including a starter gun, which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device; but the term shall not include an antique firearm. In the case of a licensed collector, the term shall mean only curios and relics.

Firearm frame or receiver. That part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

Fugitive from justice. Any person who has fled from any State to avoid prosecution for a crime or to avoid giving testimony in any criminal proceeding.

Importation. The bringing of a firearm or ammunition into the United States; except that the bringing of a firearm or ammunition from outside

the United States into a foreign-trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to this part, shall not be deemed importation.

Importer. Any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution.

Indictment. Includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

Internal Revenue Code of 1954. Title 26, United States Code.

Internal revenue district. An internal revenue district under the jurisdiction of a District Director of Internal Revenue.

Interstate or foreign commerce. Includes commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia. The term shall not include commerce between places within the same State but through any place outside of that State.

Licensed collector. A collector of curios and relics only and licensed under the provisions of this part.

Licensed dealer. A dealer licensed under the provisions of this part, and a dealer licensed under the Federal Firearms Act if such license is deemed valid under section 907 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 235).

Licensed importer. An importer licensed under the provisions of this part, and a manufacturer (as that term was defined in the Federal Firearms Act) licensed under the Federal Firearms Act if such license is deemed valid under section 907 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 235).

Licensed manufacturer. A manufacturer licensed under the provisions of this part, and a manufacturer (as that term was defined in the Federal Firearms Act) licensed under the Federal Firearms Act if such license is deemed valid under section 907 of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 235).

Machine gun. Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination or parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

Manufacturer. Any person engaged in the manufacture of firearms or ammunition for purposes of sale or distribution.

National Firearms Act. Chapter 53 of the Internal Revenue Code of 1954.

Pawnbroker. Any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Pistol. A weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s).

Published ordinance. A published law of any political subdivisions of a State which the Director determines to be relevant to the enforcement of this part and which is contained on a list compiled by the Director, which list is published in the FEDERAL REGISTER, revised annually, and furnished to each licensee under this part.

Region. A Bureau of Alcohol, Tobacco, and Firearms Region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Revolver. A small projectile weapon, of the pistol type, having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

Rifle. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

Short-barreled rifle. A rifle having one or more barrels less than 16 inches in length, and any weapon made from a rifle, whether by alteration, modification, or otherwise, if such weapon, as modified, has an overall length of less than 26 inches.

Short-barreled shotgun. A shotgun having one or more barrels less than 18 inches in length, and any weapon made from a shotgun, whether by alteration, modification, or otherwise, if such weapon as modified has an overall length of less than 26 inches.

Shotgun. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

State. A State of the United States. The term shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

State of residence. The State in which an individual regularly resides, or maintains his home, or if such person is on active duty as a member of the United States Armed Forces, the State in which his permanent duty station is located: *Provided,* That an alien who is legally in the United States shall be considered to be a resident of the State in which (a) he is residing and has so resided for a period of at least 90 days prior to the date of sale or delivery of a firearm or ammunition, or (b) his embassy or consulate is located if the principal officer of such embassy or consulate issues a written statement to such alien authorizing his acquistion of a firearm or ammunition. Temporary sojourn in a State does not make the State of temporary sojourn the State of residence.

Example 1. A maintains his home in State X. He travels to State Y on a hunting, fishing, business or other type of trip. He does not become a resident of State Y by reason of such trip.

Example 2. A maintains a home in State X and a home in State Y. He resides in State X except for the summer months of the year and in State Y for the summer months of the year. During the time that he actually resides in State X he is a resident of State X, and during the time that he actually resides in State Y he is a resident of State Y.

Unserviceable firearm. A firearm which is incapable of discharging a shot by means of an explosive and is incapable of being readily restored to a firing condition.

U.S.C. The United States Code.

PART 179—MACHINE GUNS, DESTRUCTIVE DEVICES, AND CERTAIN OTHER FIREARMS

Subpart B—Definitions

§ 179.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

Antique firearm. Any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

Any other weapon. Any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

Dealer. Any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

Destructive device. (a) Any explosive, incendiary, or poison gas (1) bomb, (2) grenade, (3) rocket having a propellent charge of more than 4 ounces, (4) missile having an explosive or incendiary charge of more than one-quarter ounce, (5) mine, or (6) similar device; (b) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Director finds is generally recognized as particularly suitable for sporting purposes; and (c) any combination of parts either designed or intended for use in converting any device into a destructive device as described in paragraphs (a) and (b) of this definition and from which a destructive device may be readily assembled. The term shall not include any device which is neither designed or redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; or any device which the Director finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Director of the Service Center. A director of an Internal Revenue Service Center in an internal revenue region.

District Director. A District Director of Internal Revenue.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Exportation. The serverance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country.

Exporter. Any person who exports firearms from the United States.

Firearm. (a) A shotgun having a barrel or barrels of less than 18 inches in length; (b) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (c) a rifle having a barrel or barrels of less than 16 inches in length; (d) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (e) any other weapon, as defined in this subpart; (f) a machine gun; (g) a muffler or a silencer for any firearm whether or not such firearm is included within this definition; and (h) a destructive device. The term shall not include an antique firearm or any device (other than a machine gun or destructive device) which, although designed as a weapon, the Director finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon. For purpose of this definition, the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked. The overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore.

Fixed ammunition. That self-contained unit consisting of the case, primer, propellant charge, and projectile or projectiles.

Frame or receiver. That part of a firearm which provides housing for the hammer, bolt or breechblock and firing mechanism, and which is usually threaded at its forward portion to receive the barrel.

Importation. The bringing of a firearm within the limits of the United States or any territory under its control or jurisdiction, from a place outside thereof (whether such place be a foreign country or territory subject to the jurisdiction of the United States), with intent to unlade. Except that, bringing a firearm from a foreign country or a territory subject to the jurisdiction of the United States into a foreign trade zone for storage pending shipment to a foreign country or subsequent importation into this country, pursuant to the I.R.C. and this part, shall not be deemed importation.

Importer. Any person who is engaged in the business of importing or bringing firearms into the United States.

I.R.C. The Internal Revenue Code of 1954, as amended.

Machine gun. Any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any combination of parts designed and intended for use in converting a weapon into a machine gun, and any combination of parts from which a machine gun can be assembled if such parts are in the possession or under the control of a person.

Make. This term and the various derivatives thereof shall include manufacturing (other than by one qualified to engage in such business under this part), putting together, altering, any combination of these, or otherwise producing a firearm.

Manual reloading. The inserting of a cartridge or shell into the chamber of a firearm either with the hands or by means of a mechanical device controlled and energized by the hands.

Manufacturer. Any person who is engaged in the business of manufacturing firearms.

Muffler or silencer. Any device for silencing or diminishing the report of any portable weapon, such as a rifle, carbine, pistol, revolver, machine gun, submachine gun, shotgun, fowling piece, or other device from which a shot, bullet, or projectile may be discharged by an explosive, and is not limited to mufflers or silencers for "firearms" as defined.

Person. A partnership, company, association, trust, estate, or corporation, as well as a natural person.

Pistol. A weapon originally designed, made, and intended to fire a small projectile (bullet) from one or more barrels when held in one hand, and having (a) a chamber(s) as an integral part(s) of, or permanently aligned with, the bore(s); and (b) a short stock designed to be gripped by one hand and at an angle to and extending below the line of the bore(s). The term shall not include any gadget device, any gun altered or converted to resemble a pistol, any gun that fires more than one shot, without manual reloading, by a single function of the trigger, or any small portable gun such as: Nazi belt buckle pistol, glove pistol, or a one-hand stock gun designed to fire fixed shotgun ammunition.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Revolver. A small projectile weapon, of the pistol type, having a breechloading chambered cylinder so arranged that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

Rifle. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

Shotgun. A weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

Transfer. This term and the various derivatives thereof shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

United States. The States and the District of Columbia.

U.S.C. The United States Code.

Unserviceable firearm. A firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

PART 181—COMMERCE IN EXPLOSIVES

Subpart B—Definitions

§ 181.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The term "includes" and "including" do not exclude other things not enumerated which are in the same general class or are otherwise within the scope thereof.

Act. Chapter 40 of title 18 of the United States Code.

Ammunition. Small arms ammunition or cartridge cases, primers, bullets, or smokeless propellants designed for use in small arms, and shall include percussion caps and 3/32-inch pyrotechnic safety fuses. The term shall not include black powder.

Approved storage facility. A facility for the storage of explosive materials conforming to the requirements of this part and covered by a license or permit issued under this part.

Army-type structure. A stucture approved by the Department of Defense for the storage of explosive materials.

Blasting agent. Any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive: *Provided,* That the finished product, as mixed for use or shipment, cannot be detonated by means of a numbered 8 test blasting cap when unconfined. A numbered 8 test blasting cap is one containing 2 grams of a mixture of 80 percent mercury fulminate and 20 percent potassium chlorate, or a blasting cap of equivalent strength.

Business premises. When used with respect to a manufacturer, importer or dealer the property on which explosive materials are or will be manufactured, imported, stored or distributed. Such premises shall include the property where the records of a manufacturer, importer or dealer are or will be maintained if different than the premises where explosive materials are or will be manufactured, imported, stored or distributed. When used with respect to a user of explosive materials, the property on which the explosive materials are or will be received or stored. Such premises shall include the property where the records of such user are or will be maintained if different than the premises where explosive materials are or will be received or stored.

Crime punishable by imprisonment for a term exceeding 1 year. Any offense for which the maximum penalty, whether or not imposed, is capital punishment or imprisonment in excess of 1 year. The term shall not include (a) any Federal or State offenses pertaining to antitrust violations, unfair trade practices or restraints of trade, or (b) any State offense (other than one involving a firearm or explosive) classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of 2 years or less.

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

Dealer. Any person engaged in the business of distributing explosive materials at wholesale or retail.

Detonator. Any device containing a detonating charge that is used for initiating detonation in an explosive; the term includes electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses and detonating-cord delay connectors.

Director. The Director, Bureau of Alcohol, Tobacco, and Firearms, the Department of the Treasury, Washington, D.C.

Distribute. To sell, issue, give, transfer, or otherwise dispose of. The term does not include a mere change of possession from a person to his agent or employee in connection with the agency or employment.

District Director. A District Director of Internal Revenue.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this—(insert type of document, such as, statement, application, request, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Explosive materials. Explosives, blasting agents, and detonators. Such materials shall include all items in the Explosives List provided for in § 181.23.

Explosives. Any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord, and igniters.

Fugitive from justice. Any person who has fled from the jurisdiction of any court of record to avoid prosecution for any crime or to avoid giving testimony in any criminal proceeding. The term shall also include any person who has been convicted of any crime and has fled to avoid imprisonment.

Importer. Any person engaged in the business of importing or bringing explosive materials into the United States for purposes of sale or distribution.

Indictment. Includes an indictment or information in any court under which a crime punishable by imprisonment for a term exceeding 1 year may be prosecuted.

Inhabited building. Any building regularly occupied in whole or in part as a habitation for human beings, or any church, schoolhouse, railroad station, store, or other structure where people are accustomed to assemble, except any building occupied in connection with the manufacture, transportation, storage, or use of explosive materials.

Internal revenue district. An internal revenue district under the jurisdiction of a District Director of Internal Revenue.

Interstate or foreign commerce. Commerce between any place in a State and any place outside of that State, or within any possession of the United States (not including the Canal Zone) or the District of Columbia, and commerce between places within the same State but through any place outside of that State.

Licensed dealer. A dealer licensed under the provisions of this part.

Licensed importer. An importer licensed under the provisions of this part.

Licensed manufacturer. A manufacturer licensed under the provisions of this part to engage in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

Licensed manufacturer-limited. A manufacturer licensed under the provisions of this part to engage in the business of manufacturing explosive materials for his own use and not for sale or distribution.

Licensee. Any importer, manufacturer, or dealer licensed under the provisions of this part.

Manufacturer. Any person engaged in the business of manufacturing explosive materials for purposes of sale or distribution or for his own use.

Manufacturer-limited. Any person engaged in the business of manufacturing explosive materials for his own use and not for sale or distribution.

Permittee. Any user of explosives for lawful purpose, who has obtained a user permit under the provisions of this part.

Person. Any individual, corporation, company, association, firm, partnership, society, or joint stock company.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Service Center Director. A director of an internal revenue service center.

State. A State of the United States. The term shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (not including the Canal Zone).

State of residence. The State in which an individual regularly resides or maintains his home. Temporary sojourn in a State does not make the State of temporary sojourn the State of residence.

U.S.C. The United States Code.

User-limited permit. A user permit valid only for a single purchase transaction, a new permit being required for a subsequent purchase transaction.

User permit. A permit issued to a person authorizing him (1) to acquire for his own use explosive materials from a licensee in a State other than the State in which he resides or from a foreign country, and (2) to transport explosive materials so acquired in interstate or foreign commerce.

PART 186—GAUGING MANUAL

Subpart B—Definitions

§ 186.11 Meaning of terms.

When used in this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Bulk conveyance. Any tank car, tank truck, tank ship, tank barge, or other similar container approved by the Director, authorized for the conveyance of spirits (including denatured spirits) in bulk.

CFR. The Code of Federal Regulations.

Container. Any receptacle, vessel, or form of package, bottle, tank, or pipeline used, or capable of use, for holding, storing, transferring or conveying distilled spirits.

Denatured spirits or denatured alcohol. Spirits to which denaturants have been added pursuant to formulas prescribed in Part 212 of this chapter.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

I.R.C. The Internal Revenue Code of 1954, as amended.

Package. Any cask, barrel, drum, or similar container approved under the provisions of this chapter.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. A United States gallon of proof spirits, or the alcoholic equivalent thereof.

Proof spirits. That liquid which contains one-half its volume of ethyl alcohol of a specific gravity of seven thousand nine hundred and thirty-nine ten-thousandths (0.7939) in vacuum at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Spirits, spirituous liquor, or distilled spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, and vodka, but not denatured spirits unless specifically stated.

Tax gallon. The unit of measure of spirits for the imposition of tax under section 5001, I.R.C. When spirits are 100 degrees of proof or more, the tax is determined on a proof gallon basis. When spirits are less than 100 degrees of proof, the tax is determined on a wine gallon basis.

This chapter. Chapter I, Title 26, CFR.

U.S.C. The United States Code.

PART 194—LIQUOR DEALERS

Subpart B—Definitions

§ 194.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alco-

hol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

Bonded wine cellar. An establishment qualified under this chapter for the production, blending, cellar treatment, storage, bottling, and packaging or repackaging of untaxpaid wine.

Brewery. An establishment qualified under this chapter for the production of beer.

CFR. The Code of Federal Regulations.

Dealer. Any person who sells, or offers for sale, any distilled spirits, wines, or beer.

Denatured spirits or denatured alcohol. Spirits to which denaturants have been added as prescribed under this chapter.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Director of the service center. A director of an internal revenue service center.

Distilled spirits or spirits. The substance known as ethyl alcohol, ethanol, or spirits of wine, and all dilutions and mixtures thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, rum, gin, vodka, cordials, liqueurs, and cocktails (except cordials and cocktails containing no alcoholic liquors other than wine as defined herein).

Distilled spirits plant. An establishment qualified under this chapter for the production, bonded storage, rectification, or bottling of distilled spirits.

District director. A district director of internal revenue.

Fiscal year. The period from July 1 on one calendar year through June 30 of the following year.

Gallon or wine gallon. A United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquor bottle. A bottle made of glass or earthenware, or of other suitable material approved by the Director, designed or intended for use as a container for distilled spirits for sale for beverage purposes.

Liquors. Distilled spirits, wines, or beer.

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbreviated as "ml".

Person. An individual, a trust, estate, partnership, association or other unincorporated organization, fiduciary, company, or corporation, or the District of Columbia, a State, or a political subdivision thereof (including a city, county, or other municipality).

Place, or place of business. The entire office, plant, or area of the business in any one location under the same proprietorship; and passageways, streets, highways, rail crossings, waterways, or partitions dividing the premises shall not be deemed a separation for special tax purposes, if the various divisions are otherwise contiguous.

Regional regulatory administator. The principal ATF regional official responsible for administering regulations in this part.

Sale at retail or retail sale. Sale of liquors to a person other than a dealer.

Sale at wholesale or wholesale sale. Sale of liquors to a dealer.

Special tax. The occupational tax imposed on a dealer in liquors or a dealer in beer.

Tax year. The period from July 1 of one calendar year through June 30 of the following year.

U.S.C. The United States Code.

Wine. All kinds and types of wine (including imitation, substandard, and artificial wine, Vermouth and compounds sold as wine) having not in excess of 24 percent of alcohol by volume.

PART 195—PRODUCTION OF VINEGAR BY THE VAPORIZING PROCESS

Subpart B—Definitions

§ 195.10 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Distilled spirits. "Distilled spirits" shall mean the substance known as ethyl alcohol, ethanol, spirits, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and includes low wines produced by the vaporizing process in the manufacture of vinegar.

Distilling materials. "Distilling materials" shall mean the fermented mash of grain, molasses, or other materials produced for distillation.

District director. "District director" shall mean the district director of internal revenue.

Gallon. "Gallon" or "wine gallon" shall mean a United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

Grain gallon. "Grain gallon" shall mean a gallon of vinegar of 100 grain strength.

Grain strength. "Grain strength" is a measure of the acetic acid content of vinegar, expressed as 10 times the grams of acetic acid per 100 ml.

Including. The term "including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

Inclusive language. Words in the plural form shall include the singular, and vice versa, and words in the masculine gender shall include the feminine, a trust, estate, association, partnership, company or corporation.

I.R.C. "I.R.C." shall mean the Internal Revenue Code of 1954, as amended.

Person, proprietor, vinegar maker. "Person," "proprietor," or "vinegar maker," shall include natural persons, trusts, estates, associations, partnerships, companies and corporations.

Proof. "Proof" shall mean the ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. "Proof gallon" shall mean the alcoholic equivalent of a United States gallon at 60 degrees Fahrenheit, containing 50 percent of ethyl alcohol by volume.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

U.S.C. "U.S.C." shall mean the United States Code.

Vinegar plant or vinegar factory. "Vinegar plant" or "vinegar factory" shall mean an establishment qualified under this part for the manufacture of vinegar by the vaporizing process.

PART 196—STILLS

Subpart B—Definitions

§ 196.5 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meanings ascribed in this subpart.

Condenser. "Condenser" shall mean any apparatus capable of being used when connected with a still, for condensing or liquefying alcoholic or spirituous vapors, but shall not include condensers to be used with laboratory stills or stills used for distilling water or other nonalcoholic materials where the cubic capacity of such stills is one gallon or less.

Director. The Director, Bureau of Alcohol, Tobacco, and Firearms, the Department of the Treasury, Washington, D.C.

Director of the service center. "Director of the service center" shall mean the Director, Internal Revenue Service Center, in each of the internal revenue regions.

Distilled spirits or spirits. Distilled spirits or spirits shall mean that substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, and vodka.

Distilling. "Distilling" shall mean the distillation of spirits as defined by

section 5002(a)(6)(A) I.R.C. Such distillation shall include: (a) The original manufacture of distilled spirits from mash, wort, or wash, or any material suitable for the production of spirits; (b) the redistillation of spirits in the course of original manufacture; (c) the redistillation of spirits, or products containing spirits within the provisions of section 5082, I.R.C.; (d) the distillation, redistillation, or recovery of spirits or of completely or specially denatured spirits, or of articles containing spirits or completely or specially denatured spirits; and (e) the redistillation or recovery of tax-free spirits.

Distilling apparatus. "Distilling apparatus" shall mean any still or condenser defined in this section.

District director. "District director" shall mean a district director of internal revenue.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.), the area directors of customs in the district of New York, N.Y., and the port director at a port not designated as a headquarters port.

Inclusive language. Words in the plural form shall include the singular, and vice versa, and words in the masculine gender shall include the feminine, associations, partnerships, and corporations.

I.R.C. "I.R.C." shall mean the Internal Revenue Code of 1954.

Person, manufacturer, distiller, user. "Person," "manufacturer," "distiller," or "user" shall be construed to mean and include an individual, a trust, estate, partnership, association, company, or corporation.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Still. "Still" shall mean any apparatus capable of being used for separating alcoholic or spirituous vapors, or spirituous solutions, or spirits, from spirituous solutions or mixtures, but shall not include stills used for laboratory purposes or stills used for distilling water or other nonalcoholic materials where the cubic capacity of such stills is one gallon or less.

PART 197—DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Subpart B—Definitions

§ 197.5 Meaning of terms.

As used in this part, unless the context otherwise requires, terms shall have the meaning ascribed in this subpart.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Director of the service center. "Director of the service center" shall mean the Director, Internal Revenue Service Center, in each of the internal revenue regions.

Distilled spirits. Distilled spirits shall mean that substance known as ethyl alcohol, ethanol, spirits, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, rum, gin, and vodka, all of which are fully taxpaid or tax-determined at the distilled spirits rate.

District director. "District director" shall mean a district director of internal revenue.

Filed. Subject to the provisions of §§ 301.7502 through 301.7503-1 of this chapter, a claim for drawback shall be deemed to have been "filed" when it is delivered to the office of the proper assistant regional commissioner, and by that office received.

Intermediate products. "Intermediate products" shall mean products containing distilled spirits which are not subject to drawback until used in a nonbeverage product eligible for drawback.

I.R.C. "I.R.C." shall mean the Internal Revenue Code of 1954.

Nonbeverage products. "Nonbeverage products" shall mean medicines, medicinal preparations, food products, flavors, or flavoring extracts, in the manufacture or production of which distilled spirits are used under the provisions of sections 5131-5134, I.R.C., and this part, and which are unfit for use for beverage purposes.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Time distilled spirits are used. The "time" at which distilled spirits shall be deemed to have been used is when the product contains the ingredients called for by an approved formula, or formulas prescribed by the United States Pharmacopoeia, the National Formulary, or the Homeopathic Pharmacopoeia of the United States, as the case may be.

Total annual withdrawals. The term "total annual use" shall mean the total quantity of distilled spirits (proof gallons), which are used in the manufacture or production of nonbeverage products during a year.

U.S.C. "U.S.C." shall mean the United States Code.

Used. Distilled spirits shall be deemed to have been "used" in the manufacture of a product under this part, when such spirits are either consumed in such manufacture or are incorporated in the product: *Provided,* That spirits lost by causes such as spillage, leakage, breakage or theft, prior to or during the process of manufacture, shall not be deemed to be consumed in such manufacture.

Year. "Year" shall mean the period which begins July 1 and ends on the following June 30.

PART 200—RULES OF PRACTICE IN PERMIT PROCEEDINGS

Subpart B—Definitions

§ 200.5 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this subpart. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "include" and "including" do not exclude things not enumerated which are in the same general class.

Administrative law judge. The person appointed pursuant to 5 U.S.C. 3105, designated to preside over any administrative proceedings under this part.

Applicant. "Applicant" shall mean any person who has filed an initial application for a permit under the Federal Alcohol Administration Act or Internal Revenue Code.

Application. "Application" shall mean any application for a permit under the Federal Alcohol Administration Act or Internal Revenue Code. The term "initial application" shall mean an application for an original permit for operations not covered by an existing permit. The term "renewal application" shall mean an application timely filed for the renewal of an existing permit.

Attorney for the Government. The attorney for the Government shall mean the attorney in the office of the chief counsel (assigned to the National or regional office) authorized to represent the assistant regional commissioner in the proceeding.

CFR. "CFR" shall mean the Code of Federal Regulations.

Citation. "Citation" shall include any notice contemplating the disapproval of an application (whether initial or renewal) or any order to show cause why a permit should not be suspended, revoked or annulled.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Initial decision. "Initial decision" shall mean the decision (order) of the assistant regional commissioner in any proceeding on an initial application for a permit, and the decision of the examiner in any proceeding on the suspension, revocation or annulment of a permit or on the disapproval of a renewal application.

I.R.C. "I.R.C." shall mean the Internal Revenue Code.

§ 200.16 Other terms.

Any other term defined in the Federal Alcohol Administration Act (27 U.S.C. 201), the Internal Revenue Code (26 U.S.C.) or the Administrative Procedure Act (5 U.S.C. 1001) where used in the regulations in this part shall have the meaning assigned to it therein.

Permit. (a) *Basic permit.* "Basic permit" shall mean the document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

(b) *Industrial use permit.* "Industrial use permit" shall mean a document issued pursuant to section 5271(a), I.R.C., authorizing a person named therein to use distilled spirits free of tax, deal in or use specially denatured spirits free of tax, or recover specially or completely denatured spirits, as described therein.

(c) *Operating permit.* "Operating permit" shall mean the document issued pursuant to section 5171(b), I.R.C., authorizing the person named therein to engage in the business described therein.

(d) *Tobacco permit.* "Tobacco permit" shall mean the document issued pursuant to section 5713(a), I.R.C., authorizing the person named therein to engage in the business described therein.

(e) *Withdrawal permit.* "Withdrawal permit" shall mean the document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to withdraw tax-free spirits or specially denatured spirits, as specified therein.

Permittee. "Permittee" shall mean any person holding a basic permit under the Federal Alcohol Administration Act or the Internal Revenue Code, as aforesaid.

Person. "Person" shall mean an individual, trust, estate, partnership, association, company, or corporation.

Recommended decision. "Recommended decision" shall mean the advisory decision of the examiner in any proceeding on an initial application for a permit.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Respondent. "Respondent" shall mean any person holding a permit against which an order has been issued to show cause why such permit should not be suspended, revoked or annulled, or against the renewal of which a notice of contemplated disapproval has been issued.

U.S.C. "U.S.C." shall mean the United States Code.

PART 201—DISTILLED SPIRITS PLANTS

Subpart B—Definitions

§ 201.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Application for registration. The application required under 26 U.S.C. 5171(A).

Article. A product, containing denatured spirits, which was manufactured under Part 211 of this chapter.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Basic permit. The document authorizing the person named therein to engage in a designated business or activity under the Federal Alcohol Administration Act.

Bonded premises. The premises of a distilled spirits plant, or part thereof, as described in the application for registration, on which operations relating to the production, storage, denaturation, or bottling of spirits prior to payment or determination of tax are authorized to be conducted.

Bonded warehouse. The part of the bonded premises, as described in the application for registration, in which spirits are authorized to be stored after entry for deposit in storage and prior to payment or determination of the internal revenue tax or withdrawal as provided in 26 U.S.C. 5214 OR 7510.

Bottler. A proprietor of a distilled spirits plant qualified under this part to bottle taxpaid spirits or taxpaid spirits and wines.

Bottling in bond. When used in Subpart K of this part, the bottling of distilled spirits under 26 U.S.C. 5233 prior to determination of tax. When used in Subpart Na of this part, the bottling of distilled spirits in accordance with the conditions and requirements of 26 U.S.C. 5233, and under the supervision provided for in 26 U.S.C. 5202(g), but after determination of tax. When used elsewhere in this part, either act of bottling defined herein, unless otherwise specifically provided.

Bottling-in-bond facilities. The part of the bonded premises in which spirits are bottled in bond under 26 U.S.C. 5233, prior to tax determination.

Bottling premises. The premises of a distilled spirits plant, or part thereof, as described in the application for registration, on which operations relating to the rectification or bottling of spirits or wines on which the tax has been paid or determined are authorized to be conducted.

Bulk container. Any approved container of five gallons or more.

Bulk conveyance. A tank car, tank truck, tank ship, tank barge, or a compartment of any such conveyance, or any other container approved by the Director for the conveyance of comparable quantities of spirits, including denatured spirits.

Business day. Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and statewide holidays in the particular State in which the claim, report, or return, as the case may be, is required to be filed, or the act is required to be performed.)

Carrier. Any person, company, corporation, or organization, including a proprietor, owner, consignor consignee, or bailee, who transports distilled spirits (including denatured spirits) in any manner for himself or others.

CFR. The Code of Federal Regulations.

Completions. The spirits products bottled and cased or otherwise packaged or placed in approved containers for removal from the bottling premises.

Computation year. The period from July 1 of one calendar year through June 30 of the following year.

Container. A receptacle, vessel, or form of bottle, can, package, tank, or pipeline (where specifically included) used or capable of being used to contain, store, transfer, convey, remove, or withdraw spirits, including denatured spirits.

Delegate. Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context. 8

Denaturant or denaturing material. Any material authorized under Part 212 of this chapter for addition to spirits in the production of denatured spirits.

Denatured spirits. Spirits to which denaturants have been added as provided in Part 212 of this chapter.

Denaturing facilities. The facilities of the bonded premises in which the denaturation of spirits is authorized to be conducted.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Director of the service center. A director of an internal revenue service center.

Distillery. A distilled spirits plant, or part thereof, as described in the application for registration, authorized for the production of spirits.

Distilling material. Any fermented or other alcoholic substance capable of, or intended for use in, the original distillation or other original processing of spirits.

District director. A district director of internal revenue.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this ———— (insert type of document, such as, statement, report, claim, certificate), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Export or exportation. A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country and shall include shipments to any possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico, to the territories of the Virgin Islands, American Samoa, and Guam, and to the Panama Canal Zone shall also be treated as exportations.

Fermenting material. Any material which is to be subjected to a process of fermentation to produce distilling material.

Fiduciary. A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

Fiscal year. The period from July 1 of one calendar year through June 30 of the following year.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

In bond. When used with respect to spirits (including denatured spirits) refers to such spirits possessed under bond to secure the payment of the internal revenue tax imposed by 26 U.S.C. 5001(a)(1), and in respect to which the tax imposed by such section has not been determined as provided in this part, and includes such spirits on the bonded premises of a distilled spirits plant, in transit between such premises, in transit from customs custody to such premises, and such spirits withdrawn without payment of tax under 26 U.S.C. 5214, and with respect to which relief from liability has not yet occurred under the provisions of 26 U.S.C. 5005(e)(2).

Intermediate product. Any product manufactured pursuant to an approved formula not intended for sale as such but for use in the manufacture of a rectified product.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquor bottle. A bottle made of glass or earthenware, or of other suitable material approved by the Director, designed or intended for use as a container for distilled spirits for sale for beverage purposes.

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abbrevated as "ml".

Lot identification. The lot identification described in § 201.513a.

Mash, wort, wash. Any fermented material capable of, or intended for, use as a distilling material.

Nonindustrial use. As applied to spirits, shall have the meaning ascribed in 27 CFR Part 2.

Operating permit. The document issued pursuant to 26 U.S.C. 5171(b), authorizing the person named therein to engage in the business or operation described therein.

Package. A cask or barrel or similar wooden container, or a drum or similar metal container.

Package identification number. The package identification number described in § 201.513a.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Plant or distilled spirits plant. An establishment qualified under this part for the production, bonded storage, or bottling of spirits, or for rectification, or for any combination of such operations.

Plant number. The number assigned to a distilled spirits plant by the assistant regional commissioner, preceded by the abbreviation of the State in which the plant is located and the letters DSP; for example, "DSP-Md-17".

Production facilities. The facilities of the bonded premises qualified under this part for the production of spirits.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof of distillation. The composite proof of the spirits at the time the production gauge is made, or, if the spirits had been reduced in proof prior to the production gauge, the proof of the spirits prior to such reduction, unless the spirits are subsequently redistilled at a higher proof than the proof prior to reduction.

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietor. The person qualified under this part to operate the distilled spirits plant.

Recovered article. An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured alcohol salvaged without all of the denaturants for completely denatured alcohol, under Part 211 of this chapter.

Rectification. Any act constituting engaging in the business of rectifying.

Rectifier. Every person who rectifies, purifies, or refines distilled spirits or wines by any process (other than by original and continuous distillation, or original and continuous processing from mash, wort, wash, or any other substance, through continuous closed vessels and pipes, until the production thereof is complete), and every person who, without rectifying, purifying, or refining distilled spirits, shall, by mixing such spirits, wine, or other liquor with any material, manufacture any spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, rum, gin, wine, spirits, cordials, or wine bitters, or any other name, shall be regarded as a rectifier, and as being engaged in the business of rectifying.

Rectifying facilities. The facilities of the bottom premises qualified under this part for the rectification of tax-paid spirits or wines.

Region. A Bureau of Alcohol, Tobacco and Firearms region.

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

Sealed conveyance. A conveyance, secured by Government seals or other devices approved by the Director, for the transportation of packages of spirits in bond.

Season. The period from January 1 through June 30 is the spring season and the period from July 1 through December 31 is the fall season.

Secretary. The Secretary of the Treasury or his delegate.

Spirits or distilled spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include, whisky, brandy, rum, gin, and vodka, but not denatured spirits unless specifically stated. Effective July 1, 1972, for the purposes of the requirements of this part relating to liquor bottles, labels, and strip stamps, the term "spirits" or "distilled spirits" shall not include mixtures containing wine, bottled at 48° proof or less, if the mixture contains more than 50 percent wine on a proof gallon basis.

Spirits residues. Residues, containing distilled spirits, or a manufacturing process related to the production of an article under Part 211 of this chapter.

Stillage. The residue of distilling material after distillation.

Tank truck. A tank-equipped semitrailer, trailer, or truck conforming to the requirements of this part.

Tax-determined or determined. When used with respect to the tax on any distilled spirits to be withdrawn from bond on determination of tax, shall mean that all things (other than packaging, marking, and stamping incident to removal) required by law and this part to be done before such spirits may be removed from the bonded premises (and culminating in execution by the internal revenue officer of his certificate of tax determination) have been completed. When used in reference to taxes with respect to rectified products, shall mean that the taxable quantity of spirits of wines has been established, and the tax payable with respect thereto has been calculated as prescribed in this part.

Tax gallon. The unit of measure of spirits for the imposition of tax under 26 U.S.C. 5001. When spirits are 100 degrees of proof or more at the time of tax determination, the tax is determined on a proof gallon basis. When spirits are less than 100 degrees of proof at the time of tax determination, the tax is determined on a wine gallon basis.

Taxes on rectified products. The taxes imposed by 26 U.S.C. 5021, 5022, and 5041 on products manufactured on bottling premises.

Taxpaid. When used with respect to distilled spirits, rectified products, or wines shall mean that all applicable taxes imposed by law in respect of such articles have been determined or paid as provided by law.

Taxpaid bottling facilities. The facilities of the bottling premises qualified under this part for the bottling or packaging of taxpaid spirits or taxpaid spirits and wines, but not qualified for rectification.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

Transfer in bond. The removal of spirits (including denatured spirits) from one bonded premises to another bonded premises pursuant to this part.

Unfinished spirits. Spirits in the production system prior to production gauge.

U.S.C. The United States Code.

Wine spirits. As authorized for use in wine production by 26 U.S.C. 5373, means brandy or wine spirits produced in a distilled spirits plant (with or without the use of water to facilitate extraction and distillation) exclusively from (a) fresh or dried fruit, or their residues, (b) the wine or wine residues therefrom, or (c) special natural wine; except that where, in the production of natural wine or special natural wine, sugar has been used, the wine or the residuum thereof may not be used if the unfermented sugars therein have been refermented. Such wine spirits shall not be reduced with water from the distillation proof, nor be distilled at less than 140 degrees of proof (except that commercial brandy aged in wood for a period of not less than 2 years, and barreled at not less than 100 degrees or proof, shall be deemed wine spirits).

PART 211—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Subpart B—Definitions

§ 211.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Alcohol. Those spirits known as ethyl alcohol, ethanol, or spirits of wine, from whatever source or by whatever process produced; the term does not include such spirits as whisky, brandy, rum, gin, vodka, or products of rectification.

Article. Any substance or preparation in the manufacture of which denatured spirits are used, including the product obtained by further manufacture or by combination with other materials, if the article subjected to further manufacture or combination contained denatured spirits.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Bonded dealer. A person who holds an industrial use permit to deal in specially denatured alcohol or specially denatured rum for resale to persons authorized to purchase or receive specially denatured alcohol or specially denatured rum in accordance with this part.

Bulk conveyance. Any tank car, tank truck, tank ship, or tank barge, or a compartment of any such conveyance, or any other container approved by the Director for the conveyance of comparable quantities of denatured spirits or articles.

CFR. The Code of Federal Regulations.

Completely denatured alcohol. Those spirits known as alcohol, as defined in this section, denatured pursuant to completely denatured alcohol formulas prescribed in Subpart C of Part 212 of this chapter.

Delegate. Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

Denaturant. Any one of the materials authorized under the provisions of Part 212 of this chapter for addition to spirits in the production of denatured spirits.

Denatured spirits. Alcohol or rum to which denaturants have been added as provided in Part 212 of this chapter.

Denaturer. The proprietor of a distilled spirits plant who denatures alcohol or rum pursuant to Part 201 of this chapter.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Distributor. Any person who sells completely denatured alcohol, other than a proprietor of a distilled spirits plant who sells such alcohol at the plant premises, and any person who sells articles containing completely or specially denatured alcohol or specially denatured rum, other than the manufacturer thereof, except where otherwise specifically restricted in this part.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the claim, form or other document or, where no form of declaration is prescribed, with the declaration "I declare under the penalties of perjury that this ——— (insert type of document, such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Fiduciary. A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

Gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Industrial use permit. The document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to deal in or use specially denatured alcohol or specially denatured rum or to recover denatured alcohol, specially denatured rum, or articles, as described therein.

I.R.C. The Internal Revenue Code of 1954, as amended.

Manufacturer or user. A person who holds an industrial use permit to use specially denatured alcohol or specially denatured rum or to recover completely or specially denatured alcohol, specially denatured rum, or articles.

Permittee. Any person holding an industrial use permit authorized under this part.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated

as twice the percent of ethyl alcohol by volume.

Proof gallon. A gallon at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietary solvents. Solvents containing more than 25 percent of alcohol by volume which are manufactured with specially denatured alcohol in accordance with proprietary solvent formulations as authorized by this part.

Recover. To salvage, after use, specially denatured spirits, completely denatured alcohol without all of its original denaturants, or articles containing denatured spirits, if (1) such articles were made with specially denatured spirits and do not contain all of their original ingredients or (2) such articles were made with completely denatured alcohol and do not contain all of the original denaturants of the completely denatured alcohol.

Recovered article. An article containing specially denatured spirits salvaged without all of its original ingredients, or an article containing completely denatured alcohol salvaged without all of the denaturants for completely denatured alcohol.

Recovered denatured alcohol. Denatured alcohol (except completely denatured alcohol with all of the original denaturants remaining therein) which has been recovered.

Recovered denatured rum. Denatured rum which has been recovered.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Restoration. Restoring to the original state (except that the restored material may or may not contain denaturants to the same extent as the original material) of recovered denatured alcohol, recovered specially denatured rum, or recovered articles containing denatured alcohol or specially denatured rum. Restoration includes bringing the alcohol content of the recovered product to 190 degrees of proof or more or to not less than the original proof if less than 190 degrees. Restoration also includes the removal of foreign materials by any suitable means.

Rubbing alcohol base. An article which, except for the addition of water, is manufactured with specially denatured alcohol in accordance with the formulas for rubbing alcohol provided in this part.

Rum. Any spirits produced from sugar cane products and distilled at less than 190° proof in such manner that the spirits possess the taste, aroma, and characteristics generally attributed to rum.

Secretary. The Secretary of the Treasury or his delegate.

Special industrial solvents. Solvents containing more than 25 percent of alcohol by volume which are manufactured with specially denatured alcohol in accordance with special industrial solvent formulations as authorized by this part.

Specially denatured alcohol. Those spirits known as alcohol, as defined in this section, denatured pursuant to the specially denatured alcohol formulas authorized under Subpart D of Part 212 of this chapter.

Specially denatured rum. Those spirits known as rum, as defined in this section, denatured pursuant to the specially denatured rum formula authorized under Subpart D of Part 212 of this chapter.

Spirts or distilled spirits. Alcohol or rum as defined in this part.

Tank truck. A tank-equipped semitrailer, trailer, or truck, conforming to the requirements of this part.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

U.S.C. The United States Code.

Withdrawal permit. The document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to withdraw specially denatured alcohol or specially denatured rum, as specified therein, from the premises of a distilled spirits plant or bonded dealer.

PART 212—FORMULAS FOR DENATURED ALCOHOL AND RUM

Subpart B—Definitions

§ 212.5 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Alcohol. Those spirits known as ethyl alcohol, ethanol, or spirits of wine, from whatever source or by whatever process produced; the term does not include such spirits as whisky, brandy, rum, gin, vodka, or products of rectification.

CFR. The Code of Federal Regulations.

C.D.A. Completely denatured alcohol.

Completely denatured alcohol. Those spirits known as alcohol, as defined in this section, denatured pursuant to completely denatured alcohol formulas prescribed in Subpart C of this part.

Denaturant. A material authorized in accordance with this part, to be added to spirits in order to render such spirits unfit for beverage or internal human medicinal use.

Denatured spirits. Alcohol or rum to which denaturants have been added as provided in this part.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Essential oil. Any of the volatile odoriferous nature oils found in plants, which impart to such plants odor, and often other characteristic properties; also, imitations of such natural oils, and aromatic substances, and synthetic oils, which possess the denaturing characteristics of such natural oils.

Gallon. The liquid measure equivalent to the volume of 231 cubic inches.

I.R.C. The Internal Revenue Code of 1954, as amended.

Manufacturer or user. A person who holds an industrial use permit to use specially denatured alcohol or specially denatured rum, or to recover completely or specially denatured alcohol, specially denatured rum, or articles manufactured with denatured spirits.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl by volume.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Rum. Any spirits produced from sugar cane products and distilled at less than 190° proof in such manner that the spirits possess the taste, aroma, and characteristics generally attributed to rum.

S.D.A. Specially denatured alcohol.

Specially denatured alcohol. Those spirits known as alcohol, as defined in this section, denatured pursuant to the specially denatured alcohol formulas authorized under Subpart D of this part.

Specially denatured rum. Those spirits known as rum as defined in this section, denatured pursuant to the specially denatured rum formula authorized under Subpart D of this part.

Spirits or distilled spirits. Alcohol or rum as defined in this part.

PART 213—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Subpart B—Definition

§ 213.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not ex-

clude things not enumerated which are in the same general class.

Alcohol. Spirits having a proof of 190 degrees or more when withdrawn from bond, including all subsequent dilutions and mixtures thereof, from whatever source or by whatever process produced.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

CFR. The Code of Federal Regulations.

Delegate. Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the claim form, or other document or, where no form of declaration is prescribed, with the declaration "I declare under the penalites of perjury that this ———— (insert type of document, such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Fiduciary. A guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Industrial use permit. The document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to use tax-free alcohol, as described therein.

I.R.C. The Internal Revenue Code of 1954, as amended.

Permittee. Any person holding an industrial use permit on Form 1447.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. A gallon at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Restoration. Restoring to the original state of recovered tax-free alcohol, including redistillation of the recovered alcohol to 190 degrees or more of proof and the removal of foreign materials by redistillation, filtration, or other suitable means.

Secretary. The Secretary of the Treasury or his delegate.

Spirits or distilled spirits. The substance known as ethyl alcohol, ethanol, or spirits of wine, having a proof of 190 degrees or more when withdrawn from bond, including all subsequent dilutions and mixtures thereof, from whatever source or by whatever process produced.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

U.S.C. The United States Code.

Withdrawal permit. The document issued pursuant to section 5271(a), I.R.C., authorizing the person named therein to withdraw tax-free alcohol, as specified therein, from the premises of a distilled spirits plant.

PART 231—TAXPAID WINE BOTTLING HOUSES

Subpart B—Definitions

§ 231.10 Meaning of terms.

As used in this part, except as otherwise indicated in the context, terms shall have the meanings ascribed in this subpart.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Exception. The definitions in this subpart are prescribed pursuant to the internal revenue laws governing the bottling, packaging and removal of taxpaid wine and shall not supersede or affect the requirements set forth in 27 CFR Part 4 relative to the labeling of wine under the provisions of the Federal Alcohol Administration Act.

Foreign wine. "Foreign wine" shall mean wine produced outside the continental United States, Alaska and Hawaii.

Gallon or wine gallon. "Gallon" or "wine gallon" shall mean the liquid measure equivalent to the volume of 231 cubic inches.

Including. "Including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

Inclusive language. Words in the plural form shall include the singular and vice versa, and words in the masculine gender shall include the feminine, a trust, estate, partnership, association, company, or corporation.

I.R.C. "I.R.C." shall mean the Internal Revenue Code of 1954.

Package. "Package" shall mean any barrel, cask, keg, or similar container, or any demijohn (or bottle) of two gallons or more capacity, used to remove wine from taxpaid wine bottling houses.

Proprietor. "Proprietor" shall mean the operator of a taxpaid wine bottling house.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

§ 231.22 Standard wine.

"Standard wine" shall mean natural wine, specially sweetened natural wine, special natural wine and standard agricultural wine produced in accordance with the provisions of Part 240 of this chapter.

§ 231.23 Taxpaid wine.

"Taxpaid wine" shall mean wine on which the tax imposed by section 5041, I.R.C., has been determined, regardless of whether the tax has actually been paid or the payment of tax has been deferred under section 5061, I.R.C.

§ 231.24 U.S.C.

"U.S.C." shall mean the United States Code.

§ 231.25 United States wine.

"United States wine" shall mean wine produced on bonded wine cellar premises in the United States.

§ 231.26 Wine.

"Wine," when used without qualification, means all still wine and includes vermouth and other special (flavored) natural wine.

PART 240—WINE

Subpart B—Definitions

§ 240.10 Meaning of terms.

As used in this part, except as otherwise indicated in the context, terms shall have the meanings ascribed in this subpart.

Affiliated persons or firms. "Affiliated persons or firms" shall mean any one or more bonded wine cellar proprietors associated as members of the same farm cooperative, or any one or more bonded wine cellar proprietors affiliated within the meaning of section 17(a)(5) of the Federal Alcohol Administration Act, as amended.

Agricultural wine. "Agricultural wine" shall mean wine made from suitable agricultural products other than the juice of grapes, berries, or other fruits.

Allied products. "Allied products" shall mean commercial fruit products and by-products not taxable as wine.

Amelioration. "Amelioration" shall mean the addition to juice or wine before during and after fermentation, of either water or pure sugar, or a combination of water and pure sugar, or liquid sugar or invert sugar syrup, to adjust the acid content or to develop alcohol by fermentation.

Artificially carbonated wine. "Artificially carbonated wine" shall mean effervescent wine artificially charged with carbon dioxide.

Bonded wine cellar. "Bonded wine cellar" shall mean premises established under the provisions of subpart C, and shall include premises designated as "bonded winery."

Concentrate plant. "Concentrate plant" shall mean an establishment qualified under Part 18 of this chapter for the production of volatile fruit-flavor concentrates.

Container. "Container" shall mean any case, cask, barrel, keg, pipeline, tank, tank truck, railroad tank car, or other approved container (except bottles having a capacity of one gallon or less) used to remove wine from bonded wine cellars.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Director of the service center. "Director of the service center" shall mean the Director, Internal Revenue Service Center, in each of the internal revenue regions.

Distilled spirits plant. "Distilled spirits plant" shall mean an establishment qualified under Part 201 of this chapter for the production, bonded storage, or bottling of spirits, or for rectification, or for any combination of such operations.

District director. "District director" shall mean the district director of internal revenue.

Effervescent wine. "Effervescent wine" shall mean sparkling wine and artifically carbonated wine and shall not include still wine as defined in this part.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this ———— (insert type of document such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Exception. The definitions in this subpart are prescribed pursuant to the internal revenue laws governing the production and removal of wine, and shall not supersede or affect the requirements set forth in 27 CFR Part 4, relative to the labeling of wine under the provisions of the Federal Alcohol Administration Act.

Fold. "Fold" shall mean the ratio of the volume of the fruit mash or juice to the volume of the volatile fruit-flavor concentrate produced from such fruit mash or juice; for example, one gallon of concentrate of 100-fold would be the product from 100 gallons of fruit mash or juice.

Foreign wine. "Foreign wine" shall mean wine produced outside the continental United States, Alaska, and Hawaii.

Fruit wine. "Fruit wine" shall mean wine made from the juice of sound, ripe fruit (including berries) other than grapes.

Gallon. "Gallon" or "wine gallon" shall mean a United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

General bonded area. "General bonded area" shall mean the unsegregated portion of the bonded wine cellar not set aside and designated for a particular use.

Heavy bodied blending wine. "Heavy bodied blending wine" shall mean wine made from fruit without added sugar, with or without added wine spirits, and conforming to the definition of natural wine in all respects except as to maximum total solids content.

In bond. When used with respect to wine spirits, "in bond" means such spirits possessed under bond to secure the payment of the internal revenue tax thereon and in respect to which the tax has not been determined as provided in this chapter, and includes such spirits withdrawn without payment of tax under section 5214(a)(5), I.R.C., and with respect to which relief from liability has not yet occurred. When used with respect to wine "in bond" means wine possessed under bond to secure the payment of the internal revenue tax thereon and in respect to which the tax thereon has not been determined as provided in this chapter, and includes such wines on the bonded premises of a bonded wine cellar, in transit to a bonded wine cellar, and such wine withdrawn without payment of tax under section 5362, I.R.C., and with respect to which relief from liability has not yet occurred.

Including. "Including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

Inclusive language. Words in the plural form shall include the singular and vice versa, and words in the masculine gender shall include the feminine, a trust, estate, partnership, company, or corporation.

Invert sugar syrup. Invert sugar syrup shall mean a solution of invert sugar which has been prepared by recognized methods of inversion from pure sugar. It shall be a substantially colorless solution and contain not less than 60 percent sugar by weight (60 degrees Brix).

I.R.C. "I.R.C." shall mean the Internal Revenue Code of 1954.

Juice. "Juice" (or "must") shall mean the unfermented juice of fruit, berries and authorized agricultural products, exclusive of pulp, skins, or seeds.

Lees. "Lees" shall mean the settlings of wine.

Liter or litre. "Liter" or "litre" shall mean a metric unit of capacity equal to 1000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 U.S. fluid ounces. A liter is subdivided into 1000 milliliters (ml).

Liquid sugar. "Liquid sugar" shall mean a substantially colorless pure sugar and water solution containing not less than 60 percent pure sugar by weight (60 degrees Brix).

Person. The term "person" shall mean an individual, trust, estate, partnership, association, company, or corporation.

Proof. "Proof" shall mean the ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. "Proof gallon" shall mean the alcoholic equivalent of a United States gallon at 60 degrees Fahrenheit, containing 50 percent of ethyl alcohol by volume.

Proprietor. "Proprietor" shall mean the operator of a bonded wine cellar, and shall include the term "winemaker" when the context so requires.

Pure sugar. "Pure sugar" shall mean pure refined sugar, suitable for human consumption, having a dextrose equivalent of not less than 95 percent on a dry basis, and produced from cane, beets, or fruit, or from grain or other sources of starch: *Provided,* That invert sugar syrup produced from such pure sugar by recognized methods of inversion may be used to prepare any sugar syrup, or solution of water and pure sugar.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Same kind of fruit. "Same kind of fruit" shall mean, in the case of grapes, all of the several species and varieties of grapes. In the case of fruits other than grapes, this term includes all of the several species and varieties of any given kind: *Provided,* That this shall not preclude a more precise identification of the composition of the product for the purpose of its designation.

Sparkling wine. "Sparkling wine," including champagne, shall mean effervescent wine charged with carbon dioxide, resulting from fermentation of the wine within a closed container or bottle.

Special natural wine. "Special natural wine" shall mean a product, such as vermouth, made pursuant to an approved formula in accordance with the provisions of section 5386, I.R.C., and Subpart S.

Specially sweetened natural wine. "Specially sweetened natural wine"

shall mean a product having a total solids content in excess of 17 percent by weight and an alcohol content of not more than 14 percent by volume, made in accordance with the provisions of section 5385, I.R.C., and Subpart R of this part.

Standard agricultural wine. "Standard agricultural wine" shall mean agricultural wine made within the limitations of Subpart T.

Standard wine. "Standard wine" shall mean natural wine, specially sweetened natural wine, special natural wine and standard agricultural wine, produced in accordance with the provisions of sections 5381, 5385, 5386, and 5387 of the Internal Revenue Code and Suparts P, Q, R, S, and T.

Still wine. "Still wine" shall mean noneffervescent wine, including those wines containing carbon dioxide as authorized in §§ 240.531 to 240.534, inclusive.

Sugar. "Sugar" shall mean pure sugar, liquid sugar, and invert sugar syrup.

Taxpaid wine. "Taxpaid wine" shall mean wine on which the tax imposed by section 5041, I.R.C., has been determined, regardless of whether the tax has actually been paid or the payment of tax has been deferred under section 5061, I.R.C.

Total solids. "Total solids" shall mean the degrees Brix of the dealcoholized wine.

U.S.C. "U.S.C." shall mean the United States Code.

United States wine. "United States Wine" shall mean wine produced on bonded wine cellar premises in the United States.

Volatile fruit-flavor concentrate. "Volatile fruit-flavor concentrate" shall mean any volatile fruit-flavor concentrate produced by any process which includes evaporations from any fruit mash or juice at a concentrate plant.

Wine. "Wine," when used without qualification, includes all still wines, champagne and other sparkling wines, artificially carbonated wine, and special natural wine produced on bonded wine cellar premises.

Wine spirits. "Wine spirits," as authorized for use in wine production by section 5373, I.R.C., means brandy or wine spirits produced in a distilled spirits plant (with or without the use of water to facilitate extraction and distillation) exclusively from (a) fresh or dried fruit, or their residues, (b) the wine or wine residues therefrom, or (c) special natural wine; except that where, in the production of natural wine or special natural wine, sugar has been used, the wine or the residuum thereof may not be used if the unfermented sugars therein have been refermented. Such wine spirits shall not be reduced with water from the distillation proof, nor be distilled at less than 140 degrees of proof (except that commercial brandy aged in wood for a period of not less than 2 years, and barreled at not less than 100 degrees of proof, shall be deemed wine spirits for the purpose of this part).

Withdrawn without payment of tax. "Withdrawn free of tax" wherever used in this part, except in reference to wine withdrawn under section 5362(c) (7), (8), and (9), I.R.C., shall mean "withdrawn without payment of tax."

PART 245—BEER

Subpart B—Definitions

§ 245.5 Meaning of terms.

When used in this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this subpart, as follows:

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Beer. "Beer" shall mean beer, ale, porter, stout and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

(68A Stat. 612; 26 U.S.C. 5052.)

Bottle and bottling. "Bottle" shall mean a bottle, can, or similar container, and "bottling" shall mean the filling of bottles, cans, and similar containers.

Brewer. "Brewer" shall mean every person who brews or produces beer for sale.

(68A Stat. 617; 26 U.S.C. 5092.)

Brewery. "Brewery" shall mean the land and buildings described as such in the brewer's notice on Form 27-C, where beer is to be produced and packaged.

(72 Stat. 1389, as amended; 26 U.S.C. 5402, 5411.)

Brewing. "Brewing" shall mean the production of beer for sale.

Business day. "Business day" shall mean the 24-hour cycle of operations in effect at the brewery, which, if other than the calendar day, is subject to the approval of the assistant regional commissioner. The business day, having been once established, shall be applicable to all records and operations of the brewery, and shall not be changed without approval of the assistant regional commissioner.

Cereal beverage. "Cereal beverage" shall mean malt beverage, either fermented or unfermented, which contains, when ready for consumption, less than one-half of 1 percent of alcohol by volume.

Delegate. Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelgations of authority, to perform the function mentioned or described in the context.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Director of the service center. "Director of the service center" shall mean the director of the internal revenue service center in each of the internal revenue regions.

District director. "District director" shall mean a district director of internal revenue.

Executed under penalties of perjury. "Executed under penalties of perjury" shall mean signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this —— (insert type of document such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct and complete."

Gallon. "Gallon" shall mean the liquid measure containing 231 cubic inches.

(68A Stat. 612; 26 U.S.C. 5052.)

Includes and including. "Includes" and "including" shall not be deemed to exclude things other than those enumerated which are in the same general class.

Inclusive language. Words in the plural form shall include the singular and vice versa, and words in the masculine gender shall include the feminine as well as individuals, trust, estates, partnerships, associations, companies, corporations, and other legal entities.

I.R.C. "I.R.C." shall mean the Internal Revenue Code of 1954.

Package and packaging. "Package" shall mean a bottle, can, keg, barrel, or other original consumer container, and "packaging" shall mean the filling of any package.

(72 Stat. 1390, as amended; 26 U.S.C. 5416.)

Person. "Person" shall mean and include an individual, a trust, estate, partnership, association, company, and corporation.

(68A Stat. 911; 26 U.S.C. 7701.)

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Removed for consumption or sale. "Removed for consumption or sale" (except when used with respect to beer removed without payment of tax as authorized by law) shall mean (a) the sale and transfer of possession of beer for consumption at the brewery or (b) any removal of beer from the brewery.

(72 Stat. 1333, as amended; 26 U.S.C. 5052.)

Secretary. "Secretary" shall mean the Secretary of the Treasury or his delegate.

This chapter. Chapter I, Title 27, Code of Federal Regulations.

U.S.C. "U.S.C." shall mean the United States Code.

PART 250—LIQUORS AND ARTICLES FROM PUERTO RICO AND THE VIRGIN ISLANDS

Subpart B—Definitions

§ 250.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Article. Any preparation unfit for beverage use, made with or containing:

(1) Wine or beer;

(2) Distilled spirits or industrial spirits; or

(3) Denatured spirits when such preparation is not manufactured under the provisions of this subchapter.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed, or produced from malt, wholly or in part, or from any substitute therefor.

Bureau of Alcoholic Beverage Taxes. Bureau of Alcoholic Beverage Taxes of the Commonwealth of Puerto Rico.

Business day. Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and all legal holidays in the Commonwealth of Puerto Rico.)

Chief, Puerto Rican Operations. The primary representative in Puerto Rico of the Bureau of Alcohol, Tobacco and Firearms. His complete address is: Chief, Puerto Rican Operations, Bureau of Alcohol, Tobacco and Firearms, Post Office Box 111, Government Post Office, San Juan, Puerto Rico 00902.

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

Denatured spirits. Industrial spirits denatured in accordance with approved formulas in distilled spirits plants established and operated under the provisions of this subchapter relating to the establishment and operation of plants qualified to denature spirits in the United States, or, in respect of a product of the Virgin Islands, shall also mean spirits denatured in accordance with approved formulas in plants established under the provisions of the Virgin Islands regulations and shall include, unless otherwise limited, both completely and specially denatured spirits.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Director of the service center. A director of an internal revenue service center.

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, including all dilutions and mixtures thereof, from whatever source or by whatever process produced, and shall include whisky, brandy, rum, gin, etc., but shall not include industrial spirits as defined in this part except when used in reference to such spirits which would be subject to tax if brought into the United States.

District director. A district director of internal revenue.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document, or where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this ——— (insert type of document, such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Importer. Any person who imports distilled spirits, wines, or beer into the United States.

Industrial spirits. As to products of Puerto Rico, distilled spirits produced and warehoused at and withdrawn from distilled spirits plants established and operated under the provisions of this subchapter relating to the establishment of such plants and the production, bonded warehousing, and withdrawal from bond of distilled spirits in the United States, or as to products of the Virgin Islands, distilled spirits produced, warehoused, and withdrawn under Virgin Islands regulations.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquor bottle. A bottle made of glass or earthenware, or of other suitable material approved by the Director, Alcohol, Tobacco and Firearms Division, designed or intended for use as a container for distilled spirits for sale for beverage purposes.

Liquors. Industial spirits, distilled spirits, liqueurs, cordials and similar compounds, wines, and beer or any alcoholic preparation fit for beverage use.

Officer-in-Charge. The principal revenue officer in Puerto Rico charged with the duty of collecting internal revenue taxes in Puerto Rico, under the jurisdiction of the Director of the Office of International Operations, Internal Revenue Service, Treasury Department, Washington, D.C.

Permit. A formal written authorization of the Secretary of the Treasury of Puerto Rico.

Person. An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity or the alcoholic equivalent thereof.

Red strip stamp. The stamp prescribed under authority of section 5205 (a)(2), I.R.C.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Revenue Agent. Any duly authorized Commonwealth Internal Revenue Agent of the Department of the Treasury of Puerto Rico.

Secretary. The Secretary of the Treasury of Puerto Rico.

Secretary or his delegate. The Secretary or any officer or employee of the Department of the Treasury of Puerto Rico duly authorized by the Secretary to perform the function mentioned or described in this part.

Taxpaid. As used in this part with respect to liquors or articles of Puerto Rican manufacture, includes liquors or articles on which the tax was computed but with respect to which payment

was deferred under the provisions of Subpart E of this part.

United States. The States and the District of Columbia.

U.S.C. The United States Code.

United States Internal Revenue Service office. The United States Internal Revenue Service office in Puerto Rico operating under the direction of the Director of the Office of International Operations, Internal Revenue Service, Treasury Department, Washington, D.C.

Virgin Islands regulations. Regulations issued or adopted by the Governor of the Virgin Islands, or his duly authorized agents, with the concurrence of the Secretary of the Treasury of the United States, or his delegate, under the provisions of section 5314, I.R.C., as amended, and § 250.201a.

Wine. Still wine, vermouth, or other aperitif wine, imitation, substandard, or artificial wine, compounds designated as wine, flavored or sweetened wine, champagne or sparkling wine, and artificially carbonated wine, containing not over 24 percent of alcohol by volume.

PART 251—IMPORTATION OF DISTILLED SPIRITS, WINES, AND BEER

Subpart B—Definitions

§ 251.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Beer. Beer, ale porter, stout, and other similar fermented beverages (including sake or similar products) of any name of description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

Bonded premises—distilled spirits plant. The premises of a distilled spirits plant, or part thereof, on which operations relating to the production, storage, denaturation, or bottling of spirits prior to payment or determination of tax are authorized to be conducted.

CFR. The Code of Federal Regulations.

Class 8 Customs bonded warehouse. A class 8 customs bonded warehouse established under the provisions of Customs Regulations (19 CFR Ch. I).

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Director of the service center. A director of an internal revenue service center.

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, and all mixtures or dilutions thereof, from whatever source or by whatever process produced, including alcohol, whisky, brandy, gin, rum, and vodka, but not including wine as defined in this subpart.

Distilled spirits plant. An establishment qualified under the provisions of Part 201 of this chapter for the production, bonded storage, or bottling of spirits, or for rectification, or for any combination of such operations.

District director. A district director of internal revenue.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

Importer. Any person who imports distilled spirits, wines, or beer into the United States.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquor bottle. A bottle made of glass or earthenware, or of other suitable material approved by the Director, Alcohol, Tobacco and Firearms Division, designed or intended for use as a container for distilled spirits for sale for beverage purposes.

Person. An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Red strip stamps. The stamps prescribed under authority of section 5205(a)(2), I.R.C.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

United States. "United States" includes only the States and the District of Columbia.

U.S.C. The United States Code.

Wine. (a) Still wine, including vermouth or other aperitif wine, artificial or imitation wines or compounds sold as still wines, champagne or sparkling wine, and artificially carbonated wine, and (b) flavored or sweetened fortified or unfortified wines, by whatever name sold or offered for sale, containing not over 24 percent alcohol by volume.

PART 252—EXPORTATION OF LIQUORS

Subpart B—Definitions

§ 252.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake or similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor.

Bonded premises—distilled spirits plant. The premises of a distilled spirits plant, or part thereof, on which operations relating to the production, storage, denaturation, or bottling of spirits prior to payment or determination of tax are authorized to be conducted.

Bonded wine cellar. Premises established under Part 240 of this chapter for the production, blending, cellar treatment, storage, bottling, packaging, or repackaging of untaxpaid wine.

Brewer. A proprietor of a brewery.

Brewery. Premises established under Part 245 of this chapter for the production of beer.

CFR. The Code of Federal Regulations.

Container. Any receptacle, vessel, or any form of package, bottle, can, tank, or pipeline used, or capable of being used, for holding, storing, transferring, or conveying liquors.

Customs bonded warehouse. A customs bonded warehouse, class 2, 3, or 8, established under the provisions of Customs Regulations (19 CFR Ch. I).

Customs officer. Any officer of the Customs Service or any commissioned, warrant, or petty officer of the Coast Guard, or any agent or other person authorized by law or designated by the Secretary of the Treasury to perform any duties of an officer of the Customs Service.

Delegate. Any officer, employee, or agency of the Department of the Treasury authorized by the Secretary of the Treasury directly, or indirectly by one or more redelegations of authority, to perform the function mentioned or described in the context.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, Washington, D.C.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.), the area directors of customs in the district of New York, N.Y., and the port director at a port not designated as a headquarters port.

Distilled spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine, and all dilutions and mixtures thereof, from whatever source or by whatever process produced, including whisky, brandy, rum, gin, vodka, and products of rectification (other than products classed as wine), but not denatured spirits.

Distilled spirits plant. An establishment qualified under the provisions of Part 201 of this chapter for the production, bonded storage, or bottling of spirits, or for rectification, or for any combination of such operations.

District director. A district director of internal revenue.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the delcaration:

> I declare under the penalties of perjury that this ———— (insert type of document such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete.

Exportation. A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country and shall include shipments to any possession of the United States. The export character of any shipment shall be determined by the intention with which it is made, and it assumes an export character only when destined for use in a foreign country or in a possession of the United States. For the purposes of this part, shipments to the Commonwealth of Puerto Rico, to the territories of the Virgin Islands, American Samoa and Guam, and to the Panama Canal Zone shall also be treated as exportations.

Foreign-trade zone or zone. A foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended.

Gallon or wine gallon. The liquid measure equivalent to the volume of 231 cubic inches.

I.R.C. The Internal Revenue Code of 1954, as amended.

Liquor. Distilled spirits, wines, and/or beer.

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 fluid ounces. A liter is divided into 1,000 milliliters. Milliliter or milliliters may be abreviated as "ml".

Manufacturing bonded warehouse. A manufacturing bonded warehouse, class six, established under the provisions of Customs Regulations (19 CFR Ch. I).

Package. Any cask, keg, barrel, drum, or similar portable container.

Person. An individual, a trust, an estate, a partnership, an association, a company, or a corporation.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. A gallon at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietor. The person who operates the brewery, distilled spirits plant, bonded wine cellar, taxpaid wine bottling house, or manufacturing bonded warehouse, as the case may be, referred to in this part.

Rectifier. A proprietor of a distilled spirits plant qualified under Part 201 of this chapter to engage in the business of rectifying spirits or wines on which the tax has been paid or determined.

Region. A bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Secretary. The Secretary of the Treasury or his delegate.

Specially denatured spirits. Alcohol or rum, as defined in Part 212 of this chapter, denatured pursuant to the formulas authorized in Part 212 for specially denatured alcohol or rum.

Tank truck. A tank-equipped semitrailer, trailer, or truck.

Tax. The distilled spirits tax, the rectification tax (including the taxes imposed by sections 5022 and 5023, I.R.C.), the beer tax, or the applicable wine tax, as the case may be, imposed by chapter 51, I.R.C.

Tax gallon. The unit of measure of spirits for the imposition of tax under section 5001, I.R.C. When spirits are 100 degrees of proof or more when withdrawn from bond, the tax is determined on a proof gallon basis. When spirits are less than 100 degrees of proof when withdrawn from bond, the tax is determined on a wine gallon basis.

U.S.C. The United States Code.

Wine. All kinds and types of wine having not in excess of 24 percent of alcohol by volume.

Zone operator. The person to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board created by the Act of June 18, 1934, as amended.

PART 270—MANUFACTURE OF CIGARS AND CIGARETTES

Subpart B—Definitions

§ 270.11 Meaning of terms.

When used in this part, and in forms prescribed under this part, the following terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not listed which are in the same general class.

Assistant Director (Regulatory Enforcement). The Assistant Director for regulatory enforcement activities in the Bureau of Alcohol, Tobacco and Firearms, who is responsible to, and functions under the direction and supervision of, the Director.

ATF officer. An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

CFR. The Code of Federal Regulations.

Cigar. Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subparagraph (2) of the definition for cigarette.)

Cigarette. (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1).

Determined or determination. When used with respect to the tax on cigars and cigarettes, determined or determination means that the quantity and kind (small cigars, large cigars, small

cigarettes, large cigarettes) of cigars and cigarettes and wholesale price of large cigars to be removed subject to tax have been established as prescribed by this part so that the tax payable with respect thereto may be calculated.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C.

District Director. A district director of internal revenue.

Export warehouse. A bonded internal revenue warehouse for the storage of cigars, cigarettes, and cigarette papers and tubes, upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country, Puerto Rico, The Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

Export warehouse proprietor. Any person who operates an export warehouse.

Factory. The premises of a manufacturer of tobacco products as described in his permit issued under Chapter 52, I.R.C.

In bond. The status of cigars, cigarettes, and cigarette papers and tubes, which come within the coverage of a bond securing the payment of internal revenue taxes imposed by section 5701 or section 7652, I.R.C., and in respect to which such taxes have not been determined as provided by regulations in this chapter, including (a) such articles in a factory, (b) such articles removed, transferred, or released, pursuant to section 5704, I.R.C., and with respect to which relief from the tax liability has not occurred, and (c) such articles on which the tax has been determined, or with respect to which relief from the tax liability has occurred, which have been returned to the coverage of a bond.

I.R.C. The Internal Revenue Code of 1954, as amended.

Large cigarettes. Cigarettes weighing more than three pounds per thousand.

Large cigars. Cigars weighing more than three pounds per thousand.

Manufacturer of tobacco products. Any person who manufactures cigars or cigarettes, except that such term shall not include (a) a person who produces cigars or cigarettes solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

Package. The container in which cigars or cigarettes are put up by the manufacturer and offered for sale or delivery to the consumner.

Permit number. The combination of (1) the letters indicating the kind of permit, (2) the identifying number, and (3) the name or abbreviation of the State (or the District of Columbia) in which the factory is located, as assigned to the permit by the assistant regional commissioner; for example, "TP-999-Utah".

Person. An individual, partnership, association, company, corporation, estate, or trust.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

Removal or remove. The removal of cigars or cigarettes from the factory or release from customs custody, including the smuggling or other unlawful importation of such articles into the United States.

Service center director. A director of an internal revenue service center.

Small cigarettes. Cigarettes weighing not more than three pounds per thousand.

Small cigars. Cigars weighing not more than three pounds per thousand.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

Tobacco products. Cigars and cigarettes. The term does not include smoking tobacco, chewing tobacco, or snuff.

U.S.C. The United States Code.

Wholesale price. The manufacturer's or importer's suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by 26 U.S.C. chapter 52 or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Assistant Director (Regulatory Enforcement), as provided in § 270.22(i).

PART 275—IMPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES

Subpart B—Definitions

§ 275.11 Meaning of terms.

When used in this part and in forms prescribed under this part, the following terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not listed which are in the same general class.

Assistant Director (Regulatory Enforcement). The Assistant Director for regulatory enforcement activities in the Bureau of Alcohol, Tobacco and Firearms, who is responsible to, and functions under the direction and supervision of, the Director.

ATF officer. An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Business day. Any day, other than a Saturday, Sunday, or a legal holiday. (The term legal holiday includes all holidays in the District of Columbia and, in the case of bonded manufacturers in Puerto Rico, all legal holidays in the Commonwealth of Puerto Rico.)

Bonded manufacturer. A manufacturer of cigars or cigarettes in Puerto Rico who has an approved bond, in accordance with the provisions of this part, authorizing him to defer the payment in Puerto Rico of the internal revenue tax imposed on such products by section 7652(a), I.R.C., as provided in this part.

CFR. The Code of Federal Regulations.

Chief, Puerto Rico Operations. The primary representative in Puerto Rico of the Bureau of Alcohol, Tobacco and Firearms.

Cigar. Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subparagraph (2) of the definition for cigarette).

Cigarette. (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1) of this paragraph.

Cigarette paper. Paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

Cigarette papers. Taxable books or sets of cigarette papers, i.e., books or sets of cigarette papers containing more than 25 papers each.

Cigarette tube. Cigarette paper made into a hollow cylinder for use in making cigarettes.

Computation or computed. When used with respect to the tax on cigars and cigarettes of Puerto Rican manufacture, computation or computed shall mean that the bonded manufacturer has ascertained the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes) of cigars and cigarettes and wholesale price of large cigars being shipped to the

United States; that the payment, in Puerto Rico, of the tax on such products is to be deferred under Subpart G of this part; that the tax imposed on such products by 26 U.S.C. 7652(a) has been calculated, that the bonded manufacturer has executed an agreement to pay the internal revenue tax which will become due with respect to such products, as provided in this part; and that an ATF officer has verified and executed a certification of such calculation.

Determined or determination. When used with respect to the internal revenue tax on cigars, cigarettes, and cigarette papers and tubes, determined or determination shall mean that the quantity and kind (small cigars, large cigars, small cigarettes, large cigarettes) of cigars and cigarettes and wholesale price of large cigars, or the number of books or sets of cigarette papers of each different numerical content, or the number of cigarette tubes, to be removed subject to internal revenue tax, has been established as prescribed by this part so that the internal revenue tax payable with respect thereto may be calculated.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

District director. A district director of internal revenue.

District director of customs. The district director of customs at the headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

Factory. The premises of a manufacturer of cigars, cigarettes, of cigarette papers or tubes in which he carries on such business.

Importer. Any person in the United States to whom non-tax-paid cigars, cigarettes, or cigarette papers or tubes manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned; any person who removes cigars for sale or consumption in the United States from a customs bonded manufacturing warehouse; and any person who smuggles or otherwise unlawfully brings cigars, cigarettes, or cigarette papers or tubes into the United States.

I.R.C. The Internal Revenue Code of 1954, as amended.

Large cigarettes. Cigarettes weighing more than three pounds per thousand.

Large cigars. Cigars weighing more than three pounds per thousand.

Manufacturer of cigarette papers and tubes. Any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for his own personal use or consumption.

Manufacturer of tobacco products. Any person who manufactures cigars or cigarettes, except that such term shall not include (a) a person who produces cigars or cigarettes solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

Officer-in-Charge. The principal revenue officer in Puerto Rico charged with the duty of collecting internal revenue taxes, in Puerto Rico, under the jurisdiction of the Director of the Office of International Operations, Intenal Revenue Service, Treasury Department, Washington, D.C.

Package. The container in which cigars, cigarettes, or cigarette papers or tubes are put up by the manufacturer or the importer and offered for sale or delivery to the consumer.

Person. An individual, partnership, association, company, corporation, estate, or trust.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

Removal or remove. The removal of cigars, cigarettes, or cigarette papers or tubes from the factory or release from customs custody, including the smuggling or other unlawful importation of such articles into the United States.

Small cigarettes. Cigarettes weighing not more than three pounds per thousand.

Small cigars. Cigars weighing not more than three pounds per thousand.

This chapter. Chapter I, Title 27, Code of Federal Regulations.

Tobacco products. Cigars and cigarettes. The term does not include smoking tobacco, chewing tobacco, or snuff.

TSUSA. The Tariff Schedules of the United States Annotated, as published by the United States International Trade Commission.

United States. When used in a geographical sense shall include only the States and the District of Columbia.

U.S.C. The United States Code.

Wholesale price. The manufacturer's or importer's suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by 26 U.S.C. chapter 52 or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Assistant Director (Regulatory Enforcement) under § 275.39(i).

PART 285—MANUFACTURE OF CIGARETTE PAPERS AND TUBES

Subpart B—Definitions

§ 285.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meanings ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

ATF Officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Cigarette. (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1) of this paragraph.

Cigarette paper. Paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

Cigarette papers. Taxable books or sets of cigarette papers, i.e., books or sets of cigarette papers containing more than 25 papers each.

Cigarette tube. Cigarette paper made into a hollow cylinder for use in making cigarettes.

Determined or determination. When used with respect to the tax on cigarette papers and tubes, shall mean that the number of books or sets of cigarette papers of each different numerical content or the number of cigarette tubes to be removed subject to tax has been established as prescribed by this chapter so that the tax payable with respect thereto may be calculated.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

District director. A district director of internal revenue.

Export warehouse. A bonded internal revenue warehouse for the storage of cigars, cigarettes, and cigarette papers and tubes upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country,

Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

Export warehouse proprietor. Any person who operates an export warehouse.

Factory. The premises of a manufacturer of cigarette papers and tubes in which he carries on such business.

In bond. The status of cigarette papers and tubes which come within the coverage of a bond securing the payment of internal revenue taxes imposed by section 5701 or section 7652, I.R.C., and in respect to which such taxes have not been determined as provided by regulations in this chapter, including (a) such articles in a factory, (b) such articles removed, transferred, or released, purusant to section 5704, I.R.C., and with respect to which relief from the tax liability has not occurred, and (c) such articles on which the tax has been determined, or with respect to which relief from the tax liability has occurred, which have been returned to the coverage of a bond.

I.R.C. The Internal Revenue Code of 1954, as amended.

Manufacturer of cigarette papers and tubes. Any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for his own personal use or consumption.

Manufacturer of tobacco products. Any person who manufactures cigars or cigarettes, except that such term shall not include (a) a person who produces cigars or cigarettes, solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

Package. The container in which cigarette papers or tubes are put up and in which or directly from which, such papers or tubes are offered for sale or delivery to the consumer.

Person. An individual, partnership, association, company, corporation, estate, or trust.

Region. A bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal ATF regional official responsible for administering regulations in this part.

Removal or remove. The removal of cigarette papers or tubes from the factory or release from customs custody, including the smuggling or other unlawful importation of such articles into the United States.

Service Center Director. A director of an internal revenue service center.

United States. When used in a geographical sense shall include only the States and the District of Columbia.

U.S.C. The United States Code.

PART 290—EXPORTATION OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, OR WITH DRAWBACK OF TAX

Subpart B—Definitions

§ 290.11 Meaning of terms.

When used in this part and in forms prescribed under this part, the following terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not listed which are in the same general class.

Assistant Director (Regulatory Enforcement). The Assistant Director for regulatory enforcement activities in the Bureau of Alcohol, Tobacco and Firearms, who is responsible to, and functions under the direction and supervision of, the Director.

ATF officer. An officer of the Bureau of Alcohol, Tobacco and Firearms (ATF), authorized to perform any function relating to the administration or enforcement of this part.

Cigar. Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the definition of "cigarette" given in this section).

Cigarette. (a) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(b) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (a) of this section.

Cigarette paper. Paper, or other material except tobacco, prepared for use as a cigarette wrapper.

Cigarette papers. Taxable books or sets of cigarette papers.

Cigarette tube. Cigarette paper made into a hollow cylinder for use in making cigarettes.

Customs warehouse. A customs bonded manufacturing warehouse, class 6, where cigars are manufactured of imported tobacco.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

Exportation or export. A severance of cigars, cigarettes, or cigarette papers or tubes from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign county. For the purposes of this part, shipment from the United States to Puerto Rico, the Virgin Islands, or a possession of the United States, shall be deemed exportation, as will the clearance from the United States of cigars, cigarettes, and cigarette papers and tubes for consumption beyond the jurisdiction of the internal revenue laws of the United States, i.e., beyond the 3-mile limit or international boundary, as the case may be.

Export warehouse. A bonded internal revenue warehouse for the storage of cigars, cigarettes, and cigarette papers and tubes, upon which the internal revenue tax has not been paid, for subsequent shipment to a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States, or for consumption beyond the jurisdiction of the internal revenue laws of the United States.

Export warehouse proprietor. Any person who operates an export warehouse.

Factory. The premises of a manufacturer of cigars, cigarettes, or cigarette papers and tubes in which he carries on such business.

Foreign-trade zone. A foreign-trade zone established and operated pursuant to the Act of June 18, 1934, as amended.

In bond. The status of cigars, cigarettes, and cigarette papers and tubes, which come within the coverage of a bond securing the payment of internal revenue taxes imposed by 26 U.S.C. 5701 or 7652, and in respect to which such taxes have not been determined as provided by regulations in this chapter, including (a) Such articles in a factory or an export warehouse, (b) Such articles removed, transferred, or released, pursuant to 26 U.S.C. 5704, and with respect to which relief from the tax liability has not occurred, and (c) Such articles on which the tax has been determined, or with respect to which relief from the tax liability has occurred, which have been returned to the coverage of a bond.

I.R.C. The Internal Revenue Code of 1954, as amended.

Manufacturer of cigarette papers and tubes. Any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for his own personal use or consumption.

Manufacturer of tobacco products. Any person who manufactures cigars or cigarettes, except that such term shall not include (a) A person who produces cigars or cigarettes solely for his own personal consumption or use;

or (b) A proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

Package. The container in which cigars, cigarettes, or cigarette papers or tubes are put up by the manufacturer and offered for sale or delivery to the consumer.

Person. An individual, partnership, association, company, corporation, estate, or trust.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

Removal or remove. The removal of cigars, cigarettes, or cigarette papers or tubes from either the factory or the export warehouse covered by the bond of the manufacturer or proprietor.

State. "State" shall, for the purposes of this part, be construed to include the District of Columbia.

Tobacco products. Cigars and cigarettes. The term does not include smoking tobacco, chewing tobacco, or snuff.

United States. "United States" when used in a geographical sense shall include only the States and the District of Columbia.

U.S.C. The United States Code.

Wholesale price. The manufacturer's or importer's suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by 26 U.S.C. chapter 52 or section 7652 but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts, or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Assistant Director (Regulatory Enforcement).

Zone operator. The person to whom the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted by the Foreign-Trade Zones Board created by the Act of June 18, 1934, as amended.

PART 295—REMOVAL OF CIGARS, CIGARETTES, AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, FOR USE OF THE UNITED STATES

Subpart B—Definitions

§ 295.11 Meaning of terms.

When used in this part and in forms prescribed under this part, the following terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not listed which are in the same general class.

Armed forces. The Army, Navy (including the Marine Corps), Air Force, and Coast Guard.

Assistant Director (Regulatory Enforcement). The Assistant Director for regulatory enforcement activities in the Bureau of Alcohol, Tobacco and Firearms, who is responsible to, and functions under the direction and supervision of, the Director.

ATF officer. An officer of the Bureau on Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this part.

Charge of the United States. A patient in a hospital or similar institution, or a Federal prisoner, if the hospital, institution, or prison is operated by a Federal agency and the support or care of such person results in a charge on, or an expense to, the United States Government.

Cigar. Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of subparagraph (2) of the definition for cigarette).

Cigarette. (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in subparagraph (1) of this paragraph.

Cigarette paper. Paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

Cigarette papers. Taxable books or sets of cigarette papers, i.e., books or sets of cigarette papers containing more than 25 papers each.

Cigarette tube. Cigarette paper made into a hollow cylinder for use in making cigarettes.

District director. A district director of internal revenue.

Factory. The premises of a manufacturer of cigars, cigarettes, or cigarette papers and tubes in which he carries on such business.

Federal agency. A department or agency of the United States Government, including the American National Red Cross, and the U.S. Soldiers Home, Washington, D.C.

I.R.C. The Internal Revenue Code of 1954, as amended.

Large cigarettes. Cigarettes weighing more than three pounds per thousand.

Large cigars. Cigars weighing more than three pounds per thousand.

Manufacturer of cigarette papers and tubes. Any person who makes up cigarette paper into books or sets containing more than 25 papers each, or into tubes, except for his own personal use or consumption.

Manufacturer of tobacco products. Any person who manufactures cigars or cigarettes, except that such term shall not include (a) a person who produces cigars or cigarettes, solely for his own personal consumption or use; or (b) a proprietor of a customs bonded manufacturing warehouse with respect to the operation of such warehouse.

Package. The container in which cigars, cigarettes, or cigarette papers or tubes are put up by the manufacturer and offered for sale or delivery to the consumer.

Person. An individual, partnership, association, company, corporation, estate, or trust.

Region. A Bureau of Alcohol, Tobacco and Firearms Region.

Regional regulatory administrator. The principal regional official responsible for administering regulations in this part.

Removal or remove. The removal of cigars, cigarettes, or cigarette papers or tubes from the factory.

Small cigarettes. Cigarettes weighing not more than three pounds per thousand.

Small cigars. Cigars weighing not more than three pounds per thousand.

This chapter. Chapter I, Title 26, Code of Federal Regulations.

Tobacco products. Cigars and cigarettes. The term does not include smoking tobacco, chewing tobacco, or snuff.

United States. When used in a geographical sense shall include only the States and the District of Columbia.

U.S.C. The United States Code.

Wholesale price. The manufacturer's or importer's suggested delivered price at which the cigars are to be sold to retailers, inclusive of the tax imposed by 26 U.S.C. chapter 52 or section 7652, but exclusive of any State or local taxes imposed on cigars as a commodity, and before any trade, cash, or other discounts or any promotion, advertising, display, or similar allowances. Where the manufacturer's or importer's suggested delivered price to retailers is not adequately supported by bona fide arm's length sales, or where the manufacturer or importer has no suggested delivered price to retailers, the wholesale price shall be the price for which cigars of comparable retail price are sold to retailers in the ordinary course of trade as determined by the Assistant Director (Regulatory Enforcement).

FR Doc. 78-8370 Filed 3-30-78; 8:45 am]

[4510-23]

Title 29—Labor

CHAPTER II—OFFICE OF THE ASSISTANT SECRETARY FOR LABOR-MANAGEMENT RELATIONS, DEPARTMENT OF LABOR

PART 215—GUIDELINES, SECTION 13(c), URBAN MASS TRANSPORTATION ACT OF 1964, AS AMENDED

Procedures Followed By Secretary For Determining That Fair And Equitable Arrangements Have Been Made For Protection Of Employees Affected By Assistance Under Urban Mass Transportation Act.

AGENCY: Department of Labor.

ACTION: Final Statement of Policy and Procedures.

SUMMARY: The Urban Mass Transportation Act provides, in general, that it shall be a condition of any federal financial assistance by the Department of Transportation to states and local public bodies in financing mass transportation systems, that fair and equitable arrangements must be made, as determined by the Secretary of Labor, to protect the interests of employees affected by assistance. In conjunction with the Secretary of Labor's role in making such determinations, we are adding Part 215 to provide information concerning the Department of Labor's administrative procedure in processing applications for assistance under the Urban Mass Transportation Act, and certification by the Secretary of Labor of acceptable protective arrangements.

EFFECTIVE DATE: This part becomes effective May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Lary F. Yud, Division of Employee Protections, Labor-Management Services Administration, U.S. Department of Labor, Room N-5641, 200 Constitution Avenue NW., Washington, D.C. 20210; phone number 202-523-6495.

SUPPLEMENTARY INFORMATION: On January 18, 1977 there was published in the FEDERAL REGISTER (42 FR 3319) a notice of proposed guidelines with an amendment to 29 CFR Chapter II by adding a new Part 215. Corrections to the proposed guidelines were published on January 25, 1977 (42 FR 4492). All comments on the proposed guidelines were given due consideration.

DISCUSSION OF MAJOR COMMENTS

During the review of the comments received, certain key issues emerged and the decisions thereon and modifications, if any, to the proposed guidelines were as follows:

DEFINITIONS

A number of respondents recommended that definitions of such terms as "employees" be included in the guidelines. The purpose of the guidelines is to provide information concerning the Department of Labor's procedures in processing UMTA applications for employee protection purposes. As such, the Department has avoided to the extent possible including substantive provisions.

DOL REFERRAL PROCEDURE

A number of comments addressed the Department's practice of referring applications to the international offices of unions representing affected employees in individual project situations. It was proposed that the guidelines provide for referral of applications to local unions. It is a common practice of labor organizations in the transit industry to provide for centralized handling of employee protection arrangements at the international union level or by organizations which are affiliations of unions. Too, the constitutions of some unions require international approval of agreements. The Department of Labor believes that coordination of employee protection arrangements through international unions and affiliations of such unions greatly facilitates the orderly and expeditious processing of UMTA applications. No change has been made from the proposed version in the final guidelines.

PROTECTIVE ARRANGEMENTS WHEN STATE LAW PROHIBITS BARGAINING

Questions were raised concerning the effect of the procedure requiring the "negotiation" of protective arrangements in states where bargaining is prohibited for public employees. A number of respondents stated that under existing state law, they are unable to "bargain" protective terms and conditions and thus they feel they may be unable legally to comply with our guidelines. Although only a small number of applicants fall into this situation, we recognize potential conflict here. Special procedures have been followed in the past in these cases, such as the joint development of terms and conditions by the parties which are then incorporated into a resolution adopted by the appropriate public body. The intent of our guidelines is not to foreclose resort to such special procedures where they are necessary to satisfy the Federal statute in a manner that does not violate State or local law. A new paragraph has been added to § 215.3 to accommodate this practice.

TIME LIMITS ON NEGOTIATIONS

The single provision which received the most comments was § 215.3(d), dealing with the setting of time limitations on negotiations by the Secretary of Labor. Comments received from applicants stressed the need to establish certain fixed time limits by which certification action would be final. Comments from union organizations stressed the strangulation such time limits would place on the negotiating process. The Department of Labor recognizes that the negotiation of employee protective arrangements can seem interminable if there is no effective procedure pressing for their conclusion or alternative action by the Secretary of Labor. At the same time, we are very fearful that a fixed time limit automatically applicable to every case would constrict negotiations and replace a procedure which emphasizes voluntary action by the parties with one dominated by government decision making. This becomes all the more troublesome with the realization that the establishment of fixed time limits would require the accompanying adoption of formal review standards which would delve into such questions as whether the parties had made a "good faith" attempt to reach an agreement during the time alloted. Upon review, and in the face of such concerns and all available evidence we have concluded that fixed time limits should not be adopted. The record of recent case handling does not support the need for a drastic change in current procedures. Therefore, § 215.3(d) of the guidelines as proposed has been rewritten.

As rewritten, § 215.3(d) provides for the establishment of time schedules in appropriate cases. Under this procedure, the Department of Labor will solicit from the Department of Transportation, at the time individual grant applications are referred for certification, information concerning the anticipated funding approval date for the subject project. As part of its initial review of an application, the Department of Labor will determine whether a time schedule should be established for the processing of the application for employee protective arrangement certification purposes. In situations where no action on a project is predictable by the Department of Transportation, it is expected that no specific time schedule will be set. However, when the Department of Transportation advises that it seeks to approve a project by a certain date and absent special circumstances, the Department of Labor will establish a time schedule which to the extent possible conforms to the projected grant

approval date. That time schedule will be included in the Department of Labor's referral letters to the parties or subsequent written communications. The parties will thereby be placed on notice of the Department of Labor's target date for the certification of the project. Prior to that date the Department of Labor will contact the parties to determine what progress is being made and to determine if the Department should become actively involved in the negotiations.

The time schedule will be continually subject to review and modification based on exigencies that arise during the processing. The parties can expect that the negotiating process must be pursued expeditiously and in good faith. If progress toward an agreement becomes stalled or irreconcilable issues are confronted, the Department of Labor will incorporate into the time schedule dates by which the Secretary of Labor will take alternative action, including action to certify or to deny certification of the application.

Section 215.3(f) has been rewritten to make it consistent with § 215.3(d) as rewritten.

AMENDATORY APPLICATIONS

The section of the proposed guidelines dealing with the processing of amendatory applications has been retained without modification. A number of comments were addressed to this section, including one which would have provided interested parties the opportunity to object to the Secretary of Labor's decision prior to its final implementation. We believe that our experience enables us to make the determinations called for in this section without review prior to issuance. The great majority of such cases involve straight-forward factors for review such as cost-overruns resulting from bids higher than anticipated. To open up such determinations to outside review is unnecessary and cumbersome. As we do now, all parties will be notified that we have made these decisions and furnished with copies thereof and the relevant material upon which those decisions were based.

CERTIFICATIONS OF RECURRING OPERATING GRANTS

In addition to the section of the guidelines on time limits, the section entitled "Recertifications based on existing agreements" received a great deal of attention in the comments. The purpose of this section as originally drafted was to provide some stability and longevity to protective arrangements developed for projects which were recurring in nature. Certain categories of such projects were listed and the proposed procedure would have had the Secretary of Labor reapply protective arrangements which existed in each category unless it was determined that other action was more appropriate. A number of comments received raised questions about the specific categories of recurring grants set forth in the proposed guidelines. The existence of a "normal equipment replacement or maintenance cycle" was questioned. During our review it became obvious that the categorization of projects into easily usable groups was fraught with difficulty and conflict.

In an effort to determine the necessity for this proposed procedure, the Department of Labor has reviewed all certification activity for the twelve-month period, January through December, 1977. During that period of time, the Department of Labor issued 748 certification actions. Ninety-nine of those certifications involved non-union situations, where the Department sets forth in its letter of certification all protective terms and conditions that will apply. Another 147 cases involved situations where, after review, the Department on its own initiative determined that a previous certification could be applied to revised or amendatory applications. Another 222 actions involved utilization of the so-called model agreement for operating assistance grants. Of the remaining 280 certification actions, 172 were based on the voluntary agreement of involved parties to apply the terms and conditions of previously developed protective agreements to new projects (referred to as "piggybacking"). That leaves 108 cases, less than 15 percent, in which new agreements were developed. Included in these cases were many specialized projects, including some involving paratransit and cases under the Section 17 grant program.

Further in comments directed to the recurring grant section, a number of respondents recommended inclusion of operating assistance grants as a recurring grant category. Such grants are obviously recurring and further constitute a special case because of the existence of the so-called model agreement for application to operating assistance grants. Moreover, the model agreement has served as the basis for some 450 certification actions on operating assistance applications over the 24 month period from January, 1976 through December, 1977. In view of the statistics cited above and the comments, which provide no support for any major change in current procedures, and the many very valid questions of interpretation raised about the recurring grant categories in the proposed guidelines, this section has been rewritten. As rewritten, the specific categories of recurring grants have been deleted as well as the provision allowing for "other categories to be determined by the Secretary" and the special procedure adopted has been limited to general purpose operating assistance grants.

NEGATIVE DECLARATION

Four respondents recommended adoption of the so-called "negative declaration" procedure for general purpose operating assistance grants. Under this proposal, the applicant would merely warrant that the project would have no adverse impact on employees. This would be in lieu of specific protective terms and conditions. A savings clause would be included in the event of unanticipated effects. The Department of Labor has previously reviewed this proposed procedure in detail and in its view it is contrary to the statute.

Accordingly, 29 CFR Chapter II is amended by adding a new Part 215 to read as follows:

Sec.
215.1 Purpose.
215.2 General.
215.3 Employees Represented by a Labor Organization.
215.4 Employees Not Represented by a Labor Organization.
215.5 Processing of Amandatory Applications.
215.6 Recurring Operating Grants and the Model Agreement.
215.7 Department of Labor contract.

AUTHORITY: Secretary's Order No. 11-72, May 12, 1972.

§ 215.1 Purpose.

(a) The purpose of these guidelines is to provide information concerning the Department of Labor's administrative procedures in processing applications for assistance under the Urban Mass Transportation Act of 1964, as amended (hereinafter "the Act").

(b) Section 13(c) of the Act reads as follows:

It shall be a condition of any assistance under section 3 of this Act that fair and equitable arrangements are made, as determined by the Secretary of Labor, to protect the interests of employees affected by such assistance. Such protective arrangements shall include, without being limited to, such provisions as may be necessary for (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective bargaining agreements or otherwise; (2) the continuation of collective bargaining rights; (3) the protection of individual employees against a worsening of their positions with respect to their employment; (4) assurances of employment to employees of acquired mass transportation systems and priority of reemployment of employees terminated or laid off; and (5) paid training or retraining programs. Such arrangements shall include provisions protecting individual employees against a worsening of their positions with respect to their employment which shall in no event provide benefits less than those established pursuant to section 5(2)(f) of the Act of February 4, 1887 (24 Stat. 379), as amended. The contract for the granting of any such assistance shall specify the terms and conditions of the protective arrangements.

§ 215.2 General.

Upon receipt of copies of applications for Federal assistance subject to section 13(c), together with a request for the certification of employee protective arrangements from the Department of Transportation, the Department of Labor will process those applications, which may be in either preliminary or final form. To facilitate review, the section of the application dealing with labor and relocation should estimate the effects on mass transportation employees of urban mass transportation carriers of the contemplated Federal assistance including possible impact of the assistance upon existing collective bargaining agreements, employment rights, privileges and benefits (including pensions) and the continuation of collective bargaining rights. The application should identify the labor organization, if any, representing employees of urban mass transit carriers in the area of the proposed project and describe what steps, if any, have been taken to develop the required employee protections.

§ 215.3 Employees represented by a labor organization.

(a)(1) If affected employees are represented by a labor organization it is expected that protective arrangements shall be the product of negotiation, pursuant to these guidelines.

(2) In instances where states or political subdivisions are subject to legal restrictions on bargaining with employee organizations, the Department of Labor will utilize special procedures to satisfy the Federal statute in a manner which does not contravene state or local law. For example, employee protective terms and conditions, acceptable to both employee and applicant representatives, may be incorporated into a resolution adopted by the involved local government.

(b) Upon receipt of an application involving affected employees represented by a labor organization, the Department of Labor will refer a copy of the application to that organization and notify the applicant of referral.

(c) Following referral and notification under paragraph (b) of this section, and subject to the exceptions defined in §§ 215.5 and 215.6, parties will be expected to engage in good faith efforts to reach mutually acceptable protective arrangements through negotiation.

(d) As part of the Department of Labor's review of an application, a time schedule for case processing will be established by the Department of Labor where appropriate. Absent special circumstances, the time schedule will be established in cases where funding approval is anticipated and will, to the extent possible, conform to the Department of Transportation's projected time frame for funding. In situations where no action on a project by a specific time is predictable by the Department of Transportation, it is expected that no time schedule will be set by the Department of Labor. Any time schedule established by the Department of Labor will be specified in its referral letters under § 215.3(b) or subsequent written communications to the parties. The parties are thereby placed on notice of the Department's target date for the certification of the project. It is expected that negotiations will be pursued expeditiously and in good faith. The Secretary will monitor progress of negotiations and in cases where negotiations break down or irreconcilable issues are present, the Department will incorporate into the time schedule dates by which the Secretary will take alternative action.

(e) The Secretary of Labor will review negotiated protective arrangements. If an arrangement meets the requirements of section 13(c), the Secretary will so certify to the Urban Mass Transportation Administrator. If the arrangement is not in conformity with the provisions of section 13(c), the Secretary may grant parties additional time to negotiate a satisfactory agreement, or he may set forth the provisions of the protective arrangement himself.

(f) If during the processing of an application the Secretary finds that the parties are unable to reach agreement, he will review the positions of the parties to determine appropriate action. Such action may include the Secretary's determination of the terms and conditions upon which he will base his certification or his refusal to certify for specified reasons.

§ 215.4 Employees not represented by a labor organization.

(a) The certification made by the Secretary will afford the same level of protection to those employees who are not represented by labor organizations.

(b) If there is no labor organization representing employees, the Secretary will set forth the protective terms and conditions in his letter of certification.

§ 215.5 Processing of amendatory applications.

When an application is supplemental to or revises or amends in immaterial respects an application for which the Department of Labor has already certified that fair and equitable arrangements have been made to protect the interests of mass transit employees affected by the subject project, and absent unusual circumstances, the Department of Labor will on its own initiative apply to the supplemental or other amendatory application the same terms and conditions as were certified for the subject project as originally constituted. The Department of Labor's processing of these applications will be expedited.

§ 215.6 Recurring Operating Grants and the Model Agreement.

(a) In instances where the Department of Labor receives general purposes operating assistance grant applications and the parties have previously endorsed the Model 13(c) agreement (referred to also as the "National Agreement"), the Department will serve notice to the subject parties that it will certify the project on the basis of the Model Agreement unless informed within two weeks from the issuance of our letter of notice that special circumstances are presented by the project which require changes in the Model Agreement or supplemental arrangements as applied to the particular project involved. In the event the Secretary determines that changes in the Model Agreement or supplemental arrangements are required, the Secretary will direct the parties to negotiate such arrangements in accordance with the case processing procedure described in § 215.3 hereof. If the Secretary determines that no special circumstances exist, he will so advise the parties and certify the project on the basis of the Model Agreement.

(b) The Model (or National) Agreement mentioned in paragraph (a) of this section refers to the agreement executed on July 23, 1975 by representatives of the American Public Transit Association and the Amalgamated Transit Union and Transport Workers Union of America and on July 31, 1975 by representatives of the Railway Labor Executives' Association, Brotherhood of Locomotive Engineers, Brotherhood of Railway and Airline Clerks and International Association of Machinists and Aerospace Workers. The agreement is intended to serve as a ready-made employee protective arrangement for adoption by local parties in specific operating assistance project situations. The Secretary has determined that this agreement provides fair and equitable arrangements to protect the interests of employees in general purpose operating assistance project situations and meets the requirements of Section 13(c).

§ 215.7 Department of Labor contact.

Questions concerning the subject matter covered by these guidelines should be addressed to the Division of Employee Protections, Labor-Management Services Administration, U.S. Department of Labor, Room N-5641, 200 Constitution Avenue NW., Washington, D.C. 20210; phone number 202-523-6495. (Secretary's Order No. 11-72, May 12, 1972.)

Signed at Washington, D.C., this 28th day of March, 1978.

FRANCIS X. BURKHARDT,
Assistant Secretary for Labor-Management Relations.

[FR Doc. 78-8560 Filed 3-30-78; 8:45 am]

[4510-26]

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Occupational Exposure to Benzene: Corrections

AGENCY: The Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule; corrections.

SUMMARY: This notice announces corrections to the permanent benzene standard which appeared in the FEDERAL REGISTER on February 10, 1978 (43 FR 5918).

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Gail Brinkerhoff, Office of Compliance Programs, OSHA, Third Street and Constitution Avenue NW., Room N3112, Washington, D.C., 20210, telephone 202-523-8034.

SUPPLEMENTAL INFORMATION: On February 10, 1978, an occupational safety and health standard for exposure to benzene, with an accompanying explanation, was published in the FEDERAL REGISTER (43 FR 5918), as 29 CFR 1910.1028. There were a number of typographical errors and inadvertent omissions in that document. It is, therefore, necessary that the benzene document be corrected as indicated below.

One of the more significant corrections is in the monitoring provisions of paragraph (e) of § 1910.1028. The preamble, which contains a statement of the reasons for monitoring requirements, explains (43 FR 5952) that redetermination of employee exposure must also take place after the cleanup of spills and the repair of leaks, ruptures or other breakdowns in order to ensure that proper corrective measures have been taken and employee exposures are not significantly increased. The language of the standard inadvertently allowed employers to redetermine exposures in such instances before repairs are made or before cleanup of spills and leaks. Accordingly, OSHA has corrected the language of the additional monitoring provision (paragraph (e)(4) to make clear that the redetermination of employee exposures in such instances is to be conducted after cleanup or repairs.

A correction of the preamble has been made to clarify OSHA's intent to exclude from the coverage of the benzene standard solid mixtures containing benzene. The preamble inadvertently stated (43 FR 5945) that the standard applies to solids which contain benzene. The only benzene mixtures referred to in the definition of benzene § 1910.1028 (b)) are liquid mixtures. Thus the standard covers the solid form of benzene only when such solid is pure benzene.

Accordingly, FR Doc. 78-3417 is corrected as follows:

1. On page 5918, second column, first line "z" is corrected to "Z".

2. On page 5918, second column, the nineteenth line, "(c)" is corrected to "(d)".

3. On page 5918, third column, the eighth line of footnote 1 is corrected to read: "The designations "PC" and "PH" refer to posthearing".

4. On page 5919, second column, third full paragraph, second line, "Emergeny" is corrected to "Emergency".

5. On page 5922, first column, second paragraph, the third line is corrected to read "in 1910 (PC 6). He observed a significant".

6. On page 5922, second column, the fifth line is corrected to add "in 1939" after the word "co-workers".

7. On page 5923, second column, first line, "commenting" is corrected to "commented".

8. On page 5923, second column, first full paragraph, the parenthesis in the fifth line is corrected to read: "(Dow/Ott-Ex. 154)".

9. On page 5924, third column, the tenth line, the word "on" is deleted.

10. On page 5924, third column, third full paragraph, the fourth line, "toxicity" is corrected to "depression".

11. On page 5924, third column, fifth full paragraph, the fifth and sixth lines are corrected to read "blood tests, with up to 25 years work experience for some and there has been".

12. On page 5925, first column, first full paragraph, the ninth line is corrected to delete "Tr. pp. 360-361".

13. On page 5925, first column, first full paragraph, the fourteenth line is corrected to add a period after the word "count", and the fifteenth line is corrected to read: "And it has been reported that Volkova observed a definite lowering of leukocyte phagocytic activity together with an increased morbidity".

14. On page 5925, second column, the heading "IV. Leukemia" is corrected to read "3. Leukemia".

15. On page 5925, second column, fifth line from the bottom "myelord" is corrected to "myeloid".

16. On page 5926, second column, first full paragraph, the sixth line is corrected to read "P.C. 33, pp. 50-51). However, Aksoy has".

17. On page 5926, second column, first full paragraph, second line from bottom, "vig" is corrected to "Vig".

18. On page 5926, second and third columns, the sentence beginning on the last line of the second column and reading "Due to the rarity of erythroleukemia Vigliani noted that the 20 or more cases attributable to benzene reported in the literature seem to be significant (Ex. 2-49))" is corrected by enclosing that sentence in parenthesis.

19. On page 5927, second column, fourth line from bottom, "employes" is corrected to "employees".

20. On page 5927, third column, third line, the parenthesis is corrected to read "(0, 10.6, 20 ppm)".

21. On page 5927 third column, second full paragraph, fourteenth line, "20 percent" is corrected to "25 percent".

22. On page 5928, second column, first full paragraph, the parenthesis in the fifth line is corrected to read "(OTT, Ex. 154, p. 9)".

23. On page 5928, third column, third line from the bottom, "— 37" is corrected to read "2-37".

24. On page 5929, first column, eighth line from the bottom, "ML" is corrected to read "CML".

25. On page 5929, third column, sixteenth line, "aplastia" is corrected to "aplasia".

26. On page 5930, first column, third paragraph, the fifteenth line is corrected to add after the word "poisoning" the following: "and no new cases of leukemia in the rotorgravure industry".

27. On page 5930, second column second full paragraph, the twelfth line, the citation "(Ex 217-152)" is corrected to read "(Ex 2B-252)".

28. On page 5930, third column, first line, "c" is corrected to "C".

29. On page 5931, first column, second full paragraph, the third line is corrected to add "of" following "production".

30. On page 5931, second column, the fifth and sixth lines, the phrase "in the United States" is moved to the eleventh line and placed after the word "incidence".

31. On page 5931, second column, thirteenth line from bottom, "leukemia" is changed to "leukaemia".

32. On page 5931, second column, twelfth line from bottom, "34-5" is corrected to "39-5".

33. On page 5931, second column, sixth line from bottom is corrected to read, "leukemogenic action of benzene in man * * * (Ex. 2-49,".

34. On page 5931, second column, second line from bottom is corrected to read, "dence that benzene causes leukemia in".

35. On page 5931, second column, the twenty-second and twenty-third

lines are corrected to place a period after "leukemia" in line 22, and to delete the rest of line 22 and the whole of line 23.

36. On page 5931, third column, first complete paragraph, the eighth and ninth lines (the first two lines of the quote from Eckardt) are corrected to read as follows.

"[t]he accumulation of cases of leukemia following benzene exposure leads to the inevitable conclusion".

37. On page 5932, second column, twenty-seventh line, the citation "Ex. 43.B, p." is corrected to read "Ex. 43. B, p. 125".

38. On page 5932, third column, fourteenth line from the bottom, the citation "217-129" is corrected to read "2B-129".

39. On page 5933, second column, item (3), tenth line, "exed" is corrected to read "exhibited".

40. On page 5935, first column, fourth full paragraph, ninth line, the citation "592-595" is corrected to read "569-595".

41. On page 5936, first column, the seventh line is corrected to read "ployees test results to a hematologist. Where emer-".

42. On page 5936, first column, the thirteenth line is corrected to read "ties then the employee's test results must be exam-".

43. On page 5936, first column, the twenty-fifth line is corrected to add after the word "and" the following: "their test results."

44. On page 5936, second column, second full paragraph, first line, "normal" is corrected to read "nominal".

45. On page 5936, third column, first full paragraph, the fifth line is corrected to read "I, p. 419; Ex. 115A-9, Table 1)."

46. On page 5936, third column, first full paragraph, the sixth line is corrected by deleting the word "number".

47. On page 5936, third column, first full paragraph, the parenthesis in the twenty-second line is corrected to read "(API, P.C. 33, p. 5)."

48. On page 5936, third column, first full paragraph, the parenthesis in the twenty-fifth and twenty-sixth lines is corrected to read "(API, P.C. 33, p. 8-9)."

49. On page 5937, second column, the parenthesis in the sixteenth line is corrected to read "(AISI, P.C. 36, p. 95)."

50. On page 5937, second column, thirty-fifth line, "P.I. statement" is corrected to read "P.C. 36, pp. 87-88".

51. On page 5937, third column, the eleventh line is corrected by inserting "is" following the word "it".

52. On page 5937, third column, second full paragraph, the thirteenth and fourteenth lines are corrected to read "and the permissible exposure limit, with exposure of all other workers being below".

53. On page 5937, third column, third line from the bottom, the parenthesis is deleted.

54. On page 5938, second column, second full paragraph, the eleventh line is corrected to read "unloading of benzene exceeds the permissible ex-".

55. On page 5939, second column, fourth full paragraph, the fourth line is corrected by inserting "Ex. 115 A.9" after "Scarbrough".

56. On page 5939, second column, fourth full paragraph, the fifth line is corrected by inserting "Ex 115 A.5" after "Henderson".

57. On page 5940, first column, the eighth line from the bottom is corrected by inserting "Ex. 115 A.9" after "Scarbrough".

58. On page 5940, first column, the seventh line from the bottom is corrected by inserting "Ex. 115 A.5" after "Henderson".

59. On page 5940, second column, first full paragraph, the fourth line is corrected by inserting "Ex. 115 A.5" after "Henderson".

60. On page 5940, third column, first full paragraph, the twentieth line is corrected to read as follows: "cates that the number of cancers and other non-malignant diseases of the blood-forming organs may be appre-".

61. On page 5940, third column, second full paragraph, the eighth line is corrected by deleting "API brief" and inserting "P.C. 33".

62. On page 5940, third column, second full paragraph, the ninth line is corrected by deleting "AISI brief" and inserting "P.C. 36".

63. On page 5942, third column, third full paragraph, the first and second lines are corrected to read "the final standard applies to bulk terminal operations but excludes expo-".

64. On page 5943, first column, the third line is corrected by adding "Ex. 115 A.2" following the word "statement".

65. On page 5943, first column, first full paragraph, the ninth line is corrected by adding "Ex. 115 A.10" after "Sexton".

66. On page 5945, third column, third full paragraph, the first sentence is deleted and the following is substituted: "OSHA has, as suggested, by some participants (Com. 46), not applied the standard to solids which contain benzene. Thus the reference to solids in the definition of benzene applies to pure solid benzene and *not* to solids which contain benzene.

67. On page 5946, third column, second line from bottom, the word "leukemogenic" is corrected to "leukaemogenic".

68. On page 5947, first column, twelfth line is corrected to read "Group stated, * * * [O]n account of the proven".

69. On page 5947, first column, third full paragraph, fifth line, the word "lowest" is corrected to read "as low as".

70. On page 5947, first column, third full paragraph, twenty fourth line insert parenthesis after the word, "man".

71. On page 5948, second column, third full paragraph, the second line is corrected to read "to benzene in laboratories vary between 0.1 ppm and".

72. On page 5950, third column, first full paragraph, seventh line, the parenthesis is corrected to read "(Ex. 6-50, p. 3; Ex. 6-60, r. 7)."

73. On page 5950, third column, the second full paragraph, the tenth line, "Appendix A, II, E" is corrected to read "Appendix B, IV, A."

74. On page 5951, first column, third line "MCA brief" is corrected to read "P.C. 35".

75. On page 5951, third column, eighteenth line, "P.C. 31" is corrected to read "P.C. 34".

76. On page 5952, third column, seventh line, the word "below" is corrected to read "above".

76(a.) On page 5953, third column, third full paragraph, fifteenth line, "erythemia" is corrected to "erythema".

77. On page 5955, third column, first full paragraph is corrected by adding below subparagraph (g) the following: "(h) platelets count".

78. On page 5956, first column, last paragraph, the first line, "DOC" is corrected to read "Dow".

79. On page 5956, third column, line 22, the word "imployee" is corrected to read "employee".

80. On page 5957, first column, second full paragraph, twelfth line, "10 ppm" is corrected to read "7 to 9 ppm".

81. On page 5957, third column, first full paragraph, third line, "occupatonal" is corrected to "occupational".

82. On page 5958, third column, tenth and eleventh and twelfth lines, the citation is corrected to read "(Dow Venable statement; Ex. 154, p. 3; Tr. 3192; Tr. 2963-3056)."

83. On page 5959, third column, the fifth line is corrected by inserting "(Com. 50)" after "zene".

84. On page 5959, third column, the twenty first line is corrected by inserting "(Ex. 136, p. 9)"after "chloride".

85. On page 5960, third column, third full paragraph, the heading *"Records: paragraph (1)"* is corrected to read *"Records: paragraph ( )."*

86. On page 5961, second column, second full paragraph, ninth line, the word "at" is deleted.

87. On page 5962, first column, the twenty-eighth line is corrected to read "ployees' right to access."

88. On page 5962, second column, second full paragraph, the third line is corrected to read "notification of regulated area requirements upon em-".

§ 1910.19 [Corrected]

89. On page 5963, third column, § 1910.19, in the amendatory language in item 1 and in the regulatory text the paragraph "(c)" designation is corrected to read "(d)".

§ 1910.1000 [Corrected]

90. On page 5963, third column, item 3 of the amendments is corrected to read as follows:

"Table Z-2 of § 1910.1000 is amended by adding a footnote 1 following the words 'Benzene (Z 37.40-1969)' and by adding the following below Table Z-2:

[1] "Occupational exposures to benzene are subject to the requirements of § 1910.1028 except as specifically exempted by § 1910.1028 (a)(2). Exposures exempted by § 1910.1028 (a)(2) are covered by this § 1910.1000."

91. On page 5963, third column, the footnote at the bottom of the page is deleted.

§ 1910.1028 [Corrected]

92. On page 5964, second column, § 1910.1028(e)(1)(ii), third line, "could" is corrected to "would".

93. On page 5964, third column, first full paragraph, § 1910.1028(e)(3)(ii), first line is corrected to read (ii) *Measurements at or above the action".*

94. On page 5964, third column, first full paragraph, § 1910.1028(e)(3)(ii), third line is corrected to read "ployee exposure to be at or in excess of the".

95. On page 5964, third column, § 1910.1028(e)(4) is corrected to read as follows:

"(4) *Additional monitoring.* (i) Whenever there has been a production, process, personnel or control change which may result in new or additional exposure to benzene or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to benzene, the employer shall repeat the monitoring which is required by paragraph (e)(2)(i) of this section.

(ii) Whenever spills, leaks, ruptures or other breakdowns occur, the employer shall repeat the monitoring which is required by paragraph (e)(2)(i) after cleanup of the spill or repair of the leak, rupture or other breakdown."

96. On page 5965, second column, § 1910.1028(g)(4)(ii), fourth line, "NIOSH" is corrected to read "the National Institute for Occupational Safety and Health".

97. On page 5965, third column, § 1910.1028(i)(3)(i), second line, "appendixes" is corrected to read "appendices".

98. On page 5966, first column, § 1910.1028(i)(5)(i), the third line is corrected to read "covered under paragraph (i)(2) of".

99. On page 5966, first column, § 1910.1028(i)(6), the words "75 mg/ml" in the ninth and twelfth lines are corrected to read "75 mg phenol/ L of urine".

100. On page 5966, second column, § 1910.1028(i)(7)(i)(*d*) is corrected to read: "(*d*) the white cell count is below 4,200 or above 10,000/mm^3.

101. On page 5966, second column, § 1910.1028(i)(7)(i)(*e*) is corrected by changing in the second line "140 × 10^9" to 140 × 10^3" and by changing in the third line "440 × 10^9" to 440 × 10^3".

102. On page 5967, first column, § 1910.1028(1)(3)(iv), the fifth line is amended to read "tion and copying to the employee or former employee or to a physician or".

§ 1910.1028(n) Appendices. [Corrected]

103. On page 5967, second column, Appendix A, II, A, the first line is corrected by deleting the word "the".

104. On page 5968, first column, Appendix B, I, A, 1. the parenthesis in the third and fourth line is corrected to read "(Benzin, petroleum benzin and benzine do not contain benzene)".

105. On page 5968, third column, Appendix C, II, eighteenth line, the word "mucuous" in corrected to read "mucous".

106. On page 5968, third column, Appendix C, III, thirteenth line, the word "exhilration" is corrected to "exhilaration".

107. On page 5969, Appendix C, V, A, third paragraph, eleventh line, the word "tologica" is corrected to read "tologic".

108. On page 5969, third column, fourth full paragraph, second line, the word "with" is inserted after the word "count".

109. On page 5969, third column, fourth paragraph, eleventh line, the word "persistance" is corrected to "persistence".

110. On page 5969, third column, fifth paragraph, fourteenth line, the word "ultimatly" is corrected to "ultimately".

111. On page 5970, first column, eleventh line, the word "advance" is corrected to "advanced".

112. On page 5970, first columm, twentieth line "eosnosophils" is corrected to "eosinophils".

113. On page 5970, first column, eighth line from the bottom, the word "term" is corrected to "termed".

114. On page 5970, first column, sixth line from the bottom, the word "good" is changed to "appropriate".

115. On page 5970, first column, fourth line from the bottom, the word "cminious" is changed to "ominous".

116. On page 5970, second column, ninth line, the parenthesis "changes in general" is deleted.

(Sec. 4, 6, 8, 84 Stat. 1593 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059); 29 CFR Part 1911.)

Signed at Washington, D.C., this 28th day of March 1978.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 78-8653 Filed 3-30-78; 8:45 am]

[4510-23]

Title 30—Mineral Resources

CHAPTER I—MINE SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

Deferral of Effective Date of Illumination Standards

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Final rules.

SUMMARY: The effective date of the illumination standards for underground coal mines in 30 CFR 75.1719 is deferred to July 1, 1978.

ADDRESS: Mine Safety and Health Administration, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Joseph O. Cook, Acting Administrator for Coal Mine Safety and Health, Room 818, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, phone 703-235-1140.

EFFECTIVE DATES: This amendment is effective on March 31, 1978. The illumination standards in 30 CFR 75.1719 through 75.1719-4 are effective on July 1, 1978.

SUPPLEMENTARY INFORMATION: On April 1, 1976, the Secretary of the Interior published a notice of "Procedures for Testing and Evaluation of Illumination Systems." (41 FR 14108). The notice advised mine operators and equipment manufacturers of procedures under which the Mining Enforcement and Safety Administration (MESA) (predecessor of the Mine Safety and Health Administration (MSHA)) would facilitate design and installation of illumination systems to expedite compliance with proposed illumination standards. Under those procedures mine operators and equipment manufacturers could acquire a Statement of Test and Evaluation from MESA that an illumination system would provide sufficient light, given certain mining conditions, to meet the illumination standards in the regulations.

On October 1, 1976, the Secretary of the Interior promulgated mandatory

safety standards under which all working places in an underground coal mine shall be illuminated by permissible lighting while persons are working in such places. (41 FR 43532). In accordance with section 317(e) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 877(e)), the final illumination standards were to become effective on April 1, 1978. By specifying an effective date eighteen months after the date of publication of the final rules Congress recognized the technical difficulties inherent in illuminating underground coal mines. Such difficulties include availability of acceptable equipment and the time necessary to install equipment once it became available.

On December 30, 1977, in response to the considerable experience gained by MESA in testing and evaluating illumination systems, the Secretary of the Interior changed the criteria formula by which illumination systems would be deemed acceptable for issuance of Statements of Test and Evaluation (42 FR 65298). The changed formula recognized that surfaces of working places in underground coal mines have a reflectance in excess of the 0.02 value assumed in the original formula. Further, experience had shown that excessive brightness of lighting systems that had been issued Statements of Test and Evaluation caused discomfort glare and can create additional hazards to miners by actually reducing the miner's ability to observe rotating machinery parts, moving machines, ropes, and other equipment. Accordingly, the formula was changed to allow a reflectance value of 0.04 in determining whether an illumination system would be issued a Statement of Test and Evaluation.

On March 9, 1978, the Mine Safety and Health Act of 1977, became effective and transferred administration of the Federal mine safety and health program to the Department of Labor. The Act also created the Mine Safety and Health Administration (MSHA) to succeed the Mining Enforcement and Safety Administration (MESA). This change in the law did not effect any material change in the requirements of section 317(e) of the 1969 Coal Act or in the requirements of 30 CFR 75.1719.

On March 24, 1978, the recent nation-wide coal work stoppage ended with the ratification of a new contract. The impact of the dispute disrupted the work necessary to fabricate and install lighting systems that would ensure compliance with the illumination standard.

In recognition of the fact that in late December of 1977 the test and evaluation formula was changed, the fact that a sizable portion of the coal mining industry was impacted by the strike, and the fact that our highest priority is ensuring that the reopened mines are in safe condition as they come back into full production, it is determined that the effective date of the illumination standards be deferred for three months until July 1, 1978. This deferral of the effective date is squarely in compliance with the Congressional intent to allow sufficient lead time for coal mine operators to come into compliance. The three months extension of the effective date gives due recognition to the extenuating circumstances giving rise to the delay.

This amendment is issued under the authority of section 508 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 957). In view of the circumstances stated above, it is determined that good cause exists for omitting notice and comment rulemaking procedures. This amendment is effective on March 31, 1978.

DRAFTING INFORMATION

The principal persons responsible for drafting this document are: Joseph O. Cook, Acting Administrator, Coal Mine Safety and Health, Mine Safety and Health Administration, Department of Labor, and Edward P. Clair, Acting Counsel, Coal Mine Safety and Health, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

NOTE.—It has been determined that this document does not contain a major proposal requiring Regulatory Analysis under Executive Order 12044 (March 23, 1978).

1. In 30 CFR 75.1719 paragraph (b) is revised to read as follows:

§ 75.1719 Illumination; purpose and scope of §§75.1719 through 75.1719-4; time for compliance.

* * * * *

(b) Mine operators shall comply with §§ 75.1719 through 75.1719-4 not later than July 1, 1978.

Dated: March 29, 1978.

THOMAS J. SHEPICH,
Acting Assistant Secretary of Labor for Mine Safety and Health.

[FR Doc. 78-8639 Filed 3-30-78; 8:45 am]

[3810-70]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

[DOD Directive 1332.28]

PART 70—DISCHARGE REVIEW BOARDS (DRBs) PROCEDURES AND STANDARDS

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule prescribes uniform policies, standards, and procedures for the conduct of discharge reviews. The rule is designed to insure historically consistent uniformity in the execution of this function by the Discharge Review Boards (DRBs). Further, it provides an opportunity until January 1, 1980, for former members administratively discharged under other than honorable conditions to make application to the DRBs without regard to the normal 15-year period in which an application must be made.

EFFECTIVE DATE: March 29, 1978.

FOR FURTHER INFORMATION CONTACT:

Capt. E. T. Boywid, JAGC, USN or Lt. Col. G. A. Johnson, USAF, Telephone 202-697-9525. Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), The Pentagon, Room 3C 980, Washington, D.C. 20301.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-35794 appearing in the FEDERAL REGISTER on December 14, 1977 (42 FR 62934), the Department of Defense (DOD) published a notice of proposed rulemaking to establish DOD uniform standards and procedures for discharge review to meet statutory requirements. In FR Doc. 78-1355 appearing in the FEDERAL REGISTER on January 18, 1978 (43 FR 2634), the 30-day period for comment was extended to January 23, 1978.

In FR Doc. 78-5169 appearing in the FEDERAL REGISTER on February 24, 1978 (43 FR 7931), the Department of Defense published a supplemental notice containing a revised proposal. In FR Doc. 78-5169, appearing in the FEDERAL REGISTER on February 28, 1978 (43 FR 8240) the Department of Defense republished the supplemental notice in a conventional format for the convenience of the public.

STATUTORY AUTHORITY

Title 10, U.S.C. 1553 permits an individual who has been discharged or dismissed administratively in accordance with directives of the Military Depart-

ments or by sentence of a special court-martial to apply for review of that discharge or dismissal. *Provided*, That the application is made within 15 years from the date thereof. If the former member is deceased, an application may be made by the surviving spouse, next-of-kin, or legal representative, of the former member. In accordance with Pub. L. 95-126, the Department of Defense will provide an opportunity until January 1, 1980 for former members administratively discharged under other than honorable conditions to make application to the DRB without regard to the normal 15-year period in which an application must be made.

Pub L. 95-126 amends Title 38, U.S.C. 3103 to provide that no benefits administered by the Veterans' Administration shall be provided as a result of an action by a DRB except upon a case-by-case review. This review must consider all the evidence and factors in each case under published uniform standards and procedures. The standards must be historically consistent with criteria for determining honorable service and shall not include any criterion for automatically granting or denying a change or new issuance of a discharge.

Further Determinations in Special Cases

In addition, the Department of Defense is required to provide a further determination in cases wherein discharges under other than honorable conditions were upgraded to general or honorable discharges in the following circumstances: (a) Under the President's directive of January 19, 1977, initiating further action with respect to Presidential Proclamation 4313 of September 16, 1974; (b) under the Department of Defense's special discharge review program on or after April 5, 1977; (c) under revised standards as implemented subsequent to April 5, 1977, and not made applicable to all persons administratively discharged or released from military service under other than honorable conditions. This review is designed to insure that persons whose discharges were upgraded in these programs received benefits only if their discharges were upgraded under historically consistent standards. If a preliminary determination is made that the upgrade was not based upon historically consistent standards, the individual will be notified of the preliminary determination by the appropriate DRB and of the right to a hearing before the DRB concerned under published standards and procedures which are set forth in this part prior to a final determination. The law requires that such determinations be made prior to October 8, 1978, and further mandates that determinations be made on an expedited basis after the Secretary concerned is notified by the Veterans' Administration that the individual has received, is in receipt of, or has applied for such benefits, or after a written request is made by the individual for such determination.

Summary of the Published Standards and Procedures

The Secretary of Defense has added a new Part 70 to 32 CFR Chapter I in order to publish the standards and procedures required by Pub. L. 95-126. The rule will govern the Military Departments in the formulation and application of their rules concerning standards and procedures for discharge review. Discharge review is the process by which the reason for discharge, the procedures followed in accomplishing discharge, and the characterization of Service are reevaluated in order to determine whether the discharge should be changed.

The rule assigns major administrative responsibility for compliance with Pub. L. 95-126 to the Secretary of the Army and the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics). The rule sets forth the procedures to be followed in applying for a discharge review. Applicants may request a personal hearing (with or without counsel or other representative) or may have a counsel or other representative present the case in their absence. In addition, a DRB may consider a case on its own motion. The rule provides procedures to govern a DRB's action in case there is a failure to appear for a hearing, a request for continuance, or a request for reconsideration. Guidance is provided on how an applicant may obtain military and other government records relevant to the discharge review. The rule guides a DRB in addressing problems that may arise with regard to such records. Provision is also made for notification of applicants concerning records that will be considered by the DRB's. The DRB must consider contentions clearly stated by applicants and all other pertinent issues discerned by the DRB. The DRB is instructed to review cases on the basis of available records, documentary evidence submitted by the applicant, personal testimony of the applicant and witnesses, presentation of any hearing examinations, and any other relevant evidence.

When a DRB determines that an applicant's discharge was improper, it must determine the proper reason for discharge based upon the facts and circumstances before the discharge authority, in view of the regulations governing reasons for discharge at the time the applicant was discharged. Unless it is also determined that a discharge was inequitable, the provisions as to characterization in the regulation under which the applicant should have been discharged will be considered in determining whether further relief is warranted. If the DRB determines that an applicant's discharge was inequitable, the degree of relief will be based upon an evaluation of the applicant's overall record of service and appropriate regulations of the military service in which the applicant served.

The rule requires the DRB to prepare a decisional document for each case. This document contains relevant matters from the applicant's official records, reference to the evidence submitted by the applicant, and a statement of findings, conclusions, and reasons on issues upon which the decision is based or otherwise raised by the applicant. This document also contains information regarding advisory opinions, and the names and votes of the DRB members.

The rule provides for the applicant to be notified in writing of the decision. The rule specifies the contents of the record of proceedings and further provides for disposition of the records by the military service. In cases reviewed by the Secretary of a Military Department, the Secretary is bound to follow the uniform standards and to issue a decisional document similar to the document issued by the DRB's.

The rule provides for the decisional document to be available for public inspection and copying, subject to appropriate deletions to protect rights of privacy, and to cover classified and other privileged material. In addition, the rule requires that an index be developed and be made available to the public. The index will enable the public to isolate those decisions that may be similar to an applicant's case.

The rule provides standards for discharge review. These standards are designed to be uniform and historically consistent with the criteria for honorable service. No factors require automatic change or denial of a change in a discharge. There are no weighted factors in the evaluation. In each case, consideration must be given to all applicable factors. The object of the review is to determine the propriety and equity of the discharge. A discharge is considered proper unless there was prejudicial error at the time of discharge. Accordingly, an error of fact, law, procedure, or discretion will render a discharge improper if there is substantial doubt that the discharge would have remained the same if the error had not been made. A further ground for finding impropriety is that the military service of which the applicant was a member has made a change in policy that has been made expressly retroactive to the type of discharge under consideration.

A discharge shall be deemed equitable unless the policies and procedures under which the applicant was dis-

charged differ in material respects from the policies and procedures currently applicable on a service-wide basis to discharges of the type under consideration: *Provided,* That (a) such changes represent a substantial enhancement of the rights afforded a respondent in such proceedings; and (b) that there is substantial doubt that the applicant would have received the same discharge if relevant current policies and procedures had been available to the applicant at the time of the discharge proceedings under consideration. A discharge may also be considered inequitable if, at the time of issuance, it was inconsistent with the standards of discipline in the military service of which the applicant was a member. A discharge may further be considered to be inequitable based upon consideration of (a) the applicant's service record, and (b) other evidence presented to the DRB viewed in conjunction with the regulations under which the applicant was discharged and factors which are listed in the rule.

COMMENTS RECEIVED

The Department of Defense published notice of this proposed rulemaking in the FEDERAL REGISTER on December 14, 1977, 42 FR 62934. This notice was extended by 43 FR 2634 on January 18, 1978, supplemented by 43 FR 7931 on February 24, 1978, and republished as supplemented by 43 FR 8240 on February 28, 1978. In response to this notice, the Department received comments from some 80 organizations and individuals. Full and careful consideration was given to all written comments received. In view of these comments, the rule was revised to clarify the directive, to facilitate access to the discharge review process, and to enhance the fairness of the proceedings.

Major changes from the rule proposed on December 14, 1977, are discussed in the following material. In addition to the changes noted below, numerous alterations were made throughout the directive to eliminate repetitive material and to promote consistency and clarity in grammar, vocabulary, and style.

1. *Purpose.* As an informative feature, § 70.1 was expanded to provide a more detailed explanation of the role of the DRB's and the implications of Pub. L. 95-126.

2. *Definitions.* The definition of "discharge review," § 70.3(h) was revised to reflect the historical responsibility of the DRB's to evaluate the reason for separation, the procedures followed in accomplishing separation, and the characterization of service. In addition, the definition was expanded to encompass the further review functions mandated by Pub. L. 95-126.

3. *Policy and Responsibilities.* In § 70.4(b) the supervisory authority of the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) was clarified in order to place express responsibility in that office for meeting the uniformity requirements of Pub. L. 95-126. The responsibilities of the Secretary of the Army to act as an administrative focal point were consolidated in § 70.4(c).

Express provision was made for the DRB's to use the standards of the directive and act by majority vote in making the preliminary determinations required by Pub. L. 95-126. This will enable the DRB's to begin making the preliminary determinations immediately upon adoption of this rule.

4. *Discharge Review Procedures.* One area of comment concerned procedures before the DRBs. Each comment was carefully considered in terms of the need to provide a fair and efficient procedure. In addition, consideration was given to the applicability of Pub. L. 95-126, including the requirement for a case-by-case review of all the evidence and factors in each case. Many suggestions were accepted in whole or in part. A number of ideas were rejected as inconsistent with applicable law. Other concepts, which may have produced incidental benefits in isolated cases, were rejected because the rigid formalities contained therein would have created inordinate delays in the discharge review process.

Section 70.5(a) concerning application for review has been modified to eliminate material covered under the definition of "applicant" in § 70.3(c) and to be consistent with the provisions of 10 U.S.C. 1553 and Pub. L. 95-126.

As an informative feature, the 15-year time period of 10 U.S.C. 1553 was explained, and language was added to note that under the provisions of Pub. L. 95-126, any former member administratively discharged under other than honorable conditions and otherwise eligible to make application for review may do so without regard to the 15-year limitation period of 10 U.S.C. 1553 if such application is received prior to January 1, 1980.

One area of comment involved the suggestion that the DRB's accept applications on a "class action" basis. This idea was rejected as inconsistent with the discretionary nature of the review process and as contrary to the direction of Pub. L. 95-126 that applications be reviewed on a case-by-case basis. Another area of inquiry involved the availability of review when an applicant was separated by sentence of a general court-martial (which is precluded from review by a DRB), but was subsequently issued another governmental certificate while in a post-service status. 10 U.S.C. 1553 authorizes the review of discharges and dismissals. The directive provides the following definition for the term discharge: "A general term used in this Part which includes dismissal and separation or release from active or inactive military status, as well as actions which accomplish a complete severance of all military status. This term also includes the assignment of a reason for such discharge and characterization of service." When a post-service action (e.g., by the Secretary of the Military Department pursuant to Article 74, UCMJ) substitutes an administrative discharge for a discharge issued as a result of sentence by a general court-martial the post-service action is determinative, and the applicant is eligible for review. However, a Clemency Discharge represents a different situation. The Clemency Discharge was created by the President on September 16, 1974, in his Proclamation 4313, "Announcing a Program for the Return of Vietnam Era Draft Evaders and Military Deserters." Upon issuance, a Clemency Discharge serves as a written testimonial to the fact that the individual has satisfied the requirements of the President's program, and has fully earned his return to the mainstream of American society in accordance with that program. It does not effect a change in the characterization of the individual's military service as having been under other than honorable conditions, nor does it serve to change, seal, erase or in any way modify the individual's past military record. Therefore, if the underlying discharge was issued as a result of a general court-martial the issuance of a Clemency Discharge does not subject the underlying characterization to review under 10 U.S.C. 1553.

In order to permit further consideration after an applicant misses a scheduled hearing due to unusual circumstances, § 70.5(b)(6) has been revised. If an applicant fails to request withdrawal of an application prior to a scheduled hearing, or fails to appear for such a hearing, a further request for a personal hearing may be granted if the applicant can demonstrate that the prior failure to appear or to request continuance or withdrawal of the application was due to circumstances beyond the applicant's control.

As a means of providing greater specificity in the criteria for reconsideration, a decision process was set forth in § 70.5(b)(8)(vii) for reconsideration based upon the presentation of new, substantial, relevant evidence not available to the applicant at the time of the original review. The standard is keyed to the probable effect of the new matter upon the discharge process. This standard is designed to insure that the matter is both relevant and substantial.

Several further steps have been taken to insure that an applicant is afforded every reasonable opportunity to present his or her case. An individ-

ual is entitled to reconsideration (§ 70.5(b)(8) when he/she is to be represented by counsel/representative and was not so represented in any previous consideration of the case by the DRB. Reconsideration is also authorized where the case was not previously considered under the uniform standards published pursuant to Pub. L. 95-126 and such application is made before January 1, 1980, or within 15 years after the date of discharge.

Various changes were made with respect to the availability of records to insure that the applicant has reasonable access to information relevant to the review. When the DRB is not authorized to provide copies of documents under the cognizance of another agency, the DRB is required to inform the applicant of the address of the government department, office, or activity to which the request should be submitted. (§ 70.5(b)(9)(ii).) When relevant records are not available from the agency having custody of the records, the applicant will be notified and will be provided with at least 30 days in order to supply relevant information (§ 70.5(b)(9)(iii).

In addition, § 70.5(b)(9)(v) specifies the circumstances in which an applicant may request access to information that will be considered by the DRB in the decision process, and of the opportunity to respond to such information.

The material on evidence and the obligations of board members with respect to evidence was rewritten in order to insure a full and fair inquiry into the propriety and equity of the discharge under review.

The DRB may consider any evidence obtained in accordance with § 70.5(b)(12) and formal rules of evidence do not apply. The presiding officer shall insure that reasonable bounds of relevancy and materiality are maintained in the taking of evidence and presentation of witnesses.

With respect to the role of evidence in the decision process, § 70.5(c) calls for the DRB to give careful, objective consideration to the application, to elicit all facts necessary for a full and fair hearing, and to consider all information presented by the applicant, other relevant information from official records, and any other information obtained in accordance with this part.

The discussion of the presumption of regularity in governmental affairs has been revised in order to emphasize that the presumption may be rebutted by substantial credible evidence.

One area of comment involved the suggestion that the directive specify which types of legal, equitable, and factual issues should be considered by the DRB's. It was unnecessary to provide such detail because the provisions of § 70.5 are designed to insure that all legal, equitable, and factual issues relevant to the discharge review in question will be considered by the DRB.

In order to insure the historically consistent standards mandated by Pub. L. 95-126, § 70.5(c)(6) have been added to specify the steps a DRB must follow in its decision process, the board first looks at the propriety of the discharge in accordance with the standards set forth in § 70.6(b). If the discharge is deemed proper, the board must determine whether relief is warranted by the equity standards set forth in § 70.6(c). If, on the other hand, the discharge is deemed improper, the DRB assigns the proper reason for discharge based on the facts and circumstances properly before the discharge authority in view of the Service regulations governing reasons for discharge at the time the applicant was discharged. The DRB then considers whether further relief is warranted under the equity standards set forth in § 70.5(c). If the discharge is deemed to have been equitable, the DRB must then consider the provisions as to characterization in the regulation under which the applicant should have been discharged to determine whether further relief is warranted.

In order to insure the historically consistent standards in the exercise of a DRB's equitable powers, § 70.5(c)(6)(ii) states that when a determination has been made that a discharge was inequitable, any change will be based on the evaluation of the applicant's overall record of service and relevant regulations of the military service of which the applicant was a member.

Uniformity in the application of these standards makes it mandatory that each DRB follow the specific steps outlined in § 70.5(c)(6). Historical consistency requires that each Service follow the historical practice of applying the regulations, traditions, and concepts of discipline characteristic of the service of which the applicant was a member.

In order to promote uniformity of standards, § 70.5(g) was added to insure that any review by the Secretary shall be in accordance with the standards set forth in the directive, and that appropriate provision will be made for a decisional document.

§ 70.5(i)(3) was added to the section on availability of DRB documents to the public in order to provide guidance on the handling of classified or privileged material.

One area of comment concerned the suggestion that DoD provide counsel to the applicants at government expense. This concept was not adopted because members of the Discharge Review Boards are experienced, educated and dedicated officers. Their full-time duty is discharge review, and their goal is to insure propriety and equity. Further, under the provisions of 10 U.S.C. 1553, qualified and accredited representatives are available in conjunction with the VA, to represent an applicant upon request. With such counsel available, the addition of DoD counsel is simply not essential to the fair and just execution of the discharge review program.

5. *Standards.* Section 70.6(a) was revised to clarify the objective of a discharge review. This traditional function of discharge review has been to consider the propriety and equity of the reason for separation, the procedures followed in accomplishing separation, and the characterization of service. Relief has been granted when an impropriety has constituted prejudicial error, when policy changes have been expressly made retroactive, or when the discharge has been determined to be inequitable. The DRB's have traditionally exercised their discretion to determine whether a particular error warranted change in reason or authority for discharge, and/or change in the character of discharge. The directive continues the traditional role of the boards in determining the propriety and equity of the discharge, and in determining whether relief is warranted. The standards of review are designed to permit the boards to exercise their discretion in a uniform fashion on a case-by-case basis. The Department's goal in administering Pub. L. 95-126 and 10 U.S.C. 1553 is to provide standards that can be applied in a setting consisting of uniform procedural rights and uniform application of historically consistent criteria.

One area of comment involved the concept that certain procedural errors be declared to be improper per se. The Department has adopted a case-by-case approach to the concept of prejudicial error, consistent with the traditional discretionary function of the DRB's.

Another area of comment involved the suggestion that the section on impropriety contain a list of examples similar to the examples provided in the section on inequity. Serious consideration was given to this proposal; however, it was not determined to be desirable. There are hundreds of regulatory provisions concerning the discharge process and related functions, and these have been subject to numerous changes over the years. In any given circumstance, an error of fact, law, procedure, or discretion associated with such a regulatory provision could be either prejudicial or harmless.

The discharge procedures employed by the military departments are evolutionary in nature. The basic approach to questions of propriety in discharge reviews, however, must remain consistent with the historical standards of

prejudicial error and changes in policy expressly made retroactive. With each change in the underlying discharge regulations, new issues of propriety will be encountered in the discharge review process. In order to emphasize the importance of reviewing all facets of the discharge for possible improprieties, the Department has chosen to provide a simple, direct standard without a selective list of examples. This standard (§ 70.6(b)) will encourage applicants and board members to carefully scrutinize all aspects of the discharge for possible error.

In terms of equity, § 70.6(b)(1) was revised to provide guidance comparing the significance of procedural or policy changes issued subsequent to the applicant's discharge and not made expressly retroactive. Because such changes are not expressly retroactive, it is necessary to determine the significance of the error. The standard in the directive guides the DRB in such cases instructing the board that inequity may be found when such changes represent a substantial enhancement in procedural rights, and there is substantial doubt that the applicant would have received the same discharge if the new policies had been available to the applicant at the time of discharge.

Section 70.6(b)(2) was rewritten to delete reference to character of discharge. This is consistent with the traditional powers of the DRB's to grant relief as to the type of discharge even when there is no error as to the character of service.

A further ground for determining that a discharge is inequitable is that it was inconsistent with standards of discipline at the time of issuance. If there is no abuse of discretion (a matter covered under § 70.6(b) concerning propriety), then the fact that a discharge did not accord with standards of discipline does not render the discharge improper. Traditionally, however, the DRB's have looked at this fact to determine whether relief is warranted as a matter of equity. The directive was revised to continue this practice.

Section 70.6(b)(3) was rewritten to emphasize that the DRB's have traditionally granted relief based upon the overall record of service and other evidence presented to the board even when the discharge was determined to have been otherwise equitable and proper. The factors listed in § 70.6(b)(3) are not exclusive. Rather, they are designed to illustrate commonly encountered issues in the discharge review process. The factors were substantially revised in order to conform with the requirement of § 70.6(a) that no methodology of weighting be applied and that no factors be established to automatically grant or deny a change in a discharge. Accordingly, the presence or absence of a factor in the list of § 70.6(c)(3) does not indicate that any factor carries more or less weight in the review process. Rather, all relevant factors must be considered in light of the standard set forth in § 70.6(c)(3). Accordingly, 32 CFR, Chapter 1 is amended by adding a new Part 70, reading as follows:

Sec.
70.1 Purpose.
70.2 Applicability and scope.
70.3 Definitions.
70.4 Policy and responsibilities.
70.5 Discharge review procedures.
70.6 Discharge review standards.

AUTHORITY: Title 10, U.S.C. 1553 and Title 38, U.S.C. 101 and 3103, as amended by Pub. L. 95-126, October 8, 1977.

§ 70.1 Purpose.

(a) This part establishes uniform policies, procedures and standards for the review of discharges or dismissals in accordance with Title 10, U.S.C. 1553. In furtherance of such purpose, this part

(1) Provides for discharge review by application or on motion of a DRB, and the conduct of discharge reviews and standards to be applied in such reviews which are designed to ensure historically consistent uniformity in execution of this function, as required by the provisions of Pub. L. 95-126.

(2) Assigns responsibility for administering the program.

(3) Makes provision for public inspection, copying, and distribution of DRB documents through the Armed Forces Discharge Review/Correction Board Reading Room.

(4) Provides an opportunity for former members administratively discharged under other than honorable conditions to make application to the DRB's without regard to the normal 15-year period in which an application must be made and establishes January 1, 1980, as the date by which such applications must be submitted.

(b) Nothing in this part changes or modifies in any way the portions of the separate service regulations that implement the requirements of Stipulation of Dismissal, Civil Action No. 76-530, United States Court for the District of Columbia "Urban Law Institute of Antioch College, Inc., et al., Plaintiffs v. Secretary of Defense, et al., Defendants," January 31, 1977.

§ 70.2 Applicability and scope.

The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff and, by agreement with the Secretary of Transportation, to the Coast Guard, and to all Reserve Components thereof in the conduct of discharge reviews.

§ 70.3 Definitions.

(a) *Discharge Review Board (DRB).* An administrative board constituted by the Secretary concerned and vested with discretionary authority to review discharges and dismissals under the provisions of Title 10, U.S.C 1553. It may be configured as one main element or two or more elements as designated by the Secretary concerned.

(b) *DRB Panel.* An element of a DRB, consisting of five members, authorized by the Secretary concerned to review discharges and dismissals.

(c) *Applicant.* A former member of the Armed Forces who has been discharged or dismissed administratively in accordance with the directives of the Military Departments or by sentence of a special court-martial under Title 10, U.S.C., 801 *et seq.* (Uniform Code of Military Justice) and, in accordance with statutory and regulatory provisions: (1) Whose case is heard by the DRB concerned at the request of the former member, or, if he or she is dead, the surviving spouse, next-of-kin, or legal representative; or (2) whose case is heard on the DRB's own motion, which includes reviews requested by the Veterans Administration under Title 38, U.S.C. 101 and 3103, as amended by Pub. L. 95-126.

(d) *Counsel/Representative.* An individual or agency designated by the applicant who agrees to represent the applicant in a case before the DRB. It includes, but is not limited to: A lawyer who is a member of the bar of a Federal Court or of the highest court of a State; an accredited representative designated by an organization recognized by the Administrator of Veterans Affairs; a representative from a State agency concerned with veterans affairs; and representatives from private organizations or local government agencies.

(e) *President, DRB.* A person designated by the Secretary concerned and responsible for the supervision of the discharge review function and other duties as assigned.

(f) *Hearing examination.* The process by which a designated officer of a DRB prepares a presentation for consideration by a DRB in accordance with regulations prescribed by the Secretary concerned.

(g) *DRB Traveling/Regional Panel.* A DRB panel that conducts discharge reviews in a location outside the Washington, D.C. area.

(h) *Discharge.* A general term used in this part which includes dismissal and separation or release from active or inactive militay status, as well as actions which accomplish a complete severance of all military status. This term also includes the assignment of a reason for such discharge and characterization of service.

(i) *Discharge Review.* The process by which the reason for separation, the procedures followed in accomplishing separation, and the characterization of service are evaluated. This term in-

cludes determinations made under the provisions of Title 38, U.S.C. 3103(e)(2).

§ 70.4 Policy and responsibilities.

(a) Under the provisions of Title 10, U.S.C. 1553, the Secretaries of the Military Departments and the Secretary of Transportation for the Coast Guard have the authority for final decision and the responsibility for the operation of their respective discharge review programs.

(b) The Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) is delegated the authority to: (1) Resolve all issues concerning DRBs which cannot be resolved among the Military Departments, (2) ensure uniformity among the Military Departments in the rights afforded applicants in discharge reviews, and (3) modify or supplement this part in a manner consistent with the policies set forth herein.

(c) The Secretary of the Army is designated the administrative focal point for DRB matters. In meeting this responsibility, the Secretary shall:

(1) Effect necessary coordination with other governmental agencies regarding continuing applicability of this Part and resolve administrative procedures relating thereto.

(2) Review suggested modifications to this part, including implementing directives; monitor the implementing directives of the Military Departments; resolve differences when practicable; recommend specific changes; provide supporting rationale to the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) for decision; and include appropriate documentation to effect publication in the FEDERAL REGISTER.

(3) Maintain the DD Form 293, Application for Review of Discharge or Separation from the Armed Forces of the United States, and republish as necessary with appropriate coordination of the other Military Departments, the Secretary of Transportation and the Office of Management and Budget.

(4) Respond to all inquiries from private individuals, organizations or public officials with regard to Discharge Review Board matters. In those instances where the specific Military Service concerned can be identified, such correspondence will be referred to the appropriate DRB for response. An appropriate activity may be further designated to perform this task.

(5) Provide overall guidance and supervision to the Armed Forces Discharge Review/Correction Board Reading Room with staff augmentation, as required, by the Departments of the Navy and Air Force.

(d) The preliminary determinations required by Title 38, U.S.C. 3103(e) shall be made upon majority vote of the DRB concerned on an expedited basis. Such determination shall be based upon the standards set forth in § 70.6.

§ 70.5 Discharge Review Procedures.

(a) *Application for Review.* (1) An applicant may submit a written request for review to the DRB concerned with such other statements, affidavits, or documentation as desired. The request for review shall be made on DD Form 293, Application for Review of Discharge or Separation from the Armed Forces of the United States, which is available at most DoD installations and regional offices of the Veterans Administration.

(2) A motion or request for review must be made within 15 years after the date of discharge or dismissal; except that, in accordance with Pub. L. 95-126, any former member administratively discharged under other than honorable conditions, and otherwise eligible to make application for review may do so without regard to the 15 year limitation period in Title 10, U.S.C. 1553 if such application is received prior to January 1, 1980.

(3) Written notification shall be made to each applicant whose record indicates a reason for discharge that bars receipt of benefits under Title 38, U.S.C. 3103a. This notification will advise the applicant that separate action by the Board for Correction of Military/Naval Records and/or the Veterans Administration may confer eligibility for VA benefits. As regards the bar to benefits based upon the 180 days consecutive unauthorized absence:

(i) Such absence must have been included as part of the basis for the applicant's discharge under other than honorable conditions.

(ii) Such absence is computed without regard to the applicant's normal or adjusted expiration of term of service.

(b) *Conduct of reviews.* (1) Members. As designated by the Secretary concerned, the DRB and panels thereof, if any, shall consist of five members. One member of the DRB shall be designated as the President and may serve as a presiding officer. Other officers may be designated to serve as presiding officers for DRB panels under regulations prescribed by the Secretary concerned.

(2) Locations. Reviews by a DRB will be conducted in Washington, D.C., and such other locations as designated by the Secretary concerned.

(3) Modes of Appearance. An applicant, upon request, is entitled to appear before a DRB in person with or without counsel/representative or to have counsel/representative present the applicant's case in the absence of the applicant.

(4) Applicant's Expenses. Unless otherwise specified by law or regulation, expenses incurred by the applicant, witnesses, or counsel/representative will not be paid by the Department of Defense.

(5) Withdrawal of Application. An applicant shall be permitted to withdraw an application without prejudice at any time before the scheduled review.

(6) Failure to Appear for Hearing. Except as authorized or directed by the Secretary concerned, further opportunity for personal appearance shall not be made available to an applicant who requests a hearing and who, after being duly notified of the time and place of the hearing, fails to appear at the appointed time, either in person or by representative, not having made a prior, timely request for a continuance or withdrawal of the application. In such cases, the applicant shall be deemed to have waived the right to a personal appearance and the DRB shall complete its review of the discharge based upon the evidence of record. Further request for a personal hearing shall not be granted unless the applicant can demonstrate that the prior failure to appear or to request continuance or withdrawal of the application was due to circumstances beyond the applicant's control.

(7) Continuances and Postponements. (i) A continuance of a discharge review hearing may be authorized by the President of the DRB or presiding officer of the panel concerned, provided that such continuance is of reasonable duration and is essential to achieving a full and fair hearing. Where a proposal for continuance is indefinite, the pending application shall be returned to the applicant with the option to resubmit when the case is fully ready for review.

(ii) Postponements of scheduled reviews normally shall not be permitted other than for demonstrated good and sufficient reason set forth by the applicant in a timely manner, or for the convenience of the government.

(8) Reconsideration. A discharge review shall not be subject to reconsideration except:

(i) Where the only previous consideration of the case was on the motion of the DRB;

(ii) When the original discharge review did not involve a personal hearing and a personal hearing is now desired, and the provisions of § 70.5(b)(6) do not apply;

(iii) Where changes in discharge policy are announced subsequent to an earlier view of an applicant's discharge, and the new policy is made expressly retroactive;

(iv) Where the DRB determines that policies and procedures under which the applicant was discharged differ in

material respects from policies and procedures currently applicable on a Service-wide basis to discharges of the type under consideration, provided that such changes in policies or procedures represent a substantial enhancement of the rights afforded a respondent in such proceedings;

(v) Where an individual is to be represented by a counsel/representative, and was not so represented in any previous consideration of the case by the DRB;

(vi) Where the case was not previously considered under uniform standards published pursuant to Pub. L. 95-126 and such application is made before January 1, 1980 or within 15 years after the date of discharge; or

(vii) On the basis of presentation of new, substantial, relevant evidence not available to the applicant at the time of the original review. The decision as to whether evidence offered by an applicant in support of a request for reconsideration is in fact new, substantial, relevant, and was not available to the applicant at the time of the original review will be based on a comparison of such evidence with the evidence considered in the previous discharge review. If this comparison shows that the evidence submitted would have had a probable effect on matters concerning the propriety or equity of the discharge, the request for reconsideration shall be granted.

(9) Availability of Records and Documents:

(i) Prior to a review, applicants or other designated representatives may obtain copies of military records by submitting a Standard Form 180, Request Pertaining to Military Records, to the National Personnel Records Center (NPRC), 9700 Page Boulevard, St. Louis, Mo. 62132. The individual shall be informed the request must be submitted prior to the time the DD Form 293 is submitted. Once the DD Form 293 is initiated by the applicant and processed by the NPRC, the records will no longer be available at the NPRC for copying and submission to the applicant.

(ii) If the DRB is not authorized to provide copies of documents that are under the cognizance of another Government department, office or activity, applications for such information must be made by the applicant to the cognizant authority. The DRB shall advise the applicant of the mailing address of the Government department, office, or activity to which the request should be submitted.

(iii) In the event that the official records relevant to the discharge review are not available at the agency having custody of the records, the applicant shall be notified of the situation and requested to provide such information and documents as may be desired in support of the request for discharge review. A period of not less than 30 days shall be allowed for such documents to be submitted. At the expiration of this time period, the review may be conducted with information available to the DRB.

(iv) A DRB may take steps to obtain additional evidence material to the discharge review under consideration beyond that found in the official military records or submitted by the applicant, if a review of available evidence suggests certain aspects of the review would be incomplete without the additional information or when the applicant presents testimony or documents which require additional information to evaluate properly. Such information shall be made available to the applicant, upon request, with appropriate modifications regarding classified material.

(v) Prior to initiation of the decision process specified in § 70.5(c), the applicant and/or counsel/representative is entitled to request access to the records to be considered by the DRB in the discharge review.

(A) At a reasonable time prior to the initiation of the decision process, in any case heard on request of an applicant, the DRB shall provide the applicant and/or counsel/representative with notice of the availability of all regulations and documents to be considered in the discharge review, except for documents in the official personnel/medical records and any documents submitted by the applicant. The DRB shall also notify the applicant and/or counsel/representative: (*1*) of the right to examine such documents or to be provided with copies of the documents upon request, (*2*) of the date by which such requests must be received, and (*3*) of the opportunity to respond within a reasonable period of time to be set by the DRB.

(B) When necessary to acquaint the applicant with the substance of a classified document, the classifying authority, on the request of the DRB, shall prepare a summary of or extract from the document deleting all references to sources of information and other matters, the disclosure of which, in the opinion of the classifying authority, would be detrimental to the national security interests of the United States. Should preparation of such summary be deemed impracticable by the classifying authority, information from the classified source shall not be considered by the DRB in its review of the case.

(vi) Regulations of a Military Department may be obtained at any installation under the jurisdiction of the Military Department concerned or by writing to the Armed Forces Discharge Review/Correction Board Reading Room, The Pentagon Concourse, Washington, D.C. 20310.

(10) A secretary/recorder or assistant shall be designated to assist in the functioning of each DRB in accordance with the procedures prescribed by the Secretary concerned.

(11) Personal appearance hearings (including hearing examinations) shall be conducted with recognition of the rights of the individual to privacy. Accordingly, presence at hearings of individuals other than those whose presence is required will be limited to persons authorized by the Secretary concerned or expressly requested by the applicant, subject to reasonable limitations based upon available space. If in the opinion of the presiding officer, presence of other individuals would be prejudicial to the interests of the applicant or the Government, such hearings may be held in closed session.

(12) Evidence and testimony:

(i) The DRB may consider any evidence obtained in accordance with this Part.

(ii) Formal rules of evidence shall not be applied in DRB proceedings. The presiding officer shall rule on matters of procedure and shall insure that reasonable bounds of relevancy and materiality are maintained in the taking of evidence and presentation of witnesses.

(iii) Applicants undergoing personal appearance hearings shall be permitted to make sworn or un- sworn statements, if they so desire, or to introduce witnesses, documents, or other information on their behalf, all at no expense to the Department of Defense.

(iv) Applicants may also make oral or written arguments personally and/or through counsel/representatives.

(v) Applicants who present sworn or unsworn statements and witnesses may be questioned by the DRB. All testimony shall be taken under oath or affirmation unless the applicant specifically requests to make an unsworn statement.

(vi) There is a presumption of regularity in the conduct of governmental affairs. This presumption can be applied in any review unless there is substantial credible evidence to rebut the presumption.

(13) Contentions.

(i) Applicants must state clearly and specifically their contentions, and/or the issues of fact, law, or discretion for a written determination to be made in accordance with § 70.5(d)(4)(ii).

(ii) In addition, the DRB shall consider such issues of fact, law, or discretion as are discerned by the DRB in the discharge review process.

(iii) The DRB shall make findings and conclusions with respect to the contentions and issues as required by § 70.5(d)(4).

(14) Decisions. On the basis of its findings and conclusions, the DRB shall record its decision as to whether relief should be granted. The nature of any change shall be specified clearly.

(15) Implementation of Discharge Review Decisions. A written notification shall be issued to implement the decision of the DRB, or that of higher authority, in each discharge review case.

(c) *Decision process.* (1) The DRB or the DRB panel, as appropriate, shall meet in plenary session to review discharges and exercise its discretion on a case-by-case basis in applying the standards set forth in § 70.6.

(2) The presiding officer is responsible for the conduct of the discharge review. The presiding officer shall convene, recess, and adjourn the DRB panel as appropriate and shall maintain an atmosphere of dignity and decorum at all times.

(3) Each DRB member shall act under oath or affirmation requiring careful, objective consideration of the application. DRB members are responsible for eliciting all facts necessary for a full and fair hearing. They shall consider all information presented to them by the applicant. In addition, they shall consider available Service and health records, together with such other records as may be in the files of the Military Department concerned and relevant to the issues before the DRB, and any other evidence obtained in accordance with this part.

(4) If the applicant does not appear in person and the designated counsel/representative does not appear in the applicant's behalf, the DRB shall review the application on the basis of available official records, documentary evidence submitted by or on behalf of the applicant, presentation of the hearing examination, if any, and any other relevant evidence obtained in accordance with this part.

(5) If the applicant appears in person or the designated counsel/representative appears before the DRB in the applicant's behalf, the DRB shall review the application on the basis of testimony on behalf of the applicant, available official records, documentary evidence submitted by or on behalf of the applicant, presentation of the hearing examination, if any, and any other relevant evidence obtained in accordance with this part.

(6) Application of Standards:

(i) When a DRB determines that an applicant's discharge was improper (§ 70.6(b)), the DRB will determine which reason for discharge should have been assigned based upon the facts and circumstances properly before the discharge authority in view of the Service regulations governing reasons for discharge at the time the applicant was discharged. Unless it is also determined that the discharge was inequitable (§ 70.6(c)), the provisions as to characterization in the regulation under which the applicant should have been discharged will be considered in determining whether further relief is warranted.

(ii) When the DRB determines that an applicant's discharge was inequitable (§ 70.6(c)), any change will be based on the evaluation of the applicant's overall record of service and relevant regulations of the Military Service of which the applicant was a member.

(7) Voting shall be conducted in closed session, a majority of the five members' votes constituting the DRB decision. Voting procedures shall be prescribed by the Secretary of the Military Department concerned.

(8) Details of closed session deliberations of a DRB are privileged information and shall not be divulged.

(9) Minority opinions may be recorded by any member in accordance with procedures prescribed by the Secretary concerned.

(10) DRB's may request advisory opinions from staff offices of their Military Departments. These opinions are advisory in nature and are not binding on the DRB in its decision making process.

(d) *Decisional document.* A decisional document shall be prepared for each review conducted by a DRB. At a minimum this document shall contain:

(1) The date, character of, and reason for the discharge or dismissal certificate issued to the applicant upon separation from military service, including the specific regulatory authority under which the discharge or dismissal certificate was issued.

(2) The circumstances and character of the applicant's service as extracted from Service records, health records and information provided by other government authority or the applicant, such as, but not limited to:

Date of enlistment.
Period of enlistment.
Age at enlistment.
Length of service.
Periods of unauthorized absence.
Conduct and efficiency ratings (numerical or narrative).
Highest rank achieved.
Awards and decorations.
Educational level.
Aptitude test scores.
Incidents of punishment pursuant to Article 15, Uniform Code of Military Justice (including nature and date of offense or punishment).
Conviction by court-martial.
Prior military service and type of discharge received.

(3) Reference to the written brief, documentary evidence, and testimony presented to the DRB by or on behalf of the applicant.

(4) A statement of findings, conclusions, and reasons consisting of:

(i) Findings on all issues of fact, law, or discretion upon which the decision on the application is based, including those factors required by applicable Service regulations to be considered for determination of the character of and reason for the discharge or dismissal certificate in question.

(ii) Findings and conclusions on all other issues of fact, law, or discretion raised by the applicant in accordance with § 70.5(b)(13)(i), including claims by the applicant that statutory, regulatory, and/or constitutional provisions were violated, and such other claims made by the applicant, which in the opinion of the DRB would have warranted greater relief than that afforded the applicant by the DRB's decision if resolved in the applicant's favor.

(iii) Conclusions as to whether or not any change, correction, or modification should be made in the type or character of the discharge or dismissal and/or the reason and authority for the discharge or dismissal; and, if so concluded, the particular changes, corrections, or modifications that should be made.

(iv) A statement of the reasons for the findings and conclusions made in accordance with subdivisions (i) through (iii) of this subparagraph.

(5) Advisory opinions, including those containing factual information, where such opinions have been relied upon for final decision or have been accepted as a basis for rejecting any of the applicant's claims. Such advisory opinions or relevant portions thereof that are not fully set forth in the statement of findings, conclusions, and reasons shall be incorporated by reference therein. A copy of such opinions shall be appended to the decision and included in the record of proceedings.

(6) A record of the DRB members' names and votes.

(7) The DRB decision and written minority opinions or reports, if any.

(8) A listing of the contentions or issues presented by the applicant, if not included elsewhere.

(9) An authentication of the document by an appropriate official.

(e) *Issuance of decisions following discharge review.* The applicant and counsel/representative, if any, shall be provided with a copy of the decisional document and of any further action in review. Final notification of decisions shall be issued to the applicant with a copy to the counsel/representative, if any, and to the Military Service.

(1) Notification to applicants, with copies to counsel/representatives, shall normally be made through the U.S. Postal Services. Such notification shall consist of a notification of decision, together with a copy of the decisional document.

(2) Notification to the Military Services shall be for the purpose of appropriate action and inclusion of review matter in personnel records. Such notification shall bear appropriate certification of completeness and accuracy.

(3) Actions on review by superior authority, when occurring, shall be provided to the applicant and counsel/representative in the same manner as the notification of the review decision.

(f) *Records of DRB proceedings.* (1) When the proceedings in any review have been concluded, a record thereof will be prepared. Records may include written records, electro-magnetic records, videotape recordings, or a combination thereof.

(2) At a minimum, the record will include the following:

The application for review.

A record of the testimony in verbatim, summarized, or recorded form at the option of the DRB concerned.

Documentary evidence or copies thereof considered by the DRB other than the Military Service record.

Briefs/arguments submitted by or on behalf of the applicant.

Advisory opinions considered by the DRB, if any.

The findings, conclusions, and reasons developed by the DRB.

Notification of the DRB's decision to the cognizant custodian of the applicant's records, or reference to the notification document.

Minority reports, if any.

A copy of the decisional document.

(g) Cases reviewed by the Secretary of the Military Department concerned, or by one to whom the reviewing authority has been delegated, shall be considered in accordance with the standards set forth in § 70.6.

(1) On every decision of the DRB that is reviewed by the Secretary, or by one to whom reviewing authority has been delegated, the decision on review shall be made in writing.

(2) In every case, the decision of the DRB and the reviewing authority, if any, shall include a statement of findings, conclusions, and reasons, (§ 70.5(d)(5)) except where the reviewing authority expressly adopts, in whole or in part, the statement of findings, conclusions and reasons of the DRB. Similarly, where the reviewing authority adopts the DRB's statement of findings, conclusions and reasons, there is no requirement for duplicative publication and indexing under terms of § 70.5(i).

(h) *Final disposition of the record of proceedings.* The original record of proceedings and all appendices thereto shall in all cases be incorporated in the Service record of the applicant and the Service record shall be returned to the custody of the NPRC, St. Louis, Mo. Other copies shall be filed and disposed of in accordance with separate Military Service regulations.

(i) *Availability of Discharge Review Board documents for public inspection and copying.* (1) A copy of the decisional document prepared in accordance with § 70.5(d) shall be made available for public inspection and copying promptly after a notice of final decision is sent to the applicant.

(2) To the extent required to prevent a clearly unwarranted invasion of personal privacy, identifying details of the applicant and other persons will be deleted from documents made available for public inspection and copying. Names, addresses, social security numbers, and Military Service numbers must be deleted. Written justification shall be made for all other deletions and shall be available for public inspection.

(3) Any other privileged or classified material contained in or appended to any documents required by this agreement to be furnished the applicant and counsel/representative or made available for public inspection and copying may be deleted therefrom only if a written statement of the basis for the deletions is provided the applicant and counsel/representative and made available for public inspection. It is not intended that the statement be so detailed as to reveal the nature of the withheld material.

(4) DRB documents made available for public inspection and copying shall be located in the Armed Forces Discharge Review/Correction Boards Reading Room. The documents shall be indexed in a usable and concise form so as to enable the public and those who represent applicants before the DRBs to isolate from all these decisions that are indexed those cases that may be similar to an applicant's case and that indicate the circumstances under and/or reasons or which the DRB or the Secretary concerned granted or denied relief.

(i) The reading file index shall include, in addition to any other items determined by the DRB, the case number, the date, character of, reason for, and authority for the discharge. It shall further include the decisions of the DRB and reviewing authority, if any, and the issues addressed in the statement of findings, conclusions and reasons.

(ii) The index need be permanently maintained only at permanent DRB regional locations. This index should be made available at sites selected for traveling board hearings or hearings examinations for such periods as the DRB is present and in operation. Applicants at such sites shall be so advised in the notice of scheduled hearings.

(iii) The Armed Forces Discharge Review/Correction Boards Reading Room shall publish indexes quarterly for all Boards. All Boards will be responsible for timely submission to the Reading Room of individual case information required for update of the indexes. These indexes shall be available for public inspection and/or purchase at the Reading Room. This information will be provided to applicants in the notice of scheduled hearings.

(iv) Correspondence relating to matters under the cognizance of the Reading Room (including requests for purchase of indexes) shall be addressed to:

Armed Forces Discharge Review/Correction Board Reading Room, The Pentagon Concourse, Washington, D.C. 20310.

(j) *Privacy Act information.* Information protected under the Privacy Act is involved in the discharge review functions. The provisions of 32 CFR Part 286a will be observed throughout the processing of a request for review of discharge or dismissal.

§ 70.6 Discharge review standards.

(a) Objective of Review. The objective of a discharge review is to examine the propriety and equity of the applicant's discharge and to effect changes, if necessary. The standards of review and the underlying factors which aid in determining whether the standards are met shall be historically consistent with criteria for determining honorable service. No factors shall be established which require automatic change or denial of a change in a discharge. Neither a DRB or the Secretary of the Military Department concerned shall be bound by any methodology of weighting of the factors in reaching a determination. In each case, the DRB or Secretary of the Military Department concerned shall give a full, fair, and impartial consideration to all applicable factors prior to reaching a decision.

(b) *Propriety.* A discharge shall be deemed to be proper unless, in the course of discharge review, it is determined that:

(1) There exists an error of fact, law, procedures, or discretion associated with the discharge at the time of issuance; and that the rights of the applicant were prejudiced thereby. Such error shall constitute prejudicial error, if there is substantial doubt that the discharge would have remained the same if the error had not been made; or

(2) That a change in policy by the Military Service of which the applicant was a member, made expressly retroactive to the type of discharge under consideration, requires a change in the discharge.

(c) *Equity.* A discharge shall be deemed to be equitable unless;

(1) In the course of a discharge review, it is determined that the policies and procedures under which the applicant was discharged differ in material respects from policies and procedures currently applicable on a Service-wide basis to discharges of the type under consideration, provided that:

(i) Current policies or procedures represent a substantial enhancement of the rights afforded a respondent in such proceedings; and

(ii) There is substantial doubt that the applicant would have received the

same discharge if relevant current policies and procedures had been available to the applicant at the time of the discharge proceedings under consideration;

(2) At the time of issuance, the discharge was inconsistent with standards of discipline in the Military Service of which the applicant was a member; or

(3) In the course of a discharge review, it is determined that relief is warranted based upon consideration of the applicant's Service record and other evidence presented to the DRB viewed in conjunction with the factors listed in this subparagraph and the regulations under which the applicant was discharged, even though the discharge was determined to have been otherwise equitable and proper at the time of issuance. Areas of consideration include, but are not limited to:

(i) Quality of service, as evidenced by factors such as:

Service history, including date of enlistment, period of enlistment, highest rank achieved, conduct or efficiency ratings (numerical or narrative).

Awards and decorations.

Letters of commendation or reprimand.

Combat service.

Wounds received in action.

Records of promotions and demotions.

Level of responsibility at which the applicant served.

Other acts of merit that may not have resulted in a formal recognition through an award or commendation.

Length of service during the service period which is the subject of the discharge review.

Prior military service and type of discharge received or outstanding post-service conduct to the extent that such matters provide a basis for a more thorough understanding of the performance of the applicant during the period of service which is the subject of the discharge review.

Convictions by court-martial.

Records of nonjudicial punishment.

Convictions by civil authorities while a member of the Service, reflected in the discharge proceedings or otherwise noted in Military Service records.

Records of periods of unauthorized absence.

Records relating to a discharge in lieu of court-martial.

(ii) Capability to serve, as evidenced by factors such as:

(A) *Total Capabilities.* This includes an evaluation of matters such as age, educational level, and aptitude scores. Consideration may also be given to whether the individual met normal military standards of acceptability for military service and similar indicators of an individual's ability to serve satisfactorily, as well as ability to adjust to the military service.

(B) *Family/Personal Problems.* This includes matters in extenuation or mitigation of the reason for discharge that may have affected the applicant's ability to serve satisfactorily.

(C) *Arbitrary or Capricious Actions.* This includes actions by individuals in authority which constitute a clear abuse of such authority and which, although not amounting to prejudicial error, may have contributed to the decision to discharge or to the characterization of service.

(D) *Discrimination.* This includes unauthorized acts as documented by records or other evidence.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

MARCH 29, 1978.

[FR Doc. 78-8638 Filed 3-30-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 869-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Regulation 15 of the Oklahoma Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rulemaking approves, in part, the Oklahoma State Implementation Plan (SIP) revised Regulation No. 15 for control of organic emissions (effective date of December 31, 1974) and disapproves the photochemical oxidant/hydrocarbon control strategy for the Central and Northeastern Oklahoma Intrastate Air Quality Control Regions, as submitted by the Governor on June 16, 1975. Under existing regulations, changes in SIP's must be approved by the EPA Administrator after determination that they are consistent with the provisions of the Clean Air Act.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Jack S. Divita, Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region VI, Dallas, Tex. 75270, 214-767-2742.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On June 16, 1975 the State of Oklahoma formally submitted to the Environmental Protection Agency a revised Regulation No. 15, effective December 31, 1974, for control of emissions of non-methane hydrocarbons from stationary sources and a Photochemical Oxidant Control Strategy for the Central and Northeastern Oklahoma Air Quality Control Regions (AQCRs). With the revised regulation the State anticipated that the two AQCRs could attain the oxidant standard by July 1977 as demonstrated in their accompanying control strategy.

The original Regulation No. 15, adopted January 1972, only regulated hydrocarbon emissions from new sources built after the regulation's effective date. The revised regulation, effective December 1974, extended coverage of Regulation No. 15 to existing hydrocarbon sources in the Central Oklahoma and Tulsa Air Quality Maintenance Areas (AQMAs). The Central Oklahoma AQMA includes Oklahoma County and parts of Canadian and Cleveland Counties. The Tulsa AQMA includes Tulsa County and parts of Rogers, Wagoner, Creek, and Osage Counties. Compliance with the revised regulation was required of existing sources by June 30, 1975.

Additional changes in Regulation No. 15 as adopted in 1974 from the original regulation include specifying an efficiency requirement for vapor recovery systems on storage tanks, quantifying allowable emissions from pumps and compressors, and further restricting the use of organic solvents by placing an emission limit on sources in terms of pounds per hour.

Revised Regulation No. 15 also exempts "agricultural purposes" from control (Subsection 15.27c) while the 1972 regulation did not. Since this is a relaxation of the regulation and since no justification for, or analysis of the air quality impact of exempting previously controlled sources was provided by the State, the EPA must disapprove this subsection. The EPA must disapprove section 15.3 entitled Organic Solvents in the revised Regulation No. 15 since no definition of 'organic solvents' exists in this or any other currently approved Oklahoma regulation. Thus section 15.3 would not be enforceable under the Oklahoma State Implementation Plan. Subsection 15.36b, which exempts certain "non-reactive" solvents from control, is inconsistent with the EPA policy to require control of almost all volatile organic carbon compounds. Disapproval of this subsection is included under the disapproval of section 15.3.

The State's control strategy, based on 1971 air quality data, mathematically demonstrated that the oxidant standard would be attained by 1977 in Oklahoma City and Tulsa. More recent air quality data has shown an increase in oxidant concentrations in the two cities, thus indicating a need for revisions of the control strategy. The State has committed to revise its hydrocarbon control regulation and control strategy analysis by the end of calendar year 1978.

ACTION

The EPA proposed approval, in part, of revised Oklahoma Regulation No. 15 and disapproval of the accompanying control strategy in the FEDERAL REGISTER of November 11, 1977. Comments on the proposed action were requested; none were received. The EPA did not conduct public hearings since the State's adoption procedure met all requirements of 40 CFR Part 51 including § 51.4, the requirement for adequate public participation

This action approves Oklahoma Regulation No. 15, effective date of December 31, 1974, excepting Subsection 15.27c and Section 15.3, and disapproves the hydrocarbon control strategy as inadequate to attain the National Ambient Air Quality Standard for photochemical oxidants.

This final rulemaking is issued under the authority of Section 110(a) of the Clear Air Act, as amended, 42 U.S.C. 1857c-5(a).

Dated: March 27, 1978.

DOUGLAS M. COSTLE,
Administrator.

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

1. In § 52.1920, paragraph (c) is amended by adding paragraph (11) as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

(11) Revisions of Oklahoma Regulation No. 15 for control of emissions of organic materials were adopted (effective date) December 31, 1974, and submitted by the Governor on June 16, 1975.

2. Subpart LL is amended by adding § 52.1932 as follows:

§ 52.1932 Control strategy: Photochemical oxidants.

(a) The requirements of § 51.14(a) of this chapter are not met since the plan submitted by the State does not provide the degree of hydrocarbon emission reduction necessary to attain, as expeditiously as practicable, and maintain the national standards for photochemical oxidants (hydrocarbons) in the Central Oklahoma and Northeastern Oklahoma Intrastate Regions.

(b) Subsection 15.27c of Revised Regulations 15 (effective date of December 31, 1974) is disapproved.

(c) Section 15.3 of Revised Regulation 15 (effective date of December 31, 1974) is disapproved.

[FR Doc. 78-8488 Filed 3-30-78; 8:45 am]

[4110-35]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 450—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Medicaid Quality Control Systems; Expansion of Information Requirements

AGENCY: Health Care Financing Administration.

ACTION: Final rule.

SUMMARY: This rule amends the regulations for the Medicaid program (title XIX of the Social Security Act) pertaining to the Medicaid Quality Control (MQC) system. It expands the present MQC system for eligibility review to include the extent of which payments for Medicaid services (a) took account of available medical insurance (b) were based on complete and accurate claims. It also includes changes in the reporting requirements for State Medicaid agencies. These changes will enable the MQC system to generate better estimates of misspent dollars, determine the causes of erroneous payments, and facilitate corrective actions.

DATES: Effective April 1, 1978. However, comments will be accepted until May 1, 1978.

ADDRESSES: Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 2366, Washington, D.C. 20013. Please refer to MMB-238-RC. Agencies and organizations are requested to submit comments in duplicate. Comments will be available for public inspection two weeks after publication Monday through Friday of each week from 8:30 a.m. to 5 p.m., Health Care Financing Administration, Room 5225, 330 C Street SW., Washington, D.C., 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Victor Kugajevsky, 202-472-3846.

SUPPLEMENTARY INFORMATION: The current Medicaid Eligibility Quality Control system is a State-administered management tool which measures the level of erroneous Medicaid payments due to errors in determining eligibility. While eligibility errors are the largest portion of Medicaid payment errors, erroneous payments of substantial amounts also result from a State agency's failure to identify and recover third party liability) (e.g., other health insurance) and from claims processing errors, such as duplicate payments, payment for services not covered in the State plan, and payments to providers not enrolled in Medicaid.

In recent hearings before the Subcommittee on Health and the Environment, House Committee on Interstate and Foreign Commerce, the Secretary of HEW reported that during fiscal year 1977, over $1.1 billion in erroneous Federal and State payments was made for ineligible recipients ficiaries. In addition, an estimated $600 million was lost in unrecovered third party liability and another $200 million in claims processing errors.

This regulation maintains the present eligibility review and adds a review for third party liability and claims processing errors. Under the revised system, States will select a sample of Medicaid cases and will review these to identify eligibility, third party liability and claims processing errors.

Revising the Medicaid Quality Control System to measure third party liability and claims processing errors will provide States and the Federal Government with previously unavailable information on levels of erroneous payments due to these types of errors and with data for corrective action programs to control such errors. HEW will evaluate the State error findings for accuracy, monitor corrective action plans and help the States reduce errors.

The State Medicaid agencies were previously notified that these revisions might be made to the current Medicaid Quality Control system and the changes have been reviewed with the Medicaid Quality Control State Advisory Board. The revised MQC system has been pilot tested in several States. The response from these parties has generally supported these revisions, because they substantially improve the utility of the Medicaid Quality Control System.

Effective date: In our view, although these changes are important, they are essentially technical in nature and do not represent significant policy revisions. Moreover, we believe the current six-month review periods, which run from April through September and from October through March, should be kept intact in order to maintain continuity and avoid unnecessary administrative complications. At the same time, we believe it important to implement this revision during the April-September 1978 review period, rather than postpone its implementation another 6 months. For these reasons, we have concluded that public rulemaking should be waived and the regulation should be issued as a final rule effective April 1, 1978.

As a result of the Department's notices explaining our intent to require

an expanded system, most State Medicaid agencies have begun planning for these changes. However, we recognize that some agencies may need a period of time to revise their administrative procedures and, possibly, to recruit or train personnel in order to implement fully this regulation.

In light of the varying capacities of States to make the full transition, the Department will allow a phased implementation, where necessary, by permitting partial sampling during April-June period. The full sampling requirements must be met beginning July 1, 1978.

Comments are invited, even though this regulation is being issued as a final rule, and will be carefully evaluated with a view towards possible revision.

42 CFR 450.25 is revised to read as follows:

§ 450.25 Medicaid quality control.

(a) *Scope.* This section establishes State plan requirements for a quality control program designed to monitor the accuracy of payments made under Medicaid.

(b) *Definitions.* For purposes of this section:

(1) "Eligibility Error" means that medical assistance coverage has been certified or payment has been made for a recipient who during the month under review (i) was ineligible under the State's plan; (ii) or had not met recipient liability requirements when certified eligible for Medicaid.

(2) "Third Party Liability Error" means Federal financial participation (FFP) has been claimed for a medical assistance payment when (i) all or part of the medical services should have been paid for by a third party; and (ii) the State failed to comply with the requirements of § 450.31 for considering the liability of third parties.

(3) "Claims Processing Error" means FFP has been claimed for a medical assistance payment (i) for a service not authorized under the State plan; (ii) to a provider not certified for participation in the Medicaid program; (iii) for a duplicate payment for the same service(s); or (iv) in an amount above the allowable reimbursement level for that service(s).

(4) "Active case" refers to a person determined to be currently eligible for Medicaid benefits.

(5) "Negative case" refers to an application for medical assistance which has been denied or otherwise disposed of without a determination of eligibility (for instance, because the application was withdrawn or abandoned) or a case in which eligibility for medical assistance has been terminated.

(6) "State agency" mean either the State title XIX agency or the State agency responsible for determining eligibility for medical assistance.

(c) *State plan requirements.* A State title XIX plan shall provide for operating a system of quality control (QC) which meet the Federal specifications in paragraphs (d) through (h) of this section.

(d) *Basic elements of QC system.* (1) The State agency will operate the QC system in accordance with the policies, sampling methodology, review procedures and reporting forms and requirements specified in Quality Control Manuals issued by the Health Care Financing Administration (HCFA).

(2) The State agency will select statistical samples of both active cases and negative cases.

(3) The State agency will review each case in the sample to identify eligibility errors and shall review any claims pertaining to each active case to identify erroneous payments due to ineligibility, beneficiary under- or over-stated liability, third party liability, and claims processing errors.

(4) In order to verify information, the State agency will conduct field investigations, including personal interview with respect to each case in the active case sample, and personal interviews with individuals in the negative case action sample to the extent necessary to verify erroneous eligibility determinations.

(5) The sampling periods for these reviews will be 6 months in duration, from October through March and from April through September.

(e) *Reporting requirements.* The State agency will submit reports to HCFA, in the form and at the time specified by HCFA. These shall include:

(1) A description of the State's sampling plan for active cases and negative case actions.

(2) A monthly report on eligibility reviews completed during the month for all cases in the active case sample for that month and selected cases from the negative case sample for that month.

(3) A monthly report on payment reviews completed during the month for cases in the active case sample. (States will wait 4 months after the month under review to accumulate claims for each sample case.)

(4) A summary report on eligibility findings, and payment error findings for all cases in the 6-month sample, to be submitted by May 31 of each year for the previous April-September sampling period, and by November 30 for the October-March sampling period.

(5) Such other data and reports as HCFA requests.

(f) *Access to records.* The State agency will, upon request, provide authorized HEW staff with access to all State records, and all records pertaining to its QC reviews to which the State has access.

(g) *Corrective action.* The State agency will take appropriate action to correct any eligibility, third party liability, claims processing or negative case action errors found in the sample cases. The State agency will also take appropriate administrative action to prevent or reduce the incidence of such errors. By July 31 each year, the State agency will submit to HCFA a report on its error analysis and a corrective action plan.

(h) *Protection of recipient rights.* Activities under the Quality Control program must be performed in a manner consistent with 45 CFR 206.10(a)(10) concerning the rights of the recipient.

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302); sec. 1902(a)(4), 79 Stat. 344 (42 U.S.C. 1396a(a)(4).)

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

Dated: February 23, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: March 27, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-8537 Filed 3-30-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-198]

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

Use of Type Accepted Equipment

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Order was issued to delete emission restrictions which were inapplicable to low power auxiliary stations. Inclusion of the emission restrictions with rules pertaining to low power auxiliary stations was inadvertent. Additionally, rules for low power auxiliary stations were amended to delete references to dates upon which type acceptance requirements became effective since these dates have now passed.

EFFECTIVE DATE: April 3, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Wilson A. LaFollette, Broadcast

Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: March 14, 1978.

Released: March 24, 1978.

Order. In the matter of Editorial amendments to Part 74, Subpart H, §§ 74.851, 74.852, and 74.861 of the Commission's rules concerning the use of type accepted equipment.

1. On February 10, 1977, the Commission adopted a *Report, Memorandum Opinion and Order* in Docket 20195 (FCC 77-119). The primary thrust of that proceeding was to promulgate rules for use of the upper VHF television channels by low power auxiliary stations. These new rules, along with then existing rules for low power auxiliary stations contained in Part 74, Subpart D, were placed in new Subpart H of Part 74. This new subpart was entitled "Low Power Auxiliary Stations".

2. Since adoption of Docket 20195, it has come to our attention that § 74.861(c) and its associated table were erroneously included under Subpart H. This section which actually pertains to emission limitations for remote pickup stations was inadvertently associated with the rules for low power auxiliary stations which were moved from Subpart D to Subpart H. Therefore, we are taking action herein to delete § 74.861(c) and the associated table.

3. It has also come to our attention that we inadvertently specified use of the formula $46+10 \log_{10}$ (mean output power in watts) in the emission limitations set forth in § 74.861 of the rules. It was intended that the formula $43+10 \log_{10}$ (mean output power in watts) be used since this is the formula used throughout the Commission's rules. Accordingly, the formula is being corrected as shown in the Appendix.

4. Part 74, Subpart H, of the rules also specifies transmitter type acceptance requirements for low power auxiliary stations that became effective December 1, 1977. Since that effective date has now passed, we are taking this opportunity to editorially amend § 74.851 paragraphs (a) and (f) to delete the dates contained therein. Section 74.852(c) is deleted for similar reasons.

5. Prior notice of rulemaking and public participation thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B), inasmuch as the amendments contained below impose no additional burdens and raise no issue upon which additional comments would serve any useful purpose.

6. Since the action herein modifies a procedural rule in a manner which relieves a restriction, the rule amendments may be made effective with less than 30 days notice (see 5 U.S.C. 553(d)). *Therefore, it is ordered,* That pursuant to sections 4(i), 303(r) and 5(d)(1) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, Part 74 of the Commission's rules and regulations is amended as set forth below, effective April 3, 1978.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

1. Section 74.851, paragraphs (a), and (f) are amended to delete the dates contained therein as follows:

EQUIPMENT

§ 74.851 Type acceptance of equipment.

(a) Applications for new low power auxiliary stations will not be accepted unless the transmitting equipment specified therein has been type accepted for use pursuant to provisions of this subpart.

* * * * *

(f) All transmitters marketed for use under this subpart shall be type accepted by the Federal Communications Commission for this purpose. (Refer to Subpart I of Part 2 of the Commission's rules and regulations.)

2. Section 74.852 is amended by deleting paragraph (c) and revising paragraph (a) as follows:

§ 74.852 Equipment changes.

(a) The licensee of a low power auxiliary station may make any changes in the equipment that are deemed desirable or necessary, including replacement with type accepted equipment, without prior Commission approval: *Provided,* The proposed changes will not depart from any of the terms of the station authorization or the Commission's technical rules governing this service: *And provided further,* That any changes made to type accepted transmitted equipment shall be in compliance with the provisions of Part 2 of the Commission's rules and regulations concerning modification of type accepted equipment.

* * * * *

(c) [Deleted]

3. Section 74.861 is amended to read as follows:

§ 74.861 Technical requirements.

(a) Transmitter power is the power at the transmitter output terminals and delivered to the antenna, antenna transmission line, or any other impedance-matched, radio frequency load. For the purpose of this subpart, the transmitter power is the carrier power.

(b) Each authorization for a new low power auxiliary station shall require the use of type accepted equipment. Such equipment shall be operated in accordance with the emission specifications included in the type acceptance grant and as prescribed in paragraphs (c) through (e) of this section.

(c) Low power auxiliary transmitters not required to operate on specific carrier frequencies shall operate sufficiently within the authorized frequency band edges to insure the emission bandwidth fa'ls entirely within the authorized band.

(d) For low power auxiliary stations operating in bands other than the 174-216 MHz band, the following technical requirements are imposed:

(1) The maximum transmitter power which will be authorized is 1 watt. Licensees may accept the manufacturer's power rating; however, it is the licensee's responsibility to observe specified power limits.

(2) If a low power auxiliary station employs amplitude modulation, modulation shall not exceed 100 percent on positive or negative peaks.

(3) The occupied bandwidth shall not be greater than that necessary for satisfactory transmission and, in any event, an emission appearing on any discrete frequency outside the authorized band shall be attenuated, at least, $43+10 \log_{10}$ (mean output power, in watts) decibels below the mean output power of the transmitting unit.

(e) For low power auxiliary stations operating in the 174-216 MHz band, the following technical requirements are imposed:

(1) The power of the unmodulated carrier at the transmitter output terminals may not exceed 50 mW.

(2) Transmitters shall be crystal controlled, employ frequency modulation with a maximum deviation of ±15 kHz and a maximum modulating frequency of 15 kHz, and shall have a frequency tolerance of 0.005 percent.

(3) The authorized bandwidth is 100 kHz.

(4) The mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(i) On any frequency removed from the operating frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: at least 25 decibels;

(ii) On any frequency removed from the operating frequency by more than 100 percent up to and including 250 percent of the authorized bandwidth: at least 35 decibels;

(iii) On any frequency removed from the operating frequency by more than 250 percent of the authorized bandwidth: at least $43+10 \log_{10}$ (mean output power, in watts) decibels.

(f) Unusual transmitting antennas or antenna elevations shall not be used to

deliberately extend the range of low power auxiliary stations beyond the limited areas defined in § 74.831.

(g) Low power auxiliary stations shall be operated so that no harmful interference is caused to any other class of station operating in accordance with Commission's rules and regulations and with the Table of Frequency Allocations in Part 2 thereof.

(h) In the event a station's emissions outside its authorized frequency band causes harmful interference, the Commission may, at its discretion, require the licensee to take such further steps as may be necessary to eliminate the interference.

[FR Doc. 78-8508 Filed 3-30-78; 8:45 am]

[6712-01]

[Docket No. 21395; RM-2702]

PART 91—INDUSTRIAL RADIO SERVICES

PART 93—LAND TRANSPORTATION RADIO SERVICES

Permitting Interservice Geographic Sharing of Certain 450 MHz Band Taxicab Radio Service Channels; Correction

AGENCY: Federal Communications Commission.

ACTION: Erratum.

SUMMARY: This erratum corrects the First Report and Order in this proceeding by inserting "RM-2702" directly underneath the Docket No. 21395, in the heading of the document.

EFFECTIVE DATE: April 26, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Rebecca A. Brown, Rules Branch, Office of the Executive Director, 202-632-7024.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Parts 91 and 93 of the Commission's Rules to permit interservice geographic sharing of certain 450 MHz band Taxicab Radio Service Channels.

The First Report and Order in the above entitled matter, published at 43 FR 11993, March 23, 1978 (FCC 78-190, released March 21, 1978), is corrected by adding "RM-2702" directly underneath "Docket No. 21395" in the heading.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-8485 Filed 3-30-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Certain National Wildlife Refuges to Sport Fishing: Maryland, Virginia, and North Carolina

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special Regulations.

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

DATES: January 1, 1978 through December 31, 1978.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of Special Regulations.

FOR FURTHER INFORMATION CONTACT:

Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158, 617-965-5100, Ext. 200.

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the National Wildlife Refuges indicated below in accordance with 50 CFR Part 33 and the following Special Regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158. Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

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

Sport fishing is permitted on the following areas: Chincoteague National Wildlife Refuge, Box 62, Chincoteague, Va. 23336. Contact J. C. Appel, Refuge Manager, at 804-336-6122. Special conditions: Sport fishing, crabbing, and clamming (shellfishing) is permitted on areas designated by signs as open. Open areas: (a) Surf fishing—the entire beach including Tom's Cove is open as posted; (b) Other saltwater fishing is permitted from banks of impoundments and saltwater areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other portions of the refuge including bay side waters as posted; (c) Clamming—the area between high and low tide marks in Tom's Cove, except as posted closed; (d) Crabbing—from the banks of impoundments and saltwater areas adjacent to the beach access road in the area known as Swan Cove and Tom's Cove and from other areas including bay side waters as posted. Commercial fishing operations or methods are not permitted. A permit is required for fishing from 10 p.m. to sunrise. At least one member of the fishing party must be actively engaged in fishing at all times. Open fires and sleeping are not permitted. No permit is required at other times.

Blackwater National Wildlife Refuge, RFD No. 1, Box 121, Cambridge, Md. 21613. Contact William H. Julian, Refuge Manager, at 301-228-2692. Special conditions: Sport fishing and crabbing is permitted during daylight hours on areas designated by signs from April 15 through October 15, 1978. Boat launching from refuge lands is not permitted. The use of airboats is prohibited. All fish and crab lines must be attended. No set tackle may be used.

Mackay Island National Wildlife Refuge, Knotts Island, N.C., under administration of Back Bay National Wildlife Refuge, Pembroke No. 2 Building, South 218, 287 Pembroke Office Park, Virginia Beach, Va. 23462. Contact Glen Bond, Refuge Manager, at 804-490-0505. Special conditions: Sport fishing is permitted during daylight hours on the areas designated by signs as open. Corey's Ditch and the canal adjacent to the Knotts Island Causeway are open year round to bank fishing only. The remainder of the refuge areas are open from March 15 to October 14, 1978. There is no horsepower limitation on out board motors used for boat fishing. Airboats are prohibited.

Dismal Swamp National Wildlife Refuge, 680B Carolina Road, Suffolk, Va. 23434. Contact Ralph Keel, Refuge Manager, at 804-539-2479. Special conditions: Bank and boat fishing is permitted during daylight hours in Lake Drummond and in Washington, Riddick, East, and Jerico ditches. Public access to fishing areas is limited to boats entering Lake Drummond from the Feeder Ditch on the east side of the lake. Commercial fishing operations or methods are not permitted. Fishing will be with hand held line or rod and reel.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title

50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

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

Dated: March 23, 1978.

WILLIAM C. ASHE,
Acting Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc. 78-8441 Filed 3-30-78; 8:45 am]

[3510-22]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 651—ATLANTIC GROUNDFISH (COD, HADDOCK, AND YELLOWTAIL FLOUNDER)

Interim Emergency Regulations and Request for Comments

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Interim Emergency regulations and request for comments.

SUMMARY: This document is intended to serve two purposes. It is an emergency regulation and a notice of proposed rulemaking. The fishery management plan and implementing regulations which govern the domestic fishery for cod, haddock, and yellowtail flounder in the fishery conservation zone (FCZ) of the Northwest Atlantic Ocean will expire on March 31, 1978. The New England Fishery Management Council has prepared a new fishery management plan for this fishery. The Secretary has approved that plan, and regulations implementing it on an emergency basis are hereby promulgated. At the same time these regulations should be viewed as interim rulemaking, and public comment regarding them is invited.

DATES: The emergency regulations will become effective at 0001 hours, April 1, 1978. Public comments on these Interim Emergency Regulations are invited until May 15, 1978.

ADDRESS: Comments should be addressed to the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, 3300 Whitehaven Parkway NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, Telephone, 617-281-3600.

SUPPLEMENTAL INFORMATION: The New England Fishery Management Council adopted a fishery management plan for cod, haddock, and yellowtail flounder on February 15, 1978. This plan, which was amended on March 2, 1978, contains several changes reflecting experience during 1977 and new biological information.

All quotas were changed. The haddock quota was increased from 6,200 metric tons in 1977 to 8,000 metric tons for 1978. The Gulf of Maine cod quota for commercial fishermen was increased from 5,000 metric tons to 6,000 metric tons. A separate cod quota for the recreational fishery in that area was established at 2,500 metric tons. The commercial quota for cod in areas other than the Gulf of Maine was increased from 20,000 metric tons in 1977 to 22,000 metric tons in 1978. There is no specific recreational cod quota for areas other than the Gulf of Maine, although the Council realizes that the recreational and party-boat fisheries in southern New England are important fisheries. The reason that no quota was set is that the information necessary to establish a meaningful quota simply is not available.

The yellowtail flounder quotas are reduced for 1978, from 10,000 metric tons east of 69° W. long. to 4,400 metric tons; and from 4,000 metric tons west of 69° W. long. to 3,700 metric tons. There is no directed fishery for this species. Incidental catch limitations of 5,510 pounds or ten percent by weight of all fish on board, whichever is greater, are imposed.

Greater flexibility is provided for adjusting quarterly quotas and landing restrictions in order to avoid premature closures and overfishing. When 40 percent of the quarterly quota of haddock or yellowtail flounder have been taken, or when 45 days of the quarter have gone by, whichever occurs first, the Assistant Administrator for Fisheries may publish an appropriate notice in the FEDERAL REGISTER adjusting the trip restrictions, as necessary. The Assistant Administrator may adjust trip restrictions for cod after the directed fishery for cod is closed. Closure of the fishery is discretionary with the Assistant Administrator.

There is a limited foreign fishery based on reciprocal rights with Canada which is outside the scope of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et. seq., as amended (Act).

The Assistant Administrator recognizes the continuing critical conservation needs of these fisheries and has determined that an emergency exists which justifies the promulgation of emergency regulations under Section 305(e) of the Act to implement the Groundfish Plan for 1978 developed by the New England Fishery Management Council. The Assistant Administrator also finds that formal notice of proposed rulemaking under the Administrative Procedure Act (5 U.S.C. 553) is impractical and contrary to the public interest.

NOTE.—The appropriate amended Environmental Impact Statement has been filed with the Environmental Protection Agency.

NOTE.—The National Marine Fisheries Service is reviewing the fishery management plan for Atlantic groundfish (cod, haddock, and yellowtail flounder) pursuant to Executive Orders 11821 and 11949, and OMB Circular A-107. The economic impact analysis is expected to be ready on April 24, 1978.

Signed at Washington, D.C., this 28 day of March 1978.

WINFRED H. MEIBOHM,
Associate Director, National
Marine Fisheries Service.

Title 50, Chapter VI, is amended by revising Part 651 to read as follows:

Sec.
651.1 Purpose.
651.2 Definitions.
651.3 Catch quotas.
651.4 Size restrictions.
651.5 Closed areas.
651.6 Gear restrictions.
651.7 Landing restrictions.
651.8 Closed seasons.
651.9 Reports and records.
651.10 Licensing provisions.
651.11 Vessel identification.

AUTHORITY: 16 U.S.C. 1801 et. seq., as amended.

§ 651.1 Purpose.

Regulations of this section shall apply to vessels of the United States fishing for haddock (*Melanogrammus aeglefinus*), cod (*Gadus morhua*) and yellowtail flounder (*Limanda ferruginea*) beginning April 1, 1978, in that portion of the Atlantic Ocean in which the United States exercises exclusive fishery management authority.

§ 651.2 Definitions.

Act—Means the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et. seq., as amended.

Assistant Administrator—Means the Assistant Administrator for Fisheries or a designee.

Authorized officer—Means:

(a) Any commissioned, warrant, or petty officer of the Coast Guard;

(b) Any certified enforcement or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Assistant Administrator or the Commandant of the Coast Guard to enforce the provisions of the Act; or

(d) Any Coast Guard personnel accompanying and acting under the direction of any person described in subparagraph (1) of this paragraph.

Commercial catch—Means fish caught by any method other than rod and reel.

Directed fishery—Means a fishery conducted for the purpose of catching a particular species.

Fishery conservation zone (FCZ)—Means the area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal states to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measure.

Fishing—Means:

(a) The catching, taking or harvesting of fish;

(b) The attempted catching, taking or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described above.

The term "fishing" does not include scientific research activity which is conducted by a scientific research vessel.

Fishing vessel—means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Foreign fishing—Means fishing by a vessel other than a vessel of the United States.

Gulf of Maine—Means that portion of the fishery conservation zone north of 42°20′ North latitude.

Incidental catch—Means fish of any species, other than the directed fishery species, which are caught during a directed fishery.

Recreational catch—Means fish caught by rod and reel.

Regional Director—Means the Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Mass. 01930, telephone, 617-281-3600.

Secretary—Means the Secretary of Commerce or a designee.

Vessel of the United States—Means:

(a) A vessel documented or numbered by the Coast Guard under United States law; or

(b) A vessel, under five net tons, which is registered under the laws of any State.

§ 651.3 Catch quotas.

(a) Catch quotas for 1978 for vessels of the United States for haddock, cod, and yellowtail flounder are as follows:

(1) *Haddock.* Commercial and recreational catch—8,000 metric tons. There shall be no directed fishery for haddock. The incidental catch quota is divided as follows:

Quarter:	*Catch quota (metric tons)*
April 1 to June 30	3,160
July 1 to September 30	1,660
October 1 to December 31	1,930

(2) *Cod.* (i) Commercial catch—6,000 metric tons for the Gulf of Maine and 22,000 metric tons for Georges Bank and southern New England. The quota is divided as follows:

Quarter	Catch quota (metric tons)	
	Gulf of Maine	Georges Bank and southern New England
April 1 to June 30	1,760	6,130
July 1 to Sept. 30	1,420	5,630
Oct. 1 to Dec. 31	1,420	5,640

(ii) Charter and headboat fishery—2,500 metric tons for the Gulf of Maine. This quota is not divided into quarterly increments.

(3) *Yellowtail flounder.* Commercial and recreational catch—4,400 metric tons east of 69° W. longitude and 3,700 metric tons west of 69° W. longitude. There shall be no directed fishery for yellowtail flounder. The quotas are divided as follows:

Quarter	Catch quota (metric tons)	
	East of 69° W.	West of 69° W.
April 1 to June 30	950	830
July 1 to Sept. 30	1,150	760
Oct. 1 to Dec. 31	800	960

(b) The Assistant Administrator may adjust quarterly quotas upon publication of a notice in the FEDERAL REGISTER, in the following circumstances:

(1) When a quarterly quota is not reached, to add the surplus onto quotas in subsequent quarters;

(2) When a quarterly quota is exceeded, to deduct the overage from quotas in subsequent quarters.

§ 651.4 Size restrictions.

(a) It shall be unlawful to take or possess haddock or cod in a length less than 16 inches (406 mm), measured from the tip of the snout to the end of the tail. *Provided, however,* That commercial fishing vessels may have on board up to a maximum of ten percent by weight of each species aboard of fish that are less than the minimum size. *Provided, also,* That recreational fishing vessels may have on board not more than two cod and/or haddock per angler per trip less than the minimum size.

(b) It shall be the responsibility of masters of vessels taking cod and haddock in the FCZ to ensure compliance with this size restriction by their crew, paying passengers, or other persons on board.

§ 651.5 Closed areas.

(a) It shall be unlawful to use fishing gear other than pelagic fishing gear (i.e., purse seines or midwater trawls) during March, April, and May in areas bounded by rhumb lines connecting the coordinates in the order listed in the following two areas:

(1) 69°55′ W., 42°10′ N.; 69°10′ W., 41°10′ N.; 68°30′ W., 41°35′ N.; 68°45′ W., 41°50′ N.; 69°00′ W., 41°50′ N.

(2) 67°00′ W., 42°20′ N.; 67°00′ W., 41°15′ N.; 65°40′ W., 41°15′ N.; 65°40′ W., 42°00′ N.; 66°00′ W., 42°20′ N.

(b) The provisions of paragraph (a) of this section shall not apply:

(1) To vessels that fish in area (1) with hooks having a gape of not less than 1.18 inches (3 cm.);

(2) To vessels that fish in either area (1) or (2) or both with:

(i) Pot gear designed and used to take lobster; or

(ii) Dredges designed and used to take scallops.

(c) It shall be unlawful for any person fishing in the above areas to attach any protective device to pelagic fishing gear or to employ any means that would, in effect, make it possible to fish for demersal species.

§ 651.6 Gear restrictions.

(a) It shall be unlawful to conduct a directed fishery for cod with trawl nets having, in any part of the net other than the cod end, meshes of dimensions less than 4½ inches (114 mm), and having, in the cod end of the nets, meshes of dimensions less than 5⅛ inches (130 mm). These mesh sizes relate to netting when measured wet after use.

(b) Mesh sizes are measured by a flat wedge-shaped gauge having a taper of 2 centimeters in 8 centimeters and a thickness of 2.3 millimeters, inserted into the meshes under a pressure or pull of 5 kilograms. The mesh size of a net shall be the average of the measurements of any series of 20 consecutive meshes, at least ten meshes from the landings, and when measured in the cod end of the net, beginning at the after end and running parallel to the long axis.

(c) The mesh size regulations do not apply to vessels taking haddock, cod or yellowtail flounder as incidental catch, so long as such vessels do not have on board quantities of those species in excess of those permitted under § 651.7.

(d) It shall be unlawful for any person to attach any device or use any

method that would have the effect of reducing the mesh sizes authorized in paragraph (a) of this section; except that chafing gear may be employed on the underside of trawl nets fished in contact with the bottom.

§ 651.7 Landing restrictions.

(a) It shall be unlawful for any person or vessel to land haddock (at any time) or cod (after the directed fishery for cod is closed) in amounts greater than the following:

(1) For vessels under 50 gross registered tons: 2,000 pounds landed weight of that species per day of fishing, or 10 percent by weight of all fish on board, whichever is greater.

(2) For vessels of 50–125 gross registered tons: 2,500 pounds landed weight of that species per day of fishing, or 10 percent by weight of all fish on board, whichever is greater.

(3) For vessels over 125 gross registered tons: 3,000 pounds landed weight of that species per day of fishing, or 10 percent by weight of all fish on board, whichever is greater.

(4) For vessels of any size using fixed gear (hooks or gillnets): 16,000 pounds per week beginning on Sunday and ending on Saturday.

(b) For vessels making trips of more than three days, two days will be deducted for steaming time. For example, on a seven-day trip, a vessel of 126 gross registered tons may land 15,000 pounds of an incidental-catch species, or 10 percent by weight of all fish on board, whichever is greater. (Seven days minus two days for steaming equals five days at 3,000 pounds per day, or 15,000 pounds.)

(c) It shall be unlawful for any person or vessel to land more than 5,510 pounds of yellowtail flounder per trip, or 10 percent by weight of all fish on board, whichever is greater.

(d) The Assistant Administrator may adjust the landing restrictions in paragraphs (a) and (c) of this section, upon publication of a notice in the FEDERAL REGISTER, in the following circumstances:

(1) For cod, after the directed fishery is closed.

(2) For haddock and yellowtail flounder, after 40 percent of the quarterly quota is taken, or 45 days after the beginning of the quarter, whichever occurs first.

The Assistant Administrator may adjust the landing restrictions, based on landings statistics and projected harvests, to ensure that the quarterly quotas are not taken before the end of a quarter. If the statistics indicate that one or more vessel classes in paragraph (a) of this section have taken more than their proportionate share of the current or a previous quarterly quota the Assistant Administrator may adjust the landing restrictions by varying amounts to allow each vessel class to harvest its historic percentage of the catch.

§ 651.8 Closed seasons.

(a) The Assistant Administrator shall announce the closure of the season for haddock, cod, or yellowtail flounder by publication of a notice in the FEDERAL REGISTER specifying the time and date for the termination of that fishery. The closure is determined in the following manner:

(1) When the cumulative catch of cod equals or is estimated to equal 50 percent of the quarterly quota the Assistant Administrator may publish a notice in the FEDERAL REGISTER terminating the directed fishery for cod for the remainder of the quarter.

(2) When the total quarterly quota of any species is taken, the Assistant Administrator may announce that all taking of that species shall cease for that quarter, by publication of a notice in the FEDERAL REGISTER. During the period in which taking is prohibited, the crew of a vessel must sort a catch containing such prohibited species and return them to the sea immediately, with a minimum of injury regardless of their condition. It shall be a rebuttable presumption that any species found on board a vessel following the publication of the notice prohibiting the taking of that species was caught and retained in violation of this part.

(4) It shall be unlawful to land any species for which the taking has been prohibited.

§ 651.9 Reports and records.

(a) *Dealers.* (1) All persons, individuals, firms or corporations, at any port or place within the United States, that buy or receive from U.S. vessels or from a carrier licensed as a common carrier, engaged in either interstate of intrastate commerce, any haddock, cod, or yellowtail flounder taken by any fishing vessel, shall make and shall furnish to an authorized officer, within 72 hours after buying or receiving, a complete record of each purchase, on forms supplied by the Regional Director.

(2) All persons buying or receiving any haddock, cod, or yellowtail flounder at sea for transport to any port of the United States must maintain records identical to those required under paragraph (a)(1) of this section.

(3) The possession by any person, firm or corporation of haddock, cod, or yellowtail flounder which such person, firm, or corporation knows, or should have known, to have been taken by a vessel of the United States without a valid license, is prohibited.

(b) *Owner or master.* (1) In the case of a commercial fishing vessel licensed under § 651.10 and taking any haddock, cod, or yellowtail flounder, the owner or master of vessels of 100 gross tons or more must maintain an accurate log of fishing operations showing date, type and size of gear used, position fished, duration of fishing time, length of tow, time of gear set, and the estimated weight in pounds of each species taken at 12-hour intervals.

(2) In the case of vessels of less than 100 gross tons licensed under § 651.10 taking haddock, cod, or yellowtail flounder, the owner or master may be required to maintain the logbook for sampling purposes at the option of the Regional Director.

(3) In the case of vessels licensed under § 651.10 and carrying passengers for hire, the owner or master shall maintain a logbook. The logbook shall contain a factual record on a daily basis of the number of crew and passengers fishing, the location (by geographical or loran coordinates) fished, and the total daily catch recorded by the approximate number and weight of haddock, cod, or yellowtail flounder. The logbook shall record the exact number of haddock and cod of less than minimum legal size caught and retained on the vessel.

(4) The logbooks required by this paragraph shall be available for inspection by an authorized officer. The logbook shall be presented for examination and subsequent return to the master or owner of the vessel upon proper demand by an authorized officer at any time. Such logbook must be retained by the owner or master of the vessel for one year after the date of the last entry in the logbook.

§ 651.10 Licensing provisions.

(a) No vessel may, without a license:

(1) Take any haddock, cod, or yellowtail flounder within the FCZ, or

(2) Transport, or deliver for sale, any haddock, cod, or yellowtail flounder taken within the FCZ.

(b) The owner or operator of a vessel may obtain the appropriate license by furnishing, on the registration form provided by the Regional Director, information specifying the names and addresses of the vessel owner and master, the name of the vessel, official number, directed fishery or fisheries, fish hold capacity (to the nearest 100 pounds) and the homeport of the vessel. The registration form shall be submitted, in duplicate, to the Regional Director, who shall issue the requested license, without fee, for an indefinite term. New licenses will be issued to replace lost or mutilated licenses. A license shall expire whenever vessel ownership changes, or when the owner or master of the vessel changes the directed fishery or fisheries of such vessel. Application for a new license, because of a change in vessel ownership, a change in the directed fishery or fisheries of the vessel, or the removal of a vessel from the directed fishery for cod, must be filed

with the Regional Director no later than 10 days following the change on a form provided by the Regional Director.

(c) The license issued by the National Marine Fisheries Service must be carried, at all times, on board the vessel for which it is issued. Such license, the vessel, its gear, equipment and catch shall be subject to inspection, at reasonable times, by an authorized officer.

(d) Licenses issued under this Part may be revoked by the Assistant Administrator for violations of this Part.

§ 651.11 Vessel identification.

(a) Each fishing vessel subject to this Part over 25 feet (7.65 m.) in length shall display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from above.

(b) The identifying markings shall be permanently affixed to the vessel in contrasting block Arabic numerals at least 18 inches (45.72 cm.) for vessels over 65 feet (19.8 m.), and at least 10 inches (25.4 cm) in height for all other vessels over 25 feet (7.62 m) in length.

(c) The length of vessels shall be that reflected by Coast Guard records. The official number is the documentation number issued by the Coast Guard or the certificate of number issued by a State or the Coast Guard for undocumented vessels.

(d) The operator of each vessel shall: (1) Keep the identifying markings clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging or its fishing gear obstructs the view of the markings from an enforcement vessel or aircraft.

(e) Vessels carrying fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be permanently affixed. These non-permanent markings must be displayed in conformity with the above requirements when the vessels are engaged in the groundfish fishery.

[FR Doc. 78-8569 Filed 3-30-78; 8:45 am]

[3510-22]

PART 652—ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERIES

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendment to Final Regulations.

SUMMARY: This amendment specifies the effort procedures for fishing for surf clams in the fishery conservation zone. Generally it allows for the selection of one of three fishing periods: one 48-hour period, two 24-hour periods or four 12-hour periods. This amendment also adjusts the quantity of surf clams available to U.S. fishermen downward to 529,107 bushels during the period April 1, 1978 through June 30, 1978.

EFFECTIVE DATE: April 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. William G. Gordon, Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Mass. 01930, telephone 617-281-3600.

SUPPLEMENTARY INFORMATION: Section 652.7(a) was last amended on February 21, 1978 (43 FR 7208) reducing fishing effort to two preselected days. It was announced at that time that a more flexible approach was being considered and that public hearings would be held. Public hearings were held in Philadelphia, Pa., March 7, 1978; Ocean City, Md., March 9, 1978; Red Bank, N.J., March 10, 1978; and Atlantic City, N.J., March 16, 1978. These hearings were attended by approximately 200 individuals. In addition, written comments were requested and received. The following is a discussion of the major substantive comments:

Distribution of Catch

A number of comments were received concerning adopting a management measure that would distribute the catch throughout the entire quarter. Other commenters indicated a desire to fish four days per week until the quarterly quota is caught, while a number of commenters suggested a two-day fishing week until the quota is caught. Commenters generally were opposed to fishing one day per week for the quarter since that system would be inefficient for the boat owners. The management measure adopted in this regulation should allow for a catch distribution over almost the entire quarter. It is anticipated, however, that good weather permitting, greater fishing effort could result in a two to three week closure at the end of each quarter. The need for further reduction to one, 24-hour period per week to extend fishing for the entire quarter will be evaluated when 50 percent of the quarterly quota is caught. A four-day (96 hour) fishing week has been rejected because of the adverse effect a lengthy closure would have on vessel and processor employment. The one-day week has also been rejected due to the inefficiency involved in a one-day work week for the entire quarter.

Methods of Fishing Day Selection

A petition was received asking for four, 12-hour fishing days. The petition was signed by 38 individuals in the industry. This system would provide for the maximum number of fishing hours for vessels whose ports are within a short steaming distance to surf clam beds. In addition, vessels such as those in Chincoteague, Va., which experience navigation hazards, could select day-time hours to leave and return to port. This system does not allow the larger boats, or boats with long steaming times, fair access to the fishery. Additional time periods are available to accommodate this situation.

A consensus at the first three of the four hearings was an endorsement of the proposed system. This system provides maximum flexibility in the selection of periods fished and times selected. Larger boats might select either the two, 24-hour periods, or the 48-hour period, while smaller boats could choose the four, 12-hour periods. These periods will be fixed for the entire quarter and may be changed for subsequent quarters by written request to the Regional Director. The request must be received by the Regional Director 15 days prior to the beginning of each quarter. A list of all licensed vessels and their authorized fishing periods will be distributed at the beginning of each quarter.

Any vessel that has not received a response to its request for a new time period must fish on the previously assigned days as indicated on its license. For those vessels requesting a change for the second quarter of 1978 (April 1 through June 30), their requests must be received by the Regional Director no later than April 10, 1978. The Assistant Administrator for Fisheries has determined that these regulations shall become effective on April 1, 1978, due to the conservation needs of the resource.

The surf clam quota of 350,000 bushels established for the first quarter of 1978 (January 1 through March 31) has been exceeded. The Regional Director has determined that 370,893 bushels of surf clams were taken during the first quarter, that number exceeding the quota by 20,893 bushels. Section 652.6(1) authorizes the Regional Director to subtract the amount of the excess from the next succeeding quarter. Therefore, this regulation amends the quota of 550,000 bushels established for the second quarter of 1978 (April 1 through June 30) by subtracting 20,893 bushels. Pursuant to § 652.6(2), the Assistant Administrator for Fisheries is publishing this adjustment of the second quarterly quota.

Signed at Washington, D.C., this 29th day of March 1978.

Winfred H. Meibohm,
Associate Director, National Marine Fisheries Service.

50 CFR 652.7(a) is revised to read:

§ 652.7 Effort restrictions.

(a) *Surf Clams.* Fishing for surf clams shall be permitted during four days per week, from 12:01 a.m. (0001 hours) Monday to 12 midnight (2400 hours) Thursday. However, no fishing vessels shall engage in fishing for surf clams more than 48 hours in any week. For the period from April 1, 1978, through June 30, 1978, inclusive, the authorized fishing periods for surf clams for each vessel shall be periods designated on the letter of authorization received from the Regional Director. The letter shall be kept aboard the vessel at all times and shall state those periods in which the vessel is authorized to fish for surf clams. Such periods shall be 12, 24, or 48 hours in duration and cumulatively can not exceed 48 hours total in one week.

No changes in authorized fishing periods will be permitted once a quarter has commenced. All requests for changes for subsequent quarters must be received by the Regional Director 15 days prior to the beginning of the next quarter. Fishing for any part of an authorized period will be counted as one day of fishing. In this paragraph, "fishing" means the actual or attempted catching of fish, but not activities in preparation for fishing, such as traveling to or from the fishing grounds.

50 CFR 652.6(a) is amended to read as follows:

§ 652.6 Catch quotas.

(a) *Surf clams.*

* * * * *

"April 1, 1978 through June 30, 1978 * * * 529,107 bushels".

* * * * *

[FR Doc. 78-8664 Filed 3-30-78; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[6325-01]

CIVIL SERVICE COMMISSION

[5 CFR Part 890]

FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Transfers From Retired Federal Employees Health Benefits Program

AGENCY: Civil Service commission.

ACTION: Proposed rulemaking.

SUMMARY: The Civil Service Commission proposes to permit persons currently enrolled in the Retired Federal Employees Health Benefits Program to enroll in the Federal Employees Health Benefits Program. The last such opportunity was held June 1 through September 30, 1974. Since that time, the Commission has received numerous requests from annuitants who did not change during that period but now wish to do so. Also, the Commission will be increasing premiums for persons enrolled in the Uniform Plan effective January 1, 1979.

DATE: Comments must be received on or before May 1, 1978.

ADDRESS: Comments should be directed to Craig B. Pettibone, Chief, Office of Policy Development and Technical Services, Bureau of Retirement, Insurance, and Occupational Health, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Mary Ann Mercer—202-632-4634, Office of Policy Development and Technical Services, Bureau of Retirement, Insurance, and Occupational Health.

Accordingly, it is proposed to amend 5 CFR part 890 by adding a paragraph (b) to §§ 890.602 and 890.603, amending the first sentence of § 890.604 and adding § 890.605 as set out below:

§ 890.602 Opportunities to change enrollment.

(a) An annuitant eligible to enroll under § 890.601 may register during the period from June 1, through September 30, 1974.

(b) An annuitant eligible to enroll under § 890.601 may register on and after April 1, 1978.

§ 890.603 Effective dates.

(a) The effective date of an enrollment under §890.602(a) is the first day of the first pay period following receipt of the enrollment but not earlier than July 1, 1974.

(b) The effective date of an enrollment under §890.602(b) is the first day of the first pay period following receipt of the enrollment but not earlier than April 1, 1978.

§ 890.604 Termination of enrollment.

An annuitant who enrolls under §890.602(a) may at any time register to cancel his enrollment by filing with his employing office a properly completed health benefits registration form, and may register to be reenrolled under the Retired Federal Employees Health Benefits Program as provided under subpart F of part 891 of this chapter. * * *

§ 890.605 Persons confined on effective date.

Benefits may not be limited for persons who, on the effective date of an enrollment under § 890.602(b), are confined in a hospital or institution.

(5 U.S.C. 8913.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-8246 Filed 3-30-78; 8:45 am]

[6325-01]

[5 CFR Part 891]

RETIRED FEDERAL EMPLOYEES HEALTH BENEFITS

Increase in Government Contribution

AGENCY: Civil Service Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Civil Service Commission proposes to increase the Government contribution toward the cost of coverage under the Retired Federal Employees Health Benefits Program. This will offset, to the extent possible under law, a Uniform Plan premium increase which will be effective January 1, 1979, and will assure an equal Government contribution to all enrollees in the Retired Program. The Commission also proposes to change a reference to a portion of part 890.

DATE: Comments must be received on or before May 1, 1978.

ADDRESS: Comments should be directed to Craig B. Pettibone, Chief, Office of Policy Development and Technical Services, Bureau of Retirement, Insurance, and Occupational Health, 1900 E Street NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Mary Ann Mercer—202-632-4634, Office of Policy Development and Technical Services, Bureau of Retirement, Insurance, and Occupational Health.

Accordingly, it is proposed to amend 5 CFR 891.401 (a) and (b), and § 891.601 as set out below:

§ 891.401 Government contributions.

(a) The commission shall pay, through the retirement office, $4 monthly to each retired employee receiving annuity and to each survivor receiving compensation who elects to receive a Government contribution toward the cost of a private health benefits plan in which he or she is a subscriber for self alone, and $8 monthly to each retired employee receiving annuity and to each survivor receiving compensation who so elects toward the cost of a private health benefits plan in which he or she is a subscriber for self and family. The Commission shall pay, through the Office of Workers' Compensation Programs $3.73 each 4-week period to each retired employee, other than a survivor, who is receiving compensation and who elects to receive a Government contribution toward the cost of a private health benefits plan in which he or she is a subscriber for self alone, and $7.47 each 4-week period to each who so elects toward the cost of a private health benefits plan in which he or she is a subscriber for self and family. The Commission shall not pay, in any case, more than the cost of a private health benefits plan each month or 4-week period, as the case may be.

(b) The Commission shall contribute to the cost of the uniform plan $4 monthly for each retired employee receiving annuity and each survivor receiving compensation, and $3.73 each 4-week period for any other retired employee receiving compensation, for an election for self alone; and $8 monthly for each retired employee receiving compensation, and $7.47 each 4-week period for any other retired employee receiving compensation, for an election for self and family. Election to subscribe to the uniform plan

constitutes agreement by the retired employee that the retirement office may withhold from his or her annuity or compensation his or her share of the cost of the plan, as provided by this part.

§ 891.601 Eligibility.

Notwithstanding § 891.103 a retired employee or survivor enrolled under § 890.602(a) of this chapter may cancel his or her enrollment and reenroll under § 891.602.

(5 U.S.C. 8913; Pub. L. 86-724.)

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-8245 Filed 3-30-78; 8:45 am]

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 932]

[Docket No. AO-352-A3]

OLIVES GROWN IN CALIFORNIA

Termination of Proposed Amendment Proceeding AO-352-A3

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: This document terminates proceedings with respect to a proposed amendment No. 3 to the marketing order program because it was not favored by the required two-thirds majority of growers voting in the referendum. The amendment had been requested by the Olive Administrative Committee, which administers the order locally for USDA, and two olive handlers. The proposed amendment would have: Provided authority to determine olive size by other than a count-per-pound basis: *Provided*, That minimum standards for natural condition and packaged olives be those in the U.S. Standards for Grades of Canned Ripe Olives, or modification thereof; authorized addition of a public member to the administrative committee; and a number of administrative changes.

EFFECTIVE DATE: March 27, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of hearing—issued February 25, 1977; published March 2, 1977 (42 FR 12063); notice of recommended decision—issued October 7, 1977; published October 13, 1977 (42 FR 55095); and final decision—issued February 14, 1978; published February 21, 1978 (43 FR 7228).

PRELIMINARY STATEMENT: A public hearing was held upon proposed further amendment of the marketing agreement, as amended, and order No. 932, as amended (7 CFR Part 932), (hereinafter referred to collectively as the "order") regulating the handling of olives grown in California. The hearing was held at Fresno, Calif., on April 5-6, 1977, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable procedure specified in 7 CFR Part 900.

The recommended decision of the Acting Administrator, Agricultural Marketing Service, was published on October 7, 1977 (42 FR 55095). On February 21, 1978 (43 FR 7228) the final decision of the Deputy Assistant Secretary was published and directed that a referendum be conducted among producers in the production area to determine whether the required percentage of producers favored issuance of the proposed amendment.

It is hereby determined on the basis of the referendum, conducted February 25-March 9, 1978, that the proposed amendment failed to get the required two-thirds favorable producer vote and therefore the proposed amendment to the order and agreement should not be made effective.

Accordingly, the proceedings with respect to the proposed amendment are hereby terminated.

Signed at Washington, D.C., on March 27, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

[FR Doc. 78-8568 Filed 3-30-78; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 133, 150, 166, 182, 184, and 186]

[Docket No. 77G-0379]

SORBIC ACID AND ITS SALTS

Proposed Affirmation and Deletion of GRAS Status

Correction

In FR Doc. 78-6054, appearing at page 9823 in the issue for Friday, March 10, 1978, in the middle column of page 9824, in the 13th line from the top, the words "* * * or sorbic acid * * *" should have read "* * * on sorbic acid * * *". Also, in the first column on page 9825, in the second line of the second complete paragraph, the words now reading "* * * on the 0.1 percent diets * * *" should have read "* * * on the 0.1 or 0.5 percent diets * * *".

[4110-03]

[21 CFR Parts 172, 182, and 184]

[Docket No. 77N-0039]

ALGINATES

Affirmation of Gras Status with Certain Limitations; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of time for comment.

SUMMARY: This document extends to May 30, 1978, the comment period on the proposal to affirm the generally recognized as safe (GRAS) status of ammonium, calcium, potassium, and sodium alginates as direct human food ingredients with specific limitations, and to amend the food additive regulation for propylene glycol alginate. The comment period on that proposal was to expire on March 28, 1978. This action is taken in response to a request for extension of the comment period.

DATE: Written comments by May 30, 1978.

ADDRESS: Written comments (preferably four copies) may be sent to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 27, 1978 (43 FR 3725), the Commissioner of Food and Drugs issued a proposal to affirm the generally recognized as safe (GRAS) status of ammonium, calcium, potassium, and sodium alginates as direct human food ingredients with specific limitations, and to amend the food additive regulation for propylene glycol alginate.

On March 6, 1978, a letter was received from the law firm of Markel, Hill and Byerley on behalf of Kelco Division of Merck & Co., Inc. This letter requested a 60-day extension of the comment period on the proposal to affirm the GRAS status of the al-

ginates with specific limitations and to amend the food additives regulation for propylene glycol alginate. The extension was requested to allow sufficient time for Kelco to prepare comments on the proposed rule.

The Commissioner has decided that the opportunity to comment on GRAS affirmation proposals is an important part of the GRAS review process, and that an extension to the comment period for this proposal would be appropriate, and that it should be extended to all interested parties.

Accordingly, interested persons may, on or before May 30, 1978, submit to the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the Commissioner's proposal. The envelope containing the comments should be prominently marked "ALGINATES." Received comments may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 28, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-8585 Filed 3-29-78; 10:06 am]

[4110-03]

[21 CFR Parts 207, 210, 225, 226, 501, 510, 514, 558]

[Docket No. 77N-0076]

NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Definitions and General Considerations; Extension of Time for Filing Comments

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration is extending until May 19, 1978, the time for filing written comments on the proposal to redefine the articles used in medicated animal feeds. The extension is granted in response to requests from the American Feed Manufacturers Association and the National Feed Ingredients Association.

DATE: Written comments by May 19, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Robert P. Schmidt, Bureau of Veterinary Medicine (HFV-224), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3390.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of January 17, 1978 (43 FR 2526), the Commissioner of Food and Drugs proposed amending the regulations regarding the nomenclature used to define various articles used in the manufacture of medicated animal feeds. Interested persons were given until March 20, 1978, to file written comments on the proposal. The agency has received request from the National Feed Ingredients Association and the American Feed Manufacturers Association to extend the time for submission of comments because the document proposes extensive revisions to current regulations and requires considerable review by the associations' memberships and coordination of membership responses. The requests for extension are on file in the office of the Hearing Clerk (HFC-20), Food and Drug Administration.

The Commissioner agrees that additional time for submission of comments is appropriate.

Interested persons may on or before May 19, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, written comments regarding the January 17 proposal on definitions and general considerations. Four copies of all comments shall be submitted, except that individuals may submit single copies. All comments shall be identified with Hearing Clerk Docket No. 77N-0076. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

(This action is taken pursuant to the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1).)

Dated: March 23, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-8314 Filed 3-27-78; 9:56 am]

[4110-03]

[21 CFR Part 429]

[Docket No. 78N-0025]

INSULIN PRODUCTS

Requirements for Requesting Certification

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: In response to a request from a drug manufacturer, the agency proposes to amend the insulin certification regulations to make unnecessary, under certain conditions, the submission of samples and test results for certain types of insulin products. This action would eliminate unnecessary testing in connection with requests for certification of these insulin products.

DATES: Comments by May 30, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Edwin V. Dutra, Jr., Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: In response to a request from Eli Lilly & Co., Indianapolis, Ind. 46206, the Food and Drug Administration (FDA) is proposing to amend § 429.40 (21 CFR 429.40) of the regulations applicable to drugs containing insulin. The manufacturer has requested that when a sample of a trial mixture of an insulin product containing 100 USP units of insulin per milliliter (ml) has been previously approved by the Commissioner, the submission of samples and test results of trial mixtures of insulin products containing 40 or 80 USP units of insulin per ml prepared from the same materials not be required. The manufacturer has requested that the revisions apply to samples and test results of trial mixtures of all its insulin products, i.e., insulin injection, insulin zinc suspension, insulin zinc suspension prompt, insulin zinc suspension extended, protamine zinc insulin suspension, and isophane insulin suspension. The requested revision was prompted by the projected phaseout of all insulin concentrations except 100-unit (U-100) insulin concentration as recommended by the American Diabetes Association's Committee on the Use of Therapeutic Agents.

CURRENT REQUIREMENTS

As an aid in explaining the current requirements for submitting samples

and test results on trial mixtures of insulin products subject to certification, these products have been divided into three categories according to their method of manufacture and the testing procedures employed: (1) Insulin injection; (2) protamine zinc insulin suspension, isophane insulin suspension, and globin insulin injection; and (3) insulin zinc suspension, insulin zinc suspension prompt, and insulin zinc suspension extended.

The current requirements for these categories of insulin products include the following:

1. Each person requesting certification of an insulin master lot must submit to the agency samples and test results of a trial dilution of that master lot. A trial dilution of that insulin master lot is a simple dilution of a specified quantity of a master lot of insulin, glycerin, phenol or cresol, and hydrochloric acid, to yield a product containing not less that 35 USP units nor more that 45 USP units of insulin per ml. Upon approval of this trial dilution, a manufacturer may then prepare, using the same materials and in the same manner, batches of insulin injection containing 40, 80, or 100 USP units of insulin per ml without submitting additional samples. (The term "trial dilution" is used only for insulin master lot samples.)

2. Each person requesting certification of insulin products in the second category must submit to the agency samples and test results of a trial mixture of the product. A trial mixture is prepared by mixing the same materials, i.e., insulin and other appropriate ingredients such as protamine or globin hydrochloride, in the same manner that will be used in preparing the final batch. Thus, although prepared prior to making the final batch, this trial mixture is intended to represent accurately the final batch. Under current regulations, if this trial mixture contains 40 USP units of insulin per ml and is approved by FDA, the manufacturer may then prepare, using the same materials and in the same manner, batches of insulin in this second category containing 40, 80, or 100 USP units of insulin per ml without submitting additional samples.

3. Each person requesting certification of insulin products in the third category must submit to the agency samples and test results of a trial mixture of the product. As in the second category of insulin products, this trial mixture is prepared by mixing the same materials in the same manner that will be used in preparing the final batch so that the trial mixture will accurately represent the final batch. Unlike the insulin products in the second category, however, batches of insulin in this category containing 80 or 100 USP units of insulin cannot be prepared based upon the approval of a trial mixture containing 40 USP units per ml. Thus, a trial mixture representative of each concentration of the final batch to be prepared must be submitted for approval. This is required because the manufacture of these insulin products involves a carefully controlled precipitation and crystallization process. Further, these insulin products are not subject to biological assay, and control depends upon careful testing within the parameters of the finished product.

Tentative Conclusions

After careful review of the methods of manufacture, the testing procedures employed, and agency experience:

1. In reference to the first category of insulin products, i.e., insulin injection, the Commissioner proposes to accept for approval trial dilutions of insulin master lots whose potencies are estimated to be 40, 80, or 100 USP units of insulin per ml. Under this proposal batches of insulin injection containing 40, 80, or 100 USP units of insulin per ml may be prepared based on testing of trial dilutions of any one of the three concentrations. Agency experience with insulin injection demonstrates that the test dilution need not be identical to the dilution concentration proposed for marketing.

2. The Commissioner believes that the provision for submitting samples and results of trial mixtures should be revised for the second category of drugs, i.e., protamine zinc insulin suspension, isophane insulin suspension, and globin zinc insulin injection. The Commissioner is unaware of any valid scientific reason, including agency experience under the current provisions, for not allowing batches of these three insulin products containing 40, 80, or 100 USP units of insulin per ml to be formulated based on testing of a trial mixture of any one of the three concentrations.

Thus, after reviewing the manufacturer's request and considering agency experience with insulin products, the Commissioner tentatively agrees with the manufacturer's request as it pertains to protamine zinc insulin suspension and isophane insulin suspension. In addition, although not in response to a request of the manufacturer, he proposes to apply the revised requirements to globin zinc insulin injection.

3. The Commissioner, however, disagrees with the manufacturer's request regarding the third category of drugs, i.e., insulin zinc suspension, insulin zinc suspension prompt, and insulin zinc suspension extended. He believes that trial mixtures of these insulin products should continue to be tested as presently required. Because of the precipitation and crystallization process used in manufacturing these insulin products, agency testing experience with these products has demonstrated that the trial mixture can represent the finished product accurately only if it is of the same concentration as the final batch. Further, the agency has found that most of the batches it has rejected or withdrawn have been those of insulin products in the third category.

The Commissioner also proposes to increase the quantity of USP units of insulin that must be submitted as samples to test adequately the trial dilutions or trial mixtures for certification purposes.

The Food and Drug Administration has determined that this document does not contain an agency action covered by 21 CFR 25.1(b) and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 506, 701(a), 55 Stat. 851, 52 Stat. 1050-1053 as amended, 1055 (21 U.S.C. 356, 371(a)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes to amend 21 CFR 429.40 by revising paragraphs (d)(2), (3), (5), (7), and (g)(1) to read as follows:

§ 429.40 Requests for certification: Samples; storage; approvals preliminary to certification.

* * * * *

(d) * * *

(2) If the batch is to be insulin injection a trial dilution made from such master lot or mixture, glycerin, phenol or cresol, and hydrochloric acid, which dilution conforms to the standard of identity, strength, quality, and purity for insulin injection, except that it may contain approximately 40, 80, or 100 units of insulin per milliliter; in a quantity containing approximately 5,000 U.S.P. units of insulin.

(3) If the batch is to be protamine zinc insulin suspension, a trial mixture which is intended to be accurately representative of the mixture which will constitute the finished batch; in a quantity containing approximately 10,000 U.S.P. units of insulin.

* * * * *

(5) If the batch is to be globin zinc insulin injection, a trial mixture made from the master lot or mixture referred to in paragraph (d)(1) of this section, globin, zinc chloride, hydrochloric aid, glycerin, and phenol or cresol, which mixture is intended to be accurately representative of the mixture which will constitute the finished batch; in a quantity containing approximately 10,000 U.S.P. units of insulin.

* * * * *

(7) If the batch is to be isophane insulin suspension, a trial mixture which

is intended to be accurately representative of the finished batch; in a quantity of approximately 10,000 U.S.P. units of insulin.

* * * * *

(g)(1) No sample referred to in paragraph (d) (1) to (8), inclusive, of this section, and no result referred to in paragraph (e) (1) to (8), inclusive, of this section, is required if such sample or result has been submitted in connection with a previous request for certification. Except for (d)(9), (10), and (e)(9), the samples referred to in paragraph (d) of this section and the results referred to in paragraph (e) of this section for insulin injection, protamine zinc insulin suspension, globin zinc insulin injection, or isophane insulin suspension are not required if the Commissioner has previously approved a trial mixture containing 40, 80, or 100 unit of insulin per milliliter or trial dilution contining approximately 40, 80, or 100 units of insulin per milliliter and the mixture or dilution was prepared from the same materials and in the same manner, except for adjustment of pH of the buffer solution.

* * * * *

Interested persons may, on or before May 30, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comment shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: March 24, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-8439 Filed 3-30-78; 8:45 am]

[4110-03]

[21 CFR Parts 812 and 814]

[Docket No. 77N-0248]

PUBLIC INFORMATION

Disclosure of Existence

AGENCY: Food and Drug Administration.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects a proposal published in the FEDERAL REGISTER of March 28, 1978 (43 FR 12869) to permit public disclosure of the existence and status of applications for approval of new drugs, new animal drugs, and medical devices pending before the Food and Drug Administration (FDA); the public acknowledgement of the existence of notices of intent to market medical devices; and the disclosure of the existence of applications for investigational notices for new drugs, new animal drugs, and medical devices. This document supplies inadvertently omitted specific proposed regulations concerning investigational device exemptions and product development protocols.

DATE: Comments by May 30, 1978.

ADDRESS: Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Stuart M. Pape, Office of the General Counsel (GCF-1), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 310-443-4350.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of March 28, 1978, the Commissioner of Food and Drugs proposed to amend a number of existing regulations and to establish some new regulations to provide for the disclosure to the public of (1) the existence and regulatory status of new drug applications (NDA's), new animal drug applications (NADA's), and applications for premarket approval for medical devices; (2) the existence of notices of intent to market medical devices submitted in compliance with section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)); and (3) the existence of investigational new drug notices (IND's) and investigational new animal drug notices (INAD's). Although the preamble discussion made it clear that the proposal addressed applications for investigational exemptions submitted for medical devices (IDE's) and product development protocols (PDP's), provisions applying explicitly to IDE's and PDP's were inadvertently omitted from the proposed regulations. This document corrects those omissions. For the sake of clarity, the affected sections are reproduced below in full.

Accordingly, under the Federal Food, Drug, and Cosmetic Act (sections 301(j), 505, 507, 512, 515, 520, 701(a), 52 Stat. 1042 as amended, 1052-1053 as amended, 1055, 59 Stat. 463 as amended, 82 Stat. 343-351, 90 Stat. 552-559, 565-574 (21 U.S.C. 331(j), 355, 357, 360b, 360e, 360j, 371(a)), the Public Health Service Act (sec. 1 et seq., 58 Stat. 682 et seq. as amended (42 U.S.C. 201 et seq.)), and the Freedom of Information Act (5 U.S.C. 552) and under authority delegated to the Commissioner (21 CFR 5.1), the following corrections are made in the proposal published in the FEDERAL REGISTER of March 28, 1978 (43 FR 12869) to amend Chapter I of Title 21 of the Code of Federal Regulations:

1. Part 812 is amended by adding a new § 812.38 to read as follows:

§ 812.38 Confidentiality of data and information in an application.

The existence of an application for an investigational device exemption will be disclosed by the Food and Drug Administration to the public upon request.

2. Section 814.9(a) is corrected to read as follows:

§ 814.9 Confidentiality of information.

(a) The existence of an application for premarket approval (including proposed and approved product development protocols) will be disclosed by the Food and Drug Administration to the public upon request. The Director of the Bureau of Medical Devices will maintain a list available for public disclosure of pending applications and their status.

* * * * *

Interested persons may, on or before May 30, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 28, 1978.

JOSEPH P. HILE,
Associate Commisssioner for Compliance.

[FR Doc. 78-8588 Filed 3-30-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 48]

[LR-180-77]

EXCISE TAX ON FURTHER MANUFACTURE OF CERTAIN LIGHT-DUTY TRUCKS, BUSES, AND RELATED ARTICLES

Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulation relating to the imposition of the manufacturers excise tax under the Internal Revenue Code of 1954. The proposed regulation would clarify the application of the law under existing regulations in certain cases involving the further manufacture and sale of light-duty trucks, buses, and related articles after sale by an original manufacturer. This regulation would provide the public with guidance needed to comply with the Code.

DATES: Written comments and requests for a public hearing must be delivered or mailed by May 30, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T [LR-180-77], Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Thomas Rogan of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3478, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains a proposed amendment to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under section 4061 (a) of the Internal Revenue Code of 1954. It is proposed to clarify § 48.4061 (a)-1 (f)(1) published in Treasury Decision 7461 in the FEDERAL REGISTER on January 13, 1977 (42 FR 2670). This amendment is to be issued under the authority contained in section 7805 of the Code (68A Stat. 917; 26 U.S.C. 7805).

NEED FOR CLARIFICATION

Treasury Decision 7461 deleted § 142.1-1(d) of the Temporary Excise Tax Regulations under the Revenue Act of 1971 (26 CFR Part 142), relating to light-duty trucks, buses, and related articles. This deleted section contained a rule concerning taxability on a sale after further manufacture of light-duty vehicles, which rule does not appear in the final regulations promulgated under Treasury Decision 7461.

It is necessary to eliminate any negative inference that might be drawn from the absence of an express rule covering this matter in the final regulations. Therefore, the proposed amendment would again state without substantive change the rule of taxability, as stated in the now-deleted temporary regulations, for cases involving the further manufacture and sale of light-duty trucks, buses, and related articles after sale by an original manufacturer.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting this proposed regulation, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the FEDERAL REGISTER.

DRAFTING INFORMATION

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

Proposed amendments to the regulations

The proposed amendment to 26 CFR Part 48 is as follows:

Section 48.4061(a)-1 (F)(1) is amended by adding the following new subdivision immediately after subdivision (iii):

§ 48.4061 (a)-1 Imposition of tax; exclusion for light-duty trucks, etc.

* * * * *

(f) *Exclusion of light-duty trucks, buses, and related articles from tax—* (1) *In general.* * * *

(iv) Where the modification of an article, exempt from tax when sold by the original manufacturer, constitutes further manufacture after the original manufacturer's sale, a tax may be imposed on the subsequent manufacturer's sale or use of the modified article.

* * * * *

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-8564 Filed 3-30-78; 8:45 am]

[3810-01]

DEPARTMENT OF DEFENSE

Defense Civil Preparedness Agency

[32 CFR Part 1806]

OFFICIAL CIVIL DEFENSE INSIGNE

Extension of Time

AGENCY: Defense Civil Preparedness Agency.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The time for submission of comments on the proposal relating to the official use of the civil defense insigne is extended.

DATE: Comments should be submitted by May 17, 1978.

FOR FURTHER INFORMATION CONTACT:

Walter Girstantas, Assistant Director for Administrative Services, Defense Civil Preparedness Agency, Room 1D487, Pentagon, Washington, D.C. 20301, 202-695-3402.

SUPPLEMENTAL INFORMATION: On March 16, 1978 notice of a proposal to revise the regulation (32 CFR Part 1806) governing use of the official civil defense insigne was published in the FEDERAL REGISTER, 43 FR 10940. Comments are to be submitted by April 17, 1978. However, DCPA is distributing copies of this proposal by mail to interested State and local directors, and recent experience has indicated a one-month time period is too short to make such distribution and get comments back. Thus, the time to submit comments is being extended for one month.

Therefore the date for submission of comments on this proposed revision of regulation is extended to May 17, 1978.

BARDYL R. TIRANA,
Director, Defense Civil Preparedness Agency.

[FR Doc. 78-8561 Filed 3-30-78; 8:45 am]

[1505-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 87]

[FRL 345-4; Docket No. OMSAPC—78-1]

CONTROL OF AIR POLLUTION FROM AIRCRAFT AND AIRCRAFT ENGINES

Proposed Amendments to Standards

Correction

In FR Doc. 78-7690 appearing at page 12615 of the FEDERAL REGISTER of Friday, March 24, 1978, at page 12623, § 87.21(e)(1), (2), and (3) appear incorrectly and should have appeared as follows:

(e) Smoke exhaust emissions from each aircraft gas turbine engine of the classes specified below manufactured on or after the dates indicated shall not exceed:

(1) Classes T1, T2, T3, T4 (January 1, 1981): . . . $SN=79(rO)^{-0.265}$ (rO) is in kilonewtons).

(2) Class P2 (January 1, 1979): . . . $SN=277(rO)^{-0.280}$ (rO is in kilowatts).

(3) Class T5 (January 1, 1980): . . . $SN=79(rO)^{-0.265}$ (rO is in kilonewtons).

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 68]

[CC Docket No. 78-100, RM-2955; FCC 78-199]

UNSOLICITED TELEPHONE CALLS ("JUNK PHONE CALLS")

Inquiry

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: FCC institutes inquiry into manually dialed and automatically dialed unsolicited telephone calls ("junk phone calls").

DATES: Comments must be received on or before May 26, 1978, and reply comments must be received on or before June 23, 1978.

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

FOR FURTHER INFORMATION CONTACT:

David A. Irwin, Policy and Rules Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554; 632-9342.

Adopted: March 15, 1978.

Released: March 30, 1978.

In the matter of unsolicited telephone calls ("junk phone calls"), CC Docket No. 78-100, RM-2955.

1. For many years, various sales organizations have used the telephone to sell a variety of products and services to consumers. Most of these unsolicited sales calls were made by persons hired to dial numbers listed in telephone directories and deliver live messages when the telephone was answered. In some instances, these live messages were augmented by a short recorded message. In other cases, a recorded sales message was turned on as soon as the phone was answered, and then the sales person came back on the line to talk to the customer after the tape had stopped.

2. Recently, new devices known as automated dialer and recorded message players (ADRMP), have been developed and introduced into the marketplace. These devices are designed to automatically dial a series of telephone numbers (either preselected or chosen at random) and play a prerecorded message when the phone is answered. We understand that some of these devices have the capability of placing thousands of calls a day, without any human involvement once the message is recorded and the first phone number selected.

3. Because of the potentially increased volume of calls which may be caused by these devices, a formal petition was filed, on August 26, 1977, by Walter S. Baer and the Citizens Communications Center, requesting that the Commission issue a notice of inquiry and proposed rulemaking "to consider protecting telephone subscribers from nuisance, annoyance, and invasion privacy resulting from the use of automated dialing devices to present unsolicited recorded messages over the public telephone network." The petition suggested that the rulemaking:

(a) Consider restrictions on the use of automated dialing devices for presenting unsolicited recorded messages to telephone subscribers;

(b) Designate means by which telephone subscribers can indicate that they do not wish to receive unsolicited advertising messages, and specify penalties to advertisers who violate such subscribers' desires for privacy;

(c) Designate special tariffs for telephone sales campaigns to fully reflect their cost of service; and

(d) Require users of automated dialing devices to precede each recorded message with an announcement identifying it as coming from an automated dialing device.

4. The petition was designated as RM-2955, and placed on public notice on September 13, 1977. The public notice afforded interested persons an opportunity to file comments supporting or opposing the petition. By order, released September 28, 1977 (42 FR 53661), the date for filing comments was extended to November 14, 1977. In response to our public notices, and news media publicity, we have received more than 1,000 comments (both formal and informal) on this subject. Among those filing comments are Federal Government agencies (Office of Telecommunications Policy, Office of Consumer Affairs), State agencies (Wisconsin Department of Justice, Office of Consumer Protection; Pennsylvania Department of Justice, Office of Consumer Advocate; Massachusetts Secretary of Consumer Affairs), public interest groups (W.A.T.S.—"Working Against Telephone Solicitation"; Institute for Public Interest Representation) and the telephone industry (American Telephone & Telegraph Co., GTE Service Corp., United States Independent Telephone Association).

5. The comments, which raise many legal, technical, and policy issues, are overwhelmingly in favor of either an outright ban or severe restrictions on telephone sales soliciting. Many who commented find it an annoyance to stop whatever they are doing to run to the telephone, only to find that the caller is a machine attempting to present a prerecorded sales message. Some people have complained that since the ADRMP can call numbers at random or in sequence, an unlisted telephone number would provide no protection. Further, an ADRMP temporarily could prevent emergency calls from getting through, where the type of telephone company central office equipment is employed which does not disconnect the receiving party's line until the call's originator hangs up its telephone.

6. It is argued that the use of an ADRMP is really no different than having a group of people making unsolicited calls, except that the ADRMP is cheaper and more efficient. Therefore, some parties conclude that there is no need for regulation of these machines. On the other hand, other parties, also recognizing the similarity of the two situations, suggest that the scope of this proceeding be expanded to address all forms of telephone soliciting.

7. We are also aware that on October 12, 1977, companion bills known as the "Telephone Privacy Act," were proposed in the U.S. Senate by Sen. Wendell R. Anderson (S. 2193), and in the House by Rep. Les Aspin (H.R. 9505). The bills, which would add a section to the Communications Act of 1934, went beyond the petition filed with the FCC by extending the restrictions on the ADRMPs to persons conducting live soliciting as well. The bills have four main provisions:

(1) Telephone companies would have to compile an annual list of subscribers who do not want to receive unsolicited sales calls;

(2) Organizations using ADRMPs would have to obtain copies of the lists from the telephone companies;

(3) Telephone company administrative costs would be recovered through fees charged the commercial firms for the lists of telephone subscribers; and,

(4) Penalties would be imposed on those who violate the regulations.

Civic, charitable, political, and polling organizations would be exempted from the provisions of the bills. The Commission has been requested to comment on this proposed legislation.

8. Based on the widespread public interest in this subject, coupled with the potential impact on all telephone customers of a proliferation of telephone sales soliciting, we will institute an inquiry into unsolicited telephone calls.

At the outset we wish to make clear that this inquiry will be concerned with both automatically and manually dialed calls. We are requesting comments on the jurisdictional, constitutional, procedural, technical, operational, and economic issues listed below. Once we have made a preliminary determination on these issues—especially the jurisdictional and constitutional issues—we will be in a better position to determine whether to proceed with formal rulemaking.

JURISDICTIONAL ISSUES

(1) In view of recent Court decisions regarding the Commission's jurisdiction over terminal equipment connected to the nationwide telephone network,[1] does the Commission have jurisdiction to regulate the use of ADRMP equipment if such equipment is ued only to place calls that do not cross State lines? Does registration of an ADRMP under Part 68 of the Commission's rules confer any privileges of use in this situation?

(2) Does the fact that unsolicited calls—even those that do not cross State lines—traverse a portion of the interstate nationwide telephone network, confer jurisdiction over such calls upon the Commission?

(3) Absent new legislation, does the Commission have jurisdiction to regulate automatically dialed (by ADRMPs) unsolicited telephone calls, including those that do not cross State lines? Absent new legislation, does the Commission have jurisdiction to regulate manually dialed unsolicited telephone calls, including those that do not cross State lines?

(4) In the event that the Commission does not have exlusive jurisdiction over any of the above matters, do the Commission and States regulatory agencies have joint jurisdiction, and if so, what mechanisms may be used in exercising such jurisdiction?

CONSTITUTIONAL ISSUES

(5) How do unsolicited telephone calls compare with highway billboards, loud speakers on automobiles, radio and TV ads, newspaper and magazine ads, "junk mail," and door-to-door salesmen in terms of invasion of privacy?

(6) Is freedom from unsolicited telephone calls a reasonable expectation of privacy? Does the fact that telephone solicitations require a person to take positive action (answering the telephone) while most other forms of advertising may be received passively, affect one's reasonable expectation of privacy?

(7) In view of the foregoing, do customers have a right of privacy which would protect them from receiving unsolicited telephone calls? If so, does one's ability to hang up his telephone adequately protect any right to privacy?

(8) Does the first amendment's freedom of speech clause guarantee organizations the right to make unsolicited telephone calls?[2]

(9) Would regulation of unsolicited telephone calls infringe on the first amendment's free speech guarantee?

(10) Would regulation of only commercial solicitation, but not nonprofit or political solicitation, constitute an unconstitutional discrimination? Alternatively, is there a constitutional justification for exempting not for profit and/or political solicitation from regulation?

(11) For constitutional purposes, is there any significant distinction between automatically dialed and manually dialed calls?

TECHNICAL ISSUES

(12) How many ADRMPs are now connected to the telephone network, and what are the projections for each of the next 5 years? How many call attempts would a typical ADRMP be capable of making or expected to make in 1 day? How many calls would a typical ADRMP be expected to complete in one day? How many calls—both local and long distance—are placed over the nationwide telephone network on a typical day?

(13) What is the expected impact of ADRMPs on the nationwide telephone system in the present and near future? Will the use of ADRMPs have any adverse impact on the overall operation of the telephone network? If the use of ADRMPs becomes more widespread, is it anticipated that such increased usage will cause congestion in local telephone offices? If so, will some communities be more severely impacted than others?

(14) If any adverse is anticipated, how can such impact be avoided? For example, is it possible to relieve any anticipated congestion by assigning ADRMPs only to special purpose lines?

(15) Is it possible for central office equipment to identify incoming solicitation calls and then to block the completion of such calls to persons who do not wish to receive them? Can such task be performed by telephone or other equipment on the customer's premises? What alternative techniques are available for such purposes,[3] and what are their respective costs?

(16) Can ADRMPs be designed to allow only a certain number of rings before disconnecting and going on the next number?

(17) Can ADRMPs be designed to disconnect as soon as the called party hangs up, even if the telephone company's equipment does not automatically free the called party's line when he hangs up?

OPERATIONAL ISSUES

(18) How should "unsolicited calls" be defined? Should that term include calls from: Polling or surveying organizations, commercial sales solicitations, political fundraising organizations, charitable fundraising organizations, organizations with which the called person is currently doing business, organizations with which the called person has previously done business, organizations which have received the called person's name from a friend or relative, organizations whose advertising may have led those called to believe that the additional information they requested would be mailed, a labor union letting its members know that a strike is over, an airline informing its passengers that a flight has been delayed or cancelled; should the term include calls originated by computers for the purpose of transmitting digital data as part of a computer message system or other computer network?

(19) Should an outright ban be imposed on all unsolicited calls, whether manually or automatically dialed?

(20) Should unsolicited calls be prohibited from being placed to parties who have affirmatively stated their objection to receiving such calls? Should unsolicited calls be allowed to be placed only to parties who have affirmatively consented to receive such calls? What are the relative costs of each of these options?

(21) Once subscribers have informed the local telephone company of their desire to receive or not receive unsolicited calls, how is this information to be used? Should a special symbol (such as an asterisk) be placed beside a subscriber's name in the telephone directory? If a special directory symbol is used, how will subscribers with unlisted or unpublished numbers be accomodated, and how will new and changed listings be accommodated? Alternatively, should each telephone company be required to maintain lists of subscribers who have given notice of their desire to receive or not receive unsolicited calls? What other procedures could be adopted to insure that

[1] *North Carolina Utilities Commission* v. *FCC*, 537 F. 2d 787 (4th Cir. 1976), petition for cert. denied, 45 U.S.L.W. 3257 (October 5, 1976); *North Carolina Utilities Commission* v. *FCC*, 552 F. 2d 1036 (4th Cir. 1977), petition for cert. denied, —— U.S.L.W. —— October 3, 1977).

[2] See, *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748 (1976), *Hynes* v. *Mayor and Council of Borough of Oradell*, 1425 U.S. 610 (1976); *Rowan* v. *Post Office Department*, 397 U.S. 728 (1970).

[3] Could some form of distinctive ringing be used to signify an incoming ADRMP call?

unsolicited calls are not received by subscribers who do not wish to receive them?

(22) What would be the costs to the telephone companies of each of the above alternatives? How would these costs be recovered? Should they be recovered from organizations placing unsolicited calls?[4]

(23) Should unsolicited calls be required to be preceded by an announcement: (1) Identifying the caller, (2) stating that it is a prerecorded message (if that be the case), and (3) briefly describing the nature of the call?

(24) Should any limitation be imposed on the number of times an unsolicited call may be made to a given number?

(25) Should ADRMPs be required to allow only a certain number of rings before disconnecting and going on to the next number?

(26) Should ADRMPs be required to release the called party's line as soon as he hangs up?

(27) Should the duration of unsolicited calls from ADRMPs be limited to a specific time period such as one minute?

(28) Should unsolicited calls be restricted to certain periods of the day and/or certain days of the week?

9. This inquiry is instituted pursuant to sections 1, 4(i), 4(j), 201-205, 218, 220, and 403 of the Communications Act of 1934 (47 U.S.C. sections 151, 154(i), 154(j), 201-205, 218, 220, and 403).

10. Interested persons may file comments on or before May 26, 1978, and reply comments on or before June 23, 1978.[5] Pursuant to the applicable procedures set forth in § 1.51 of the Commission's rules, an original and five copies of all statements, briefs, or comments shall be furnished the Commission. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy of their comments, without regard to form, provided only that the docket number is specified in the heading. All comments received in response to this notice will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C. In reaching its determinations in this proceeding, the Commission may also take into account other relevant material before it, in addition to the specific comments invited by this notice.

FEDERAL COMMUNICATIONS COMMISSION,[6]
WILLIAM J. TRICARICO,
Secretary.

[4] In view of the capability of ADRMPs to put a greater burden on the common switching exchange and interexchange equipment than other users, should there be a separate tariff or special tariff provisions such as usage sensitive or traffic sensitive pricing to ameloriate any additional costs associated with such use which are currently not recovered. Could equipment limitations such as interdialing intervals achieve this same result?

[5] Due to the jurisdictional nature of this proceeding, we specifically solicit the State commissions' comments and views regarding the issues raised by the proceeding.

[6] See separate statements of Commissioners Ferris, Chairman, and Fogarty below.

SEPARATE STATEMENT OF CHAIRMAN CHARLES D. FERRIS

IN RE: UNSOLICITED TELEPHONE CALLS "JUNK PHONE CALLS"

I am pleased that the Commission is today setting in motion a formal process to examine this matter of widespread public concern. Few recent petitions for rulemaking filed with us have generated as much public comment as this one. I hope that this inquiry stimulates even greater public attention to, and understanding of, the nature of our common carrier regulations. It is a complex field, but one in which a well-informed public can and should participate.

We have already received over 1,000 comments filed by Federal and State agencies, industry and consumer groups, and concerned individuals. The comments are overwhelmingly in favor of government action. It might be fair to ask, why then are we today launching an inquiry, rather than proposing specific rules and moving quickly to their adoption? The answer is that few of the commenting parties have addressed in depth the serious constitutional, jurisdictional, and practical hurdles we must cross before we can take any actions in this field.

I can understand the strong objections of a subscriber of an unlisted telephone number when automatic dialing and recording machines pierce that desired privacy to convey messages on every conceivable product and service our inventive advertising community can develop. I understand from published reports that already manually dialed telephone solicitation is a $6 billion a year business, with over 7 million calls placed each day. The prospect of radically increased telephone solicitation through mechanization gives me great personal concern. But my own private reactions cannot be my proper test as a government regulator. We face here a conflict, at the outset, between fundamental constitutional rights: The right of individual privacy, and the first amendment right to speak and persuade.

Even were we to place inhibitions on unsolicited messages for purely commerical sales purposes alone, we must be careful that we do so in conformity with recent Supreme Court cases indicating that there is a narrowing constitutional line between "commercial speech" and idea advocacy.[1] Beyond commercial use, however, what can and should we do to restrict use of these machines for charitable solicitation, or solicitation of political support for candidates or legislation?

Just as in the case of "junk mail," one person's definition of junk may not be another's. To some, a mailing or recorded phone call seeking support for a petition for or against the Panama Canal Treaty is a welcome opportunity to participate in the political process. Others will consider it a nuisance and an invasion of their personal privacy. Outright prohibition of these machines would bar their use for non-solicitation purposes, as well. Apparently, some airlines are now using them to automatically inform all passengers that a particular flight has been delayed or cancelled. We seek comment on where we can and should draw the line.

Second, we face critical jurisdictional issues. The FCC does not normally regulate local telephone company rates and practices. Unless there is a rational link to our statutory jurisdiction over the interstate telephone network, local rates and practices are for the State to regulate. The California Public Utilities Commission has already directed all phone companies in that state to prohibit automatic dialing and announcing devices. Other States, such as Maryland, are considering such action. We seek comment whether we do have jurisdiction in this particular area, and if so, whether it is exclusive or concurrent with the States. If we have joint jurisdiction with the States, we seek to resolve how we should exercise it.

In addition to these threshold legal issues, we are asking for comment on a host of technical and policy issues that will face us if we decide to act in this field. Actions that we might take range from an outright ban of these machines to requiring their users to pay special tariffs designed to reflect their high usage of the phone network, requiring users to purchase specially dedicated lines, or developing a subscriber choice system like the existing system by which individuals can ask that third-class mail not be delivered to them. Each approach carries with it its own set of policy choices. I hope that, as a result of this inquiry, we will be able to make those choices on a rational basis with a complete factual record.

SEPARATE STATEMENT OF COMMISSIONER JOSEPH R. FOGARTY

RE: UNSOLICITED TELEPHONE CALLS

I agree with the necessity of inquiring into the need and wisdom of regu-

[1] E.g., *Virginia State Board of Pharmacy* v. *Virginia Citizens Consumer Council*, 425 U.S. 748 (1976).

lating "junk" telephone calls. Because of divided Federal-State jurisdiction over telecommunications, I believe it is imperative to elicit the views of NARUC and the individual State regulatory commissions, in order that efforts can be coordinated to the fullest extent possible.

Legislation pending before both houses of Congress would mandate Commission regulation of unsolicited telephone calls. Without commenting on the merits of these bills, I believe the Commission should have an opportunity to determine for itself whether it has jurisdiction in this area and what Constitutional issues will be expedited in order that the Commission's findings can be presented to Congress when it considers the proposed legislation.

[FR Doc. 78-8474 Filed 3-30-78; 8:45 am]

[6712-01]

[BC Docket No. 78-52; RM-2808]

[47 CFR Part 73]

TELEVISION BROADCAST STATIONS IN WASHINGTON, D.C., WALDORF, MD., FAIRFAX AND FRONT ROYAL, VA.

Order extending time for filing comments and reply comments

AGENCY: Federal Communications Commission.

ACTION: Order extending time for comments.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding concerning proposed television channel changes in Washington, D.C., Waldorf, Md., Fairfax and Front Royal, Va. Petitioner, Central Virginia Educational Television Corporation, states that the additional time is needed so that it can explore in detail the alternatives proposed in the Notice.

DATES: Comments must be filed on or before April 24, 1978, and reply comments on or before May 18, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Adopted: March 22, 1978,

Released: March 24, 1978.

By the Chief, Broadcast Bureau: 1. On February 8, 1978, the Commission adopted a Notice of Proposed Rule Making, 43 FR 7330, concerning the above-entitled proceeding. The present dates for filing comments and reply comments are March 24, and April 17, 1978, respectively.

2. On March 8, 1978, Central Virginia Educational Television Corp. ("CVETC"), filed a timely request seeking an extension of time for filing comments to and including April 24, 1978. CVETC states that the alternatives proposed by the Commission in its Notice pose numerous technical questions which CVETC wishes to explore in detail. CVETC notes that this exploration will require more time than is now available.

3. We are of the view that the public interest would be served by this extension as it would provide Central Virginia Educational Television Corporation with an opportunity to file more thorough comments, thus aiding the Commission in reaching a judicious decision in this proceeding.

4. Accordingly, it is ordered, that the dates for filing comments and reply comments in BC Docket 78-52 are extended to and including April 24, and May 18, 1978, respectively.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-8514 Filed 3-30-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Deregulation of the Mexican Duck

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes that the Mexican duck (*"Anas diazi"*), presently determined as endangered in Arizona, New Mexico, and Texas, be removed from the U.S. list of endangered and threatened wildlife and plants. A review of the status of this duck reveals that: (1) The duck is a subspecies of the mallard (*Anas platyrhynchos*), (2) a zone of "hybridization" between Mexican ducks and mallards extends from northern New Mexico to southern Durango, Mexico, (3) the populations of pure Mexican ducks are not under any threats to their continued existence throughout all or a significant portion of their range, and (4) recent surveys of midwinter populations of Mexican and Mexican-like ducks show a minimum or 22,500 birds present in the United States and Mexico. This proposal reflects a determination by the Service that the Mexican duck is not, in fact, an endangered or threatened species, and that its conservation can be more effectively managed under the protection and benefits afforded by the Migratory Bird Treaty Act of 1918, than under the Endangered Species Act of 1973.

DATES: Comments from the public must be received by May 30, 1978. Comments from the Governors of the States involved with this action must be received by June 16, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of Interior, Washington, D.C. 20240. Comments and materials received or already on file will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Endangered Species Act of 1973 requires the Secretary of the Interior to determine whether a species is endangered or threatened on the basis of the best scientific or commercial data available. The earlier (1966 and 1969) endangered species laws required similar consideration. Data on the Mexican duck available in 1966 suggested that hybridization with the mallard and major losses of habitat (wetlands) in the southwest and northern Mexico threatened its existence. Based on data then available it was surmised that the Mexican duck was in similar stress throughout its range. Thus, The Mexican duck was listed as an endangered species under the 1966 law which was limited solely to native species. The 1969 law allowed the listing of both native and foreign species on separate lists; the Mexican duck was retained on the native endangered species list. the present Act (1973) combined the two 1969 lists.

Because the foreign population of Mexican duck was never formally determined as endangered under the Endangered Species Conservation Act of 1969 or the Endangered Species Act of 1973, only the U.S. segment of the Mexican duck population is presently protected. However, in the FEDERAL REGISTER and other publications by the Service the Mexican duck was noted as endangered in "U.S.A. (Arizona and Texas), Mexico." This was the result of an administrative error on the part of the Service and should have been described as "U.S.A. (New Mexico, Texas, and Arizona)."

Based upon data on the Mexican duck received by the Service in the past 2 years, a notice of status review was published in the FEDERAL REGISTER on November 28, 1977 (42 FR 60579). All comments and additional data received through early February 1978 are summarized below.

SUMMARY OF FACTORS AFFECTING THE SPECIES

With respect to the Mexican duck, section 3 of the Act defines "endangered species" as "* * * any species which is in danger of extinction throughout all or a significant portion of its range * * *." The term "threatened species" is defined as "* * * any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range."

The Service's Committee on Rare and Endangered Wildlife Species based its original classification (1966 "Red Book") of endangered for the Mexican duck on two principal factors: "* * * drainage of suitable marsh habitat throughout range and hybridization with common mallard in the United States." Section 4(a) of the Endangered Species Act of 1973 establishes five basic factors to be used by the Service when determining a species under the Department's jurisdiction to be endangered or threatened. Below the Service presents a summary of the best data now available relative to the two 1966 primary factors concerning the Mexican duck in 1966 and the five factors under section 4(a) of the Act. (The term "Mexican-like duck" refers to the ducks typically found from northern New Mexico to southern Durango that at least superficially resemble pure *Anas platyrhychos diazi*, as discussed further in this section.)

(1) *Present or threatened destruction, modification, or curtailment of its habitat or range.* There is little question that drainage of wetlands, particularly along the Rio Grande in New Mexico, has caused a reduction of riparian marshlands. However, the Mexican duck has adapted to this change by moving out of the river bottoms and by colonizing small irrigation impoundments and crop lands. Since the 1930's the Mexican duck has expanded its range westward into southeastern Arizona and eastward into west Texas. Also there has been an increased number of observations of the Mexican-like ducks in the higher elevations of western and southern New Mexico. The Service has data to show that the total population of Mexican-like ducks has not changed significantly in modern times. This duck apparently never has been common because of the general lack of water in the Southwest. There are presently estimated to be about 1,000 Mexican-like ducks nesting in the United States.

Only within the past 5 years has any definite information on the abundance of the Mexican duck in Mexico become available. The total population of Mexican-like ducks in northern Mexico (Durango and Chihuahua) is thought to be only slightly larger than that in the United States. Perhaps as many as 2,000 ducks are present at the beginning of the nesting season in this area. (Population figures reported herein are based upon the lowest point in the population, i.e., immediately prior to nesting.)

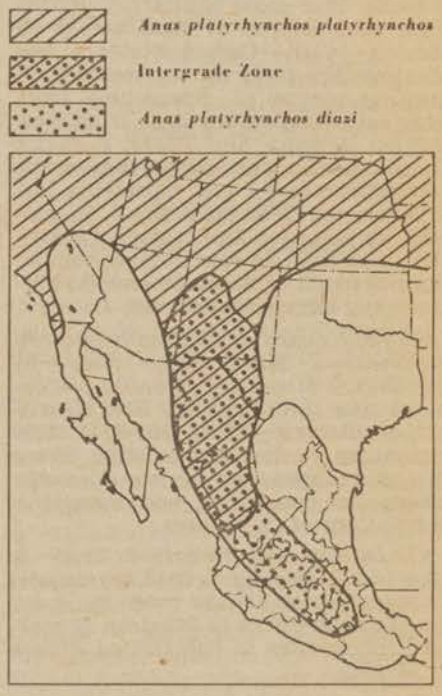
The best data available to the Service shows a stable population of Mexican ducks for the past 30 years in Mexico. The present best counts of the population in central Mexico are 16,000 ducks in the period immediately prior to the nesting season. These Mexican counts were conducted over only a portion of the range of the duck, and they did not cover all localities where the Mexican duck may be present. Thus, these counts do not reflect the range-wide population of this duck and should be considered as minimum counts.

Winter waterfowl survey data taken by the Service since the early 1960's when adjusted for coverage, show a relatively constant population level of the Mexican and Mexican-like ducks throughout the period. The January 1978 winter waterfowl survey was made with special attention to the Mexican duck. A count of 22,470 was made and is considered to be a conservative figure of the actual total for Mexico. A count of 545 Mexican-like ducks was made in southeastern Arizona, southern New Mexico, and western Texas.

Although the range of the Mexican duck is restricted, when compared to most kinds of waterfowl, the bird has been successful in occupying a variety of habitats within this limited distribution. So long as water and cover are available, Mexican ducks can be found from humid pine-oak mountains to arid mesquite grasslands. This duck is found in natural as well as man-made wetlands. This great adaptability of the Mexican duck allows it to adjust to changes in its environment. The duck has successfully responded to the loss of its natural marsh habitat by adapting to a field-feeding existence coupled with its use of small irrigation impoundments or canals. The ducks disperse widely over their geographical range during all parts of the year and seek out a variety of wetlands. These wanderings are not true migrations, but are simply movements to locate suitable food, water, and shelter. During extended dry periods the ducks may become relatively concentrated, otherwise they are usually paired and apart from other ducks.

(2) *Other natural or man-made factors affecting its continued existence.* Some degree of hybridization between Mexican ducks and mallards was recognized in 1966. Most estimates at that time were in the range of 30–60 percent "hybrids" and increasing rapidly; the present best assessment is that about 90 percent have always been "hybrids" and there has been only minor changes in this century. A recent study by Dr. J. P. Hubbard, New Mexico Department of Game and Fish (1977, The Biological and Taxonomic Status of the Mexican Duck), shows that between the Mexican duck and the mallard there are no effective reproductive isolating mechanisms. These two ducks freely interbreed when they are in contact with each other, and have formed a "hybrid swarm" or zone of intergradation that extends from northern New Mexico to southern Durango in Mexico.

Distribution of Common Mallard (nesting only), Mexican Duck and their zone of intergration in the United States and Mexico



Intergradation is evident in the oldest specimens from the U.S. of Mexican-like ducks dating back to 1893. Authorities suspect it has been occurring for many hundreds, if not thousands, of years.

Limited banding of Mexican-like ducks in New Mexico, Arizona, and Texas as well as field observations indicate that they are largely nonmigratory. However, there are seasonal movements related to local changes in water and food. Absence of migratory behavior appears to be characteristic, also, of mallards that are nesting

northward from southern New Mexico to southern Colorado. For example, banding studies show that the apparently pure mallards breeding in south central Colorado (San Luis Valley at head of the Rio Grande) have little or no migratory tendency.

At a January 1978 meeting, the American Ornithologist's Union Committee on Classification and Nomenclature of North American Birds classified the Mexican duck a subspecies, *Anas platyrhynchos diazi*, of the common mallard. This classification was restricted to the pure population of central Mexico. Those Mexican-like ducks indigenous to the area from New Mexico to Durango were classified as intergrades (*Anas platyrhynchos platyrhynchos* X *diazi*) with the mallard.

(3) *Overutilization for commercial, sporting, scientific, or educational purposes.* There is no evidence that the Mexican duck is utilized to any significant degree for commercial, sporting, scientific, or educational purposes. It is reported to be very wary. It is likely that some utilization of this duck as a source of food occurs in Mexico. In the United States a few Mexican-like ducks are harvested each hunting season as determined from wing collection survey data from New Mexico, Arizona, and Texas. It is not known exactly what proportion of the population this harvest represents, but it is believed to be quite small. In general, its behavior and scattered distribution as well as low human populations in much of its range seem to preclude any large scale harvest.

(4) *Inadequacy of existing regulatory mechanisms.* Mexican-like ducks in the United States are afforded protection under the Migratory Bird Treaty Act of 1918 (16 U.S.C. 701-711). The regulatory mechanisms existing under this Act appear to be an adequate means for conserving and managing populations of these birds.

(5) *Disease and predation.* There is no evidence to suggest that any unusual predation or disease problems exist for Mexican ducks or Mexican X mallard intergrades in the United States or Mexico.

To summarize the above five factors, the population of Mexican-like ducks in the United States consists of intergrades between Mexican ducks and mallards. Population surveys in the United States and Mexico during the past 10-15 years show a relatively stable population of Mexican and Mexican-like ducks. Evidence suggests there is not any present or threatened jeopardy to the continued existence of the Mexican duck in any portion of its range. The Service finds no justification for the classification as endangered or threatened for one parental subspecies in a population that is composed of a freely interbreeding population of that subspecies and another conspecific subspecies.

The above data were obtained by the Service in response to the November 28 notice of review or were previously provided. Information and comments on the Mexican duck in response to the November 28 notice of review were provided by the Mexican duck recovery team, States of New Mexico and Texas, American Ornithologists' Union (Committee), Wilcox-San Simon Natural Resource Conservation District (Arizona), Safari Club International, U.S. Bureau of Land Management (Santa Fe), Bureau of Reclamation, and the Fish and Wildlife Service's own regional office in Albuquerque, N. Mex. Individual comments and data were also received from Dr. John Aldrich (Washington, D.C.) and Dr. A. G. Canaris (El Paso, Tex.). Nearly all of those mentioned above supported the removal of the Mexican duck from protection under the Endangered Species Act of 1973. One letter from Ecology Center of Southern California supported continued protection of the Mexican duck based largely upon the same reasons originally used in 1966 to classify this duck. Continued Federal protection will still be afforded the Mexican duck under the Migratory Bird Treaty Act of 1918.

Effects of the Rulemaking

If this proposed action becomes final, it will correct what is an unnecessary and erroneous classification of the Mexican duck under the Act. the Mexican duck, as well as any intergrades between it and the mallard, will remain under the protection and benefits of the Migratory Bird Treaty Act of 1918. the Mexican duck, if removed from the list of endangered and threatened wildlife and plants would no longer be afforded any protection or benefits under the Endangered Species Act of 1973.

Public Comments Solicited

The Director desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on this proposed rule. Final promulgation of any regulations will take into consideration the comments received by the Director. Such comments, and any additional information received, may lead the Director to adopt final regulations that differ from this proposal.

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species and may be examined during regular business hours. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the environment as defined by section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this document is Jay M. Sheppard, Office of Endangered Species, 202-343-7814.

Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subpart B, Title 50 of the Code of Federal Regulations as set forth below:

§ 27.11 [Amended]

To amend section 27.11 by deleting the Mexican duck (*Anas diazi*) from the list of endangered and threatened wildlife and plants.

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

Dated: March 23, 1978.

Lynn A. Greenwalt,
Director,
Fish and Wildlife Service.

[FR Doc. 78-8400 Filed 3-30-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amdt. 3]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Period June 1, 1977 Through May 31, 1978); Interest Rates and Peanuts

The CCC Monthly Sales List for the period June 1, 1977 through May 31, 1978, published at 42 FR 40945 (August 12, 1977), as amended at 42 FR 54582 (October 7, 1977) and 42 FR 4079 (January 31, 1978), is further amended as follows:

1. The last sentence of section 1 (b) entitled "General" is revised to read as follows: Interest at the rate of 10 percent will be charged for delinquent payments on all sales.

2. Section 31 is revised as follows: Peanuts Farmers Stock—Restricted Use Sales—Crushing or Export—(Segregation 1 and 2 lots) (f.o.b. origin).

The minimum price is the market price but not less than the following formula price:

1. *Segregation 1 lots.* The formula price is 100 percent of the 1977 crop price support value (prior to deduction for storage, handling and inspection) for the applicable location type and quality, plus a markup. On December 4, 1977, a markup will begin to accumulate at the rate of $1 per net ton per week (farmers stock basis).

2. *Segregation 2 lots.* The formula price is 24 cents per pound of total kernel content (TKC) (adjustments will be made after delivery per Announcement PR-1) plus a markup. On February 5, 1978, a markup will begin to accumulate at the rate or 0.05 cent per pound TKC per week.

Sales are made under announcement PR-1. When stocks are available, lot lists or invitations to bid will be issued by peanut associations for submission of competitive bids to the Producer Associations Division. Association and Producer Associations Division addresses are listed on the last page of this press release.

Permissable uses of the peanuts, which are listed in more detail in announcement PR-1, include the export of shelled peanuts, of any type, which grade U.S. Splits or U.S. No. 1 or better or "With Splits" grades as defined in Marketing Agreement for Peanuts No. 146, and the remaining kernels crushed domestically or exported for crushing if fragmented in accordance with PR-1.

3. Section 32 is added which reads as follows: Peanuts Farmers Stock—Restricted Use Sales—Domestic Crushing and Domestic Use of Oil—(Segregation 1, 2, and 3 lots) (f.o.b. origin).

Competitive offer basis under Announcement PR-DCR-1. Adjustments in the sales price will be made after delivery per Announcement PR-DCR-1. Proof of domestic use of peanut oil will be required per Announcement PR-DCR-1. For segregation 3 lots meal use restriction is subject to PPB count for aflatoxin.

When stocks are available, lot lists or invitations to bid will be issued by peanut associations for submission of bids to the Producer Associations Division. Association and Producer Associations Division addresses are listed on the last page of this press release.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1055, as amended (7 U.S.C. 1427).)

Effective date: January 31, 1978, 2:30 p.m. (e.s.t.).

Signed at Washington, D.C., on March 9, 1978.

DONALD L. GILLIS,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc. 78-8481 Filed 3-30-78; 8:45 am]

[3410-07]

Farmers Home Administration

[Notice of Designation Number A586]

ARKANSAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Arkansas Counties as a result of snow, ice, hail, sleet, and/or freezing rain January 11 through January 21, 1978:

Cleveland, Grant, White.

Therefore, the Secretary has designated these areas as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 subpart C, exhibit D, paragraph V B, including the recommendation of Governor David H. Pryor that such designation be made.

Applications for emergency loans must be received by this Department no later than September 14, 1978, for physical losses and March 19, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 23rd day of March 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-8482 Filed 3-30-78; 8:45 am]

[Notice of Designation Number A584]

PENNSYLVANIA

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Northumberland County, Pa., as a result of a snowstorm January 20 and 21, 1978, with high winds followed by freezing rain January 25, 1978.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended, and the provisions of 7 CFR 1904 subpart C, exhibit D, paragraph V B, including the recommendaiton of Governor Milton J. Shapp that such designation be made.

Applications for emergency loans must be received by this Department no later than September 12, 1978, for physical losses and March 16, 1979, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 23rd day of March 1978.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 78-8483 Filed 3-30-78; 8:45 am]

[3410-11]

Forest Service

KETTLE RANGE PLANNING UNIT LAND MANAGEMENT PLAN

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Kettle Range Planning Unit Land Management Plan, USDA-FS-R6-FES(Adm)-77-4.

This environmental statement describes six alternative land management plans for the 232,550 acres of the Kettle Range Planning Unit.

This final environmental statement was transmitted to EPA on March 24, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, Oreg. 97204.

Colville National Forest, Supervisor's Office, Federal Building, Colville, Wash. 99114.

Kettle Falls Ranger District, Kettle Falls, Wash. 99141.

Republic Ranger District, Republic, Wash. 99166.

Spokane "I and E" Office, U.S. Courthouse, Room 112, West 920 Riverside Avenue, Spokane, Wash. 99201.

A limited number of single copies are available upon request to Forest Supervisor Robert B. Terrill, Supervisor's Office, Federal Building, Colville, Wash. 99114.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

EINAR L. ROGET,
Associate Deputy Chief.

MARCH 24, 1978.

[FR Doc. 78-8484 Filed 3-30-78; 8:45 am]

[3410-11]

SOUTH FORK PLANNING UNIT

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the South Fork Planning Unit Land Management Plan, USDA-FS-R6-FES(Adm)-76-10.

The environmental statement contains a preferred alternative which allocates 238,219 acres of Malheur and Ochoco National Forest lands in the South Fork of the John Day River drainage to the following blend of land management activities: 11,359 acres of the Canyons roadless area to the Black Canyon management area (roadless); 105,924 acres to Resource Management with Fish and Wildlife emphasis (this area includes the rest of the inventoried roadless area); 14,636 acres to Resource Management with visual emphasis; and the remainder, 106,300 acres, to Resource Management with timber and range emphasis.

In addition, the wild horse management territory will maintain an average herd of 100 wild horses.

The final environmental statement was transmitted to EPA on March 24, 1978.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20013.

USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, Oreg. 97204.

USDA, Forest Service, Malheur National Forest, 139 Northeast Dayton Street, John Day, Oreg. 97845.

USDA, Forest Service, Ochoco National Forest, Federal Building, Prineville, Oreg. 97754.

A limited number of single copies are available upon request to Forest Supervisor Dan E. Williams, Malheur National Forest, 139 Northeast Dayton Street, John Day, Oreg. 97845.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

EINAR L. ROGET,
Associate Deputy Chief.

MARCH 24, 1978.

[FR Doc. 78-8542 Filed 3-30-78; 8:45 am]

[3410-05]

Office of the Secretary

CHEYENNE RIVER SIOUX INDIAN TRIBE IN SOUTH DAKOTA

Feed Grain Donations

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Cheyenne River Sioux Indian Tribe in South Dakota has been materially increased and become acute because of severe and prolonged drought creating a serious shortage of livestock feeds. This reservation is designated for Indian use and is utilized by members of the Indian tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace nor interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of this tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestockmen who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 15, 1978, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on March 24, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-8195 Filed 3-30-78; 8:45 am]

[78-8196]

FORT BERTHOLD INDIAN TRIBE IN NORTH DAKOTA

Feed Grain Donations

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Fort Berthold Indian Tribe in North Dakota has been materially increased and become acute because of severe and prolonged drought, heavy snow pack and cold temperatures creating a serious shortage of livestock feeds. This reservation is designated for Indian use and is utilized by members of the Indian tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace nor interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of this tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock producers who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 31, 1978, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on March 24, 1978.

BOB BERGLAND,
Secretary.

[FR Doc. 78-8196 Filed 3-30-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 30598]

COSTELLO TRAVEL SERVICE, INC., AND BUREAU OF INFORCEMENT v. CIE TOURS INTERNATIONAL, INC., AND EMERALD INTERNATIONAL TRAVEL, INC.

Enforcement Proceeding; Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled matter will be held on May 2, 1978, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Judge.

Dated at Washington, D.C., March 27, 1978.

FRANK M. WHITING,
Administrative Law Judge.

[FR Doc. 78-8547 Filed 3-30-78; 8:45 am]

[6320-01]

[Docket 30616]

"SUPER-SAVER" FARES INVESTIGATION

Postponement of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above-entitled proceeding which was assigned to begin on April 18, 1978, at 9:30 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, Washington, D.C. 20428 (43 FR 8575, March 2, 1978) is hereby postponed pending any further notice.

Dated at Washington, D.C., March 27, 1978.

MARVIN H. MORSE,
Administrative Law Judge.

[FR Doc. 78-8546 Filed 3-30-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Special Open Season

Notice is hereby given that pursuant to the authority contained in section 8913 of Chapter 89, Title 5 of the United States Code and section 301(d)(2) of 5 CFR Part 890, the U.S. Civil Service Commission hereby announces that a special open season will be conducted for Federal employees and annuitants, to be held from May 15 to May 31, 1978. This special open season will be limited to Federal employees and annuitants living in the enrollment areas of comprehensive medical plans recently approved for participation in the Federal Employees Health Benefits Program effective July 1, 1978. These plans and their respective enrollment areas are as follows:

1. Intergroup Prepaid Health Service, Inc..
Illinois counties of Cook, Lake, McHenry, Will and Indiana counties of Lake and Porter.

2. Central Essex Health Plan, Inc..
Essex County, N.J.

3. Group Health Plan of New Jersey
A 10 mile radius of the Health Plan facility located on Broadway at 54th Street, West New York, N.J.

4. Rutgers Community Health Plan
New Jersey counties of Morris, Union, Somerset, Mercer, Monmouth and Middlesex.

During the special open season, an eligible enrolled employee or annuitant may change his or her enrollment from the plan in which he or she is already enrolled to the newly approved plan. The election must be for the same type of coverage (self only or self and family) as the present enrollment, unless a change of type is otherwise authorized.

Change of enrollment during the special open season will take effect on the first day of the first pay period which begins on or after July 1, 1978, and in the case of an employee, which follows a pay period during any part of which he or she is in pay status.

Federal employees and annuitants may obtain further information from their respective payroll offices or by writing to the Comprehensive Plans Division, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission, P.O. Box 7544, Washington, D.C. 20044.

For the United States Civil Service Commission.

Dated: MARCH 31, 1978.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-8243 Filed 3-30-78; 8:45 am]

[6325-01]

PRIVACY ACT OF 1974

Proposed New Routine Use

AGENCY: U.S. Civil Service Commission.

ACTION: Proposal for a new routine use for an existing system of records.

SUMMARY: The purpose of this document is to give notice, pursuant to 5 U.S.C. 552a(e)(11) of the Privacy Act of 1974, of intent to establish a new routine use covering disclosures of information from Equal Employment Opportunity (EEO) Discrimination Complaint Files to individuals named in the complaints as alleged discriminating officials (ADO's).

COMMENT DATE: Any interested party may submit written comments regarding the proposal. To be considered, comments must be received on or before April 30, 1978.

ADDRESS: Address comments to the Director, Bureau of Personnel Management Information Systems, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415. Comments received will be available for public inspection at the above address between the hours of 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. James Scott, Office of Federal Equal Employment Opportunity, 202-632-6889.

SUPPLEMENTARY INFORMATION: The published description of the affected system, Appeals, Grievances, and Complaints Records (CSC/GOVT-1), appears in the FEDERAL REGISTER of September 23, 1977 (42 FR 48737).

BACKGROUND

On March 13, 1978, the Civil Service Commission published Federal Personnel Manual (FPM) Letter 713-42, Subject: Participation in the Discrimination Complaint Process of Persons Named as "Alleged Discriminating Officials." That letter announced a change in Civil Service Commission policy to allow a greater degree of participation in the discrimination complaint process by individuals named as alleged discriminating officials. The letter contained the explanation for the change, the procedural requirements to implement it, and guidance to agencies to administer the revision in the complaint process. For the con-

venience of readers of this notice, pertinent paragraphs of the FPM letter are quoted below. In addition, readers should note that Commission regulations on the discrimination complaint process are found in Part 713 of Title 5 of the Code of Federal Regulations. These regulations are referenced in the following FPM material.

FPM Letter 713-42 instructions and guidance

* * * * *

2. The primary focus of previous discussions and guidance related to this matter has been on creating and maintaining a positive environment for the use of the complaint process by aggrieved individuals, and on insulating complainants (and witnesses) from the possibility of reprisal or harassment based on their participation in the complaint process. The participation of supervisors and others who may have been named by complainants as "alleged discriminating officials" has been essentially limited to their serving as witnesses who provide sworn testimony regarding complaints and the situations from which they arise. In practice, agencies have on some occasions so limited this participation that alleged discriminating officials have sometimes been required to furnish testimony without having even been informed that complainants have implicated them personally in allegedly discriminatory acts, or without knowing the exact nature of charges which have been made against them.

3. It is vital, of course, that aggrieved employees and applicants continue to feel free to avail themselves of the full due process afforded by the discrimination complaint procedures without fear of reprisal for having done so. However, the assurance of full due process to complainants should not and need not be accomplished at the expense of the rights of those individuals against whom accusations of discrimination have been made. It has become clear that, in the interest of fairness, persons named as alleged discriminating officials should have more clearly defined rights and a more significant role in the complaint process and that this can be accomplished without undermining the integrity of the complaint process.

* * * * *

5. The principal purpose of the discrimination complaint procedure is to determine whether in fact discrimination has occurred, so that remedial action can be taken as appropriate. Investigations and hearings in discrimination complaint cases are essentially fact-finding processes which have as their purpose the development and recording of evidence on which an informed and impartial decision can be based. It is not the purpose of the complaint procedure to indict or try individual officials; complaints are lodged "against" agencies, and not "against" individuals.

6. Nevertheless, agencies may properly decide to take disciplinary action against officials who are shown by the evidence compiled in connection with a discrimination complaint to have in fact been culpable of discrimination or other improper actions. Grievance or appeal channels are, of course, available to officials who wish to contest such action.

7. There are many cases, however, in which disciplinary action is determined to be unwarranted because the evidence does not support the allegations made against individuals, or in which the evidence clearly establishes that a person alleged to have discriminated against a complainant has in fact not been culpable. In either of these situations, unless the "alleged discriminating official" has had an opportunity to know precisely what has been alleged, and has been afforded a full and fair opportunity to present evidence, the official may justifiably feel unfairly burdened with the stigma often associated with having been named as an alleged discriminator. Under these circumstances, moreover, an alleged discriminating official might understandably be concerned about possible adverse effects on his or her career.

In the interest of fairness to all persons involved in the processing of discrimination complaints, and of assuring that the evidence compiled at various stages in the complaint process is complete in terms of presenting all relevant views on contentious matters, agencies should assure that persons named as "alleged discriminating officials" are adequately informed of any charges made against them, and are afforded a full and fair opportunity to respond to such charges.

Counseling:

9. When, at the informal counseling stage, an aggrieved employee or applicant has named or otherwise identified an individual as being responsible for an alleged act of discrimination, the EEO counselor must solicit the views of that "alleged discriminating official" unless the counselor otherwise obtains and provides information which exonerates the official to the clear satisfaction of the aggrieved person. Preliminary to the counselor's interview with the official, the latter must be advised that he or she has been named or identified by a potential complainant, must be informed of the nature of any accusations made, and must be advised of the right to have a representative present during the interview to provide advice on how to respond to any questions the counselor may ask. The EEO counselor must be careful, however, not to reveal the identity of the aggrieved individual when the individual has not authorized the EEO counselor to do so.

Investigation:

10. An alleged discriminating official, whether identified at the time a formal complaint is filed or during the course of the investigation, must be given an opportunity to respond to any and all allegations made against him or her. In this respect, the investigator should interview and receive information from the alleged discriminating official as many times as may be necessary to assure that the official has an opportunity to respond to all of the allegations. Pertinent documents (i.e. documents in which the official is identified and charged with discrimination or other wrongdoing) intended for inclusion in the investigative file, including the EEO counselor's report, the complaint, the complainant's affidavit, and other affidavits in which the alleged discriminating official is named, must be made available to the official for this purpose. Names of and identifying information on persons other than the complainant and the alleged discriminating official should be deleted from copies of the documents shown to the alleged discriminating official, to protect such persons from unwarranted invasion of privacy.

11. The alleged discriminating official must be given full opportunity to state the facts as he or she sees them, in affidavit form, for inclusion in the investigative file. The official should also be given an opportunity to suggest witnesses who might be contacted for corroborating testimony, but should be informed (as should complainants under similar circumstances) that only those witnesses whose testimony is considered necessary to the investigation will be interviewed, and that the only testimony that will be obtained in affidavit form and included in the investigative file is that determined to be relevant and necessary.

12. The agency official who is overseeing the processing of the complaint (usually the equal employment opportunity officer) should keep an alleged discriminating official informed of the progress of the investigation in approximately the same manner in which the complainant is kept informed. When the investigation is completed, the EEO officer should review the investigative file to determine whether or not it contains information relevant to all of the allegations. If the EEO officer finds that there are allegations against the alleged discriminating official in the investigative report on which no opportunity was given the official to provide his or her version of the facts, then the EEO officer should require such additional investigation as may be needed for that purpose.

Informal Adjustment and Proposed Disposition:

13. The EEO officer or other agency official responsible for attempting informal adjustment of a complaint may, at his or her discretion, consult with the alleged discriminating official regarding the terms under which the agency will attempt to resolve the complaint informally. If an informal adjustment is agreed upon, the agency must inform the alleged discriminating official of the terms of the agreement. If no agreement is reached, a copy of the agency's proposed disposition of the complaint must be provided to the alleged discriminating official.

Hearing:

14. The alleged discriminating official would normally be expected to have personal knowledge of facts bearing on the complaint, and his or her testimony at a hearing, if one is conducted, would ordinarily be considered necessary by the parties to the complaint. However, if the official is not called to testify by either the complainant or the agency, the complaints examiner assigned to conduct the hearing in the case must assure that the alleged discriminating official is informed of the hearing and given an opportunity to testify if he or she wishes to do so. The examiner must make sure that the alleged discriminating official has an opportunity to comment for the record regarding any new allegations of wrongdoing on the official's part which are brought by other witnesses during the course of the hearing.

15. The alleged discriminating official has a right to have a representative present to provide advice at any time the official is asked for testimony during the complaint process, including the investigative and hearing stages. However, the representative's role at a hearing is limited to advising

the alleged discriminating official on how to respond to questions. The presence of the alleged discriminating official and his or her representative at a hearing will be limited to the time the official appears as a witness. The representative does not have the right to examine and cross-examine witnesses. Only the complaints examiner and the representatives of the complainant and the agency may examine and cross-examine witnesses.

Final Decision:

16. The agency must provide the alleged discriminating official a copy of the agency's final decision on the complaint.

a. If the clear effect of the agency decision is to deny or reject the complainant's allegations against the alleged discriminating official, the latter should not be given access to the entire complaint file.

b. If the agency decision, either directly through a finding of discrimination or indirectly through a finding of error, concludes or implies impropriety on the part of the alleged discriminating official, the entire complaint file—with names and identifying information deleted where appropriate as in paragraph 10 above—must be made available for his or her review.

c. If the agency takes or proposes adverse action or other disciplinary action against the alleged discriminating official based on evidence developed in connection with the processing of the complaint, the entire complaint file—without deletions—must be made available for his or her review. For this purpose, "disciplinary action" includes any action (e.g., a requirement that the official undergo equal employment opportunity training) which would constitute censure of the alleged discriminating official's conduct or competence.

Appeals to the Commission:

17. If a complainant appeals an agency decision to the Civil Service Commission's Appeals Review Board, the agency must provide a copy of the Board's decision to the alleged discriminating official. If the decision of the Board reverses or modifies that of the agency in such a manner as to affect the alleged discriminating official, the agency should apply the instructions outlined in paragraph 16 above as appropriate.

General Guidance:

18. These instructions contemplate increased access for alleged discriminating officials to information contained in complaint files, which are subject to the provisions of the Privacy Act (5 U.S.C. 552a). Disclosures to alleged discriminating officials will be made consistent with the foregoing instructions as a routine use. If alleged discriminating officials make requests pursuant to the Freedom of Information Act (5 U.S.C. 552) for information contained in complaint files, disclosures also will be made, consistent with the foregoing instructions. To the extent that disclosures of information contained in complaint files would not be consistent with the foregoing instructions, disclosures should be refused under exemptions (b)(5), (b)(6) and (b)(7)(A) and (C) of the Freedom of Information Act, 5 U.S.C. 552 (b)(5), (b)(6), (b)(7)(A), (C).

19. Complainants, of course, receive copies of the investigative file, the hearing transcript, etc. While statements included in complaint files are obtained without a pledge of confidence (5 CFR 713.216(a)), those statements, as well as other documents in the files, frequently include information of a personal and sensitive nature. All persons given access to this information, including complainants and alleged discriminating officials, should be advised of the need to exercise discretion with regard to its use. In this regard, the regulatory prohibition (at 5 CFR 735.206) against use of certain official information for private purposes would have general applicability. In addition, Privacy Act restrictions against improper disclosure are binding on agency employees.

20. It is essential to the integrity of the complaint system that complainants, their representatives, and witnesses be free from restraint, interference, coercion, discrimination or reprisal at any stage of the complaint process. In view of the broadened role for alleged discriminating officials provided for in these instructions, it is imperative that agencies ensure, through training and other means of communication, that supervisory and management personnel are knowledgeable about the regulatory provisions in this regard (at 5 CFR 713.261), and understand the need to observe the spirit as well as the letter of the regulations.

21. The procedures outlined above relate specifically to the processing of individual complaints of discrimination under sections 713.211 through 713.222 of the Commission's regulations. The principles reflected in these procedures, however, i.e., assuring that persons named as alleged discriminating officials are informed regarding any allegations made against them, are given a full and fair opportunity to respond for the record and are kept informed as to the progress and outcome of cases, should also be guiding in connection with the processing of class complaints of discrimination under sections 713.601 through 713.614 of the regulations.

* * * * *

Proposed routine use: The proposed routine use, which follows, will be added to the Civil Service Commission Government-wide system of Appeals, Grievances, and Complaints Records (CSC/GOVT-1). The current notice for this system is published at 42 FR 48737 et seq (September 23, 1977). The proposed new routine use reads as follows:

* * * * *

k. To disclose information to persons named as alleged discriminating officials in Equal Employment Opportunity (EEO) Discrimination Complaint cases, to allow such persons the opportunity to respond to allegations of discrimination which are made against them during the course of the discrimination complaint process.

Unless a notice to the contrary is published in the FEDERAL REGISTER, this routine use will become effective thirty days after the date of this notice (May 1, 1978).

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-8571 Filed 3-30-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

[Order No. 45-1; Amdt. 1]

BUREAU OF TRADE REGULATION

Statement of Organization, Functions and Delegation of Authority

This order amends ITA Organization and Function Order 45-1 of December 4, 1977 (42 FR 64716), as follows:

Section 7 is revised to read:

SEC. 7. *Office of Industrial Mobilization.* .01 The *Office of the Director* includes the Director who shall plan and direct the execution of policies and programs of the Office. The Director serves as U.S. Representative to the NATO Industrial Planning Committee and co-chairs the U.S./Canadian Emergency Planning Committee for Industrial Production and Materials. The Director shall supervise and direct the following organizational components:

.02 The *Priorities and Allocations Division* shall support current national defense requirements, the program to maximize domestic energy supplies, and other high national priority programs as may be authorized, by administering the Defense Materials System and the Defense Priorities System under the Title I of the Defense Production Act of 1950, as amended, including the findings of scarcity and necessity for exercising these authorities required by Section 101(c)(3) of the Act, and shall enforce compliance with the DPS and DMS; administer materials allocation of chemicals or substances necessary for the treatment of water; shall conduct training seminars for Government and industry executives, contractors and other company officials in the administrative procedures of DMS and DPS and the special priorities system as they relate both to defense and energy requirements; and provide for assisting defense contractors adversely affected by natural disasters.

.03 The *Industrial Resources Division* shall provide guidance to the Federal Preparedness Agency, GSA, on matters relating to the National Stockpile Program; provide statistical data on strategic and critical materials; represent the Department on interdepartmental stockpile committees; identify industrial facilities of exceptional importance to the national security, mobilization readiness and postattack survival and recovery; supervise the preparation of analyses of critically important industrial products and services; conduct feasibility studies to determine industrial capabilities to meet national emergencies; investigate and report on alleged impact of imports on national security; prepare

studies and analyses on critical materials and industries as required to support NATO and U.S./Canadian emergency planning committees; and support the Industry Evaluation Board. The Director of the division chairs the Industry Evaluation Board.

.04 The *Emergency Preparedness Division* shall develop and test plans and procedures for response to a nuclear attack or other national emergency, so that the Office of Industrial Mobilization, with support from the Department's field installations, can ensure continuity of its essential functions, including provisions for an Emergency Production Agency capability at selected alternate sites throughout the U.S.; prepare and maintain emergency measures for regulating industrial production and distribution during emergency situations; recruit, assign and provide annual training programs based upon current national emergency response concepts and international conditions for cadres of National Defense Executive Reservists from industry throughout the U.S. to assume major responsibilities in a national emergency; maintain Industrial Mobilization Data Centers at selected national and regional relocation sites; provide for the physical security of facilities important to the national defense and the essential civilian economy; identify for GSA the machine tools and their manufacturers for expediting procurement in an emergency under the Machine Tool Trigger Order Program; provide such other assistance as necessary to support Federal, State and local emergency response plans and interagency coordination for such plans; develop emergency set-aside criteria and procedures and related emergency regulations and delegations for steel, copper, aluminum and nickel alloys; and provide emergency planning support to the Director, Office of Industrial Mobilization, for participation in NATO Industrial Planning Committee and the U.S./Canadian Emergency Planning Committee for Industrial Production and Materials.

Effective date: March 9, 1978.

FRANK A. WEIL,
Assistant Secretary for Industry and Trade.

STANLEY MARCUSS,
Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 78-8440 Filed 3-30-78; 8:45 am]

[3510-25]

EXPORTERS' TEXTILE ADVISORY COMMITTEE

Public Meeting; Change of Date

Pursuant to section 10(a) of the "Federal Advisory Committee Act, as amended, 5. U.S.C. App. (1976)" notice is hereby given that a meeting of the Exporters' Textile Advisory Committee will be held at 10 a.m., on April 11, 1978, in Room 4833, U.S. Department of Commerce, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230, instead of April 6, 1978, as previously announced in the FEDERAL REGISTER (43 FR 95-14).

Dated: March 27, 1978.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-8498 Filed 3-30-78; 8:45 am]

[3510-03]

Maritime Administration

[Docket No. S-599]

LYKES BROS. STEAMSHIP CO., INC.

Application

Notice is hereby given that Lykes Corp. (Lykes), the parent of Lykes Bros. Steamship Co., Inc. (Steamship), proposes to merge into the LTV Corp. (LTV). The merger is presently structured as follows: (i) Lykes will be directly merged into LTV; (ii) each share of Lykes Common Stock will be converted into LTV Common Stock and LTV Participating Preferred Stock; and (iii) each share of Lykes Preferred Stock will be converted into LTV Preferred Stock.

LTV and Lykes represent that no change is presently contemplated in the activities, corporate organization, or financial structure of Steamship. Steamship has been advised by LTV that upon consummation of the merger written permission will be required under section 805(a) of the Merchant Marine Act, 1936, as amended, for the activities described below:

Jones & Laughlin Industries, Inc. (JLI) is a wholly-owned subsidiary of LTV, and owns all the outstanding voting stock of Jones & Laughlin Steel Corp. (J. & L. Steel). The River Transportation Division of J. & L. Steel owns and operates five towboats and owns or charters in excess of 210 coal barges, to transport coal on the inland waterways, principally the Ohio, Monogahela, and Alleghney Rivers, to docks, stockpiles, and plants in Pennsylvania for use by J. & L. Steel. In addition, officers, directors, or executives of LTV are or may hereafter become officers, directors, or executives of JLI or J. & L. Steel, and officers, directors, or executives of LTV (including the merged Lykes) and its subsidiaries may own stock in LTV.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such application and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the application must, by close of business on April 12, 1978 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 section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, 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.

Dated. March 28, 1978.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc. 78-8555 Filed 3-30-78; 8:45 am]

[3510-13]

National Bureau of Standards

VOLUNTARY PRODUCT STANDARD

Notice of Intent to Withdraw

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw voluntary product standard PS 5-66, "Porcelain Enameled Formed Steel Plumbing Fixtures."

It has been determined that this standard is technically inadequate and that revision would serve no useful purpose because the subject matter of PS 5-66 is adequately covered by the American National Standards Institute's standard ANSI A112.19.4, "Porcelain Enameled Formed Steel Plumbing Fixtures."

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to the Standards Development Services Section, National Bureau of Standards, Washington, D.C. 20234, within 30 days after publication of this notice. The effective date of withdrawal will not be less than 60 days after the final notice of withdrawal. With-

drawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: March 28, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-8490 Filed 3-30-78; 8:45 am]

[3510-13]

USER-TERMINAL PROTOCOLS—ENTRY AND EXIT PROCEDURES BETWEEN TERMINAL USERS AND COMPUTER SERVICES

Extension of Time for Filing Comments

In a notice published in the FEDERAL REGISTER on December 12, 1977 (42 FR 62408-62416), the National Bureau of Standards published a proposed standard for user-terminal protocols that was being recommended for Federal use. The notice announced that prior to submission of this proposal to the Secretary of Commerce for approval as a Federal standard, it was essential to assure that proper consideration be given to the needs and views of the public, State and local governments, manufacturers, and service suppliers. To that end, the notice invited interested parties to send their comments to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, by March 13, 1978.

Following publication of that notice, the National Bureau of Standards has received requests for an extension of time in which to submit comments. It appears that these requests for extension of time are justified because of the technical complexity of the proposed standard.

Accordingly, in light of those requests for additional time to consider and prepare a meaningful response to the proposed standard for user-terminal protocols, the period of time for filing comments is hereby extended to May 15, 1978. As before, the comments should be submitted to the Associate Director for ADP Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234.

Dated: March 28, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-8491 Filed 3-30-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

ATLANTIC GROUNDFISH

Approval of Amendment to Fishery Management Plan

The fishery management plan "Atlantic Groundfish" prepared by the New England Fishery Management Council was approved by the Secretary of Commerce on March 8, 1977, under the authority of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.) (the "Act"). The plan was subsequently amended by the Secretary on November 9, 1977, (42 FR 54812) and December 30, 1977, (42 FR 65186) based upon Secretarial findings that emergencies existed in the cod, haddock, and yellowtail flounder fisheries.

The Notice is to announce the approval of another amendment to the plan. The amendment, prepared by the New England Fishery Management Council, has been reviewed and approved under a delegation of authority from the Secretary to the Assistant Administrator for Fisheries, NOAA.

The amended plan reflects different optimum yields specified by the Council for cod, haddock, and yellowtail flounder; establishes quarterly quotas for U.S. commercial fishermen and an annual quota for cod for the charter boat and headboat industry in the Gulf of Maine; provides for inseason adjustments to quarterly quotas and landing restrictions; and provides that all yellowtail flounder be taken only as incidental catch. The specifications of maximum sustainable yield, the capacity and extent to which fishing vessels of the United States will harvest the optimum yield, and the total allowable level of foreign fishing are all continued unchanged as published on March 14, 1977 (42 FR 13998).

A notice of availability of the supplement to the final environmental impact statement and amendment to the fishery management plan was filed with the FEDERAL REGISTER for publication on March 29, 1978.

In order to continue the management regime for Atlantic groundfish beyond March 31, 1978, when the existing emergency regulations expire, the New England Fishery Management Council and the Secretary agree that the amended plan must be implemented by emergency regulations to maintain continuity of management and prevent overfishing. Therefore, emergency regulations have been published in the FEDERAL REGISTER on this date that are effective April 1, 1978. These regulations also serve as proposed regulations for the purpose of obtaining public comment with a view to making them final regulations.

This notice also advises the public that the Secretary intends to hold public hearings upon the proposed regulations to provide opportunities to receive additional information pertaining to the assessment and specification of optimum yield, as well as comments upon the proposed conservation and management measures. The dates and places of the public hearings will be published at a later date.

Dated: March 28, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

Revisions to the fishery management plan are as follows:

1. Table 54 is amended by deleting the heading and numbers under the column "O.Y." and substituting the following:

Species	*Optimum yield*
Haddock	8,000
Cod:	
5Y	8,500
5Z and 6	22,000
Yellowtail flounder:	
5Ze	4,400
5Zw and 6	3,700

2. A new paragraph is added at the end of section II.C.3(a) as follows:

The Council recommends annual optimum yields for cod in 1978, as follows: Gulf of Maine—8,500 mt; Georges Bank/Southern New England—22,000 mt.

3. A new paragraph is added at the end of section II.C.3(b) as follows:

The Council recommends annual optimum yields of yellowtail flounder in 1978, as follows: East of 69° W. longitude—4,400 mt; West of 69° W. longitude—3,700 mt.

4. A new paragraph is added at the end of section II.C.3(e) as follows:

The Council recommends an annual optimum yield of haddock in 1978 of 8,000 mt for the Gulf of Maine, Georges Bank and Southern New England.

5. Delete section II.C.4.A. in its entirety and substitute the following:

(A) Quotas. (1) Cod.

(a) It is recommended that the annual landings of cod from the Gulf of Maine be limited to 6,000 mt (U.S. commercial) and 2,500 mt (U.S. charter boat and headboat).

(b) It is recommended that the annual landings of cod from Georges Bank and Southern New England be limited to 22,000 mt for U.S. commercial fishing vessels only.

(c) It is recommended that the cod quotas for the U.S. commercial fishery be allocated on a quarterly basis as follows:

Quarter	Gulf of Maine	Georges Bank and Southern New England
	mt	*mt*
Apr. 1 to June 30	1,760	6,130
July 1 to Sept. 30	1,420	5,630
Oct. 1 to Dec. 31	1,420	5,640

Quarterly allocations may be adjusted upon publication of a notice in the FEDERAL REGISTER.

(2) Yellowtail Flounder. (a) It is recommended that the U.S. landings of yellowtail flounder from Georges Bank east of 69° W. longitude be limited to an incidental catch quota of 4,400 mt on a quarterly basis as follows:

Quarter	Quarter catch quota (mt)
Apr. 1 to June 30	950
July 1 to Sept. 30	1,150
Oct. 1 to Dec. 31	800

(b) It is recommended that U.S. landings of yellowtail flounder from the areas west of 69° W. longitude be limited to an incidental catch quota of 3,700 mt, allocated on a quarterly basis as follows:

Quarter	Quarterly catch quota (mt)
Apr. 1 to June 30	830
July 1 to Sept. 30	760
Oct. 1 to Dec. 31	960

Quarterly allocations may be adjusted upon publication of a notice in the FEDERAL REGISTER.

(3) Haddock. (a) It is recommended that the U.S. landings of haddock from both the Gulf of Maine and Georges Bank—Southern New England areas be limited to an incidental catch of 8,000 mt.

(b) It is recommended that this incidental haddock quota be allocated on a quarterly basis as follows:

Quarter	Quarterly catch quota (mt)
Apr. 1 to June 30	3,160
July 1 to Sept. 30	1,660
Oct. 1 to Dec. 31	1,930

Quarterly allocations may be adjusted upon publication of a notice in the FEDERAL REGISTER.

6. A new section II.C4(c)(2) is added as follows:

(c) Area and Season Restrictions.

(1) * * *

(2) *Closure.* It is recommended that the NOAA Assistant Administrator announce the closure of the season for any species by publication of a notice in the FEDERAL REGISTER specifying the time and date for the closure.

7. A new Section II.C.4.(E) is added as follows:

(E) *Landings restrictions.* The provisions to restrict landings of incidental catch are as follows:

Yellowtail Flounder: Incidental catch provisions apply with trip limits of 5,510 lb or 10 percent by weight of all fish on board per trip, whichever is greater.

Cod (after directed fishery is closed) and haddock:

Vessel class	Incidental catch trip limit
Under 50 gross reg. tons.	2,000 lb landed weight per day of each species or 10 pct of total catch by weight.
50 to 125 gross reg. tons.	2,500 lb landed weight per day of each species or 10 pct of total catch by weight.
Over 125 gross reg. tons.	3,000 lb landed weight per day of each species or 10 pct of total catch by weight.
Fixed gear vessels of any size using hooks or gillnets.	16,000 lb per week.

For vessels making trips of more than 3 days, 2 days will be deducted for steaming time. For example: on a 7 day trip, a vessel of 126 GRT may land an incidental catch only of 15,000 lb of haddock or 10 percent by weight of all fish on board, whichever is greater.

The Council recommends that trip limitations be reduced as necessary to prevent quarterly or annual closings. Trip limitations may be adjusted upon publication of a notice in the FEDERAL REGISTER.

[FR Doc. 78-8562 Filed 3-30-78; 8:45 am]

[3510-22]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL

Public Meeting

Notice is hereby given of (1) a joint meeting of the North Pacific Fishery Management Council established by section 302(a) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), and its Scientific and Statistical Committee (SSC), and Advisory Panel (AP), both established under section 302 (g) of the Act, (2) separate meetings of the SSC and AP.

The SSC will meet April 26, 1978, in the Council offices, Suite 32, 333 West 4th Avenue, Post Office Mall Building, Anchorage, Alaska, convening at 8:30 a.m. and adjourning at 4:30 p.m.

The AP will meet April 26, 1978, in the Windson Room I of the Sheffield House Hotel, Anchorage, Alaska, convening at 8:30 a.m. and adjourning at 5 p.m.

The Council and its SSC and AP will meet jointly on Thursday and Friday, April 27-28, 1978, in Windsor Rooms I and II, of the Sheffield House Hotel, Anchorage, Alaska, convening at 8:30 a.m. on April 27, and adjourning at approximately 5 p.m.

Proposed Agenda: (1) Executive Director's Report and other Council administrative business; (2) Reports from Scientific and Statistical Committee and Advisory Panel; (3) Progress report and update from Council's Drafting Management Planning Teams; (4) Review of foreign fishing activities; (5) Discussions of management plans; and (6) Other Council business.

Meetings are open to public. For more information on seating, changes to the agenda, and/or written comments, contact: Mr. Jim H. Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136DT, Anchorage, Alaska 99510; telephone 907-274-4563.

Dated: March 28, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-8449 Filed 3-30-78; 8:45 am]

[3510-22]

MARINE MAMMALS

Issuance of Import Permit

On February 1, 1978, notice was published in the FEDERAL REGISTER (43 FR 4273), that an application has been filed with the National Marine Fisheries Service by Hubbs-Sea World Research Institute, San Diego, Calif. 92109, for a permit to import six (6) leopard seals (*Hydrurga leptonyx*) for the purpose of scientific research.

Notice is hereby given that on March 24, 1978, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the above-cited importation to the Hubbs-Sea World Research Institute subject to certain conditions set forth therein. The permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: March 24, 1978.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

[FR Doc. 78-8527 Filed 3-30-78; 8:45 am]

[3510-22]

MARINE MAMMALS

Issuance of Permit To Take

On January 23, 1978, notice was published in the FEDERAL REGISTER (43 FR 3148), that an application has been filed with the National Marine Fisheries Service by Marineland S.A., Costa D'en Blanes, Palma Nova, Mallorca, Spain, for a permit to take four (4) California sea lions (*Zalophus californianus*) and four (4) Atlantic bottlenosed dolphins (*Tursiops truncatus*), for the purpose of public display.

Notice is hereby given that on March 24, 1978, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a permit for the requested taking to Marineland S.A., subject to certain conditions set forth therein. The permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Fla. 33702.

Issued: March 24, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-8544 Filed 3-30-78; 8:45 am]

[3510-22]

MARINE MAMMALS

Modification of Permit

Notice is hereby given that pursuant to the provisions of sections 216.33 (d) and (e) of the regulations governing the taking and importing of marine mammals (50 CFR Part 216), the scientific research permit issued to Dr. Bruce R. Mate, Marine Science Center, School of Oceanography, Oregon State University, Newport, Oreg. 97365, on July 22, 1976, is modified by means of modification No. 1 in the following manner:

The permit holder is authorized to harass up to an additional 200 harbor seals (*Phoca vitulina richardii*), 100 California sea lions (*Zalophus californianus*), and 50 Steller sea lions (*Eumetopias jubatus*), in the course of conducting the research authorized under permit No. 142. Not more than 20 Steller sea lions may be killed accidentally while conducting the activities, with those killed to be counted against the total number of animals authorized to be killed under permit No. 142.

This modification is effective on March 31, 1978.

The permit, as modified, and documentation pertaining to the modification, are available in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235; and

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Wash. 98109.

Dated: March 27, 1978.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc. 78-8545 Filed 3-30-78; 8:45 am]

[3510-22]

MARINE MAMMALS

Modification of Permit

Notice is hereby given that pursuant to the provisions of sections 216.33 (d) and (e) of the regulations governing the taking and importing of marine mammals (50 CFR Part 216), and section 222.25 of the regulations governing endangered species permits (50 CFR Part 222), permit No. 180 issued to Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 7600 Sand Point Way NE., Seattle, Wash. 98115, on April 6, 1977 (42 FR 23675), is modified in the following manner:

Section B-2 has been changed to read, "of the animals authorized in section A-1, not more than 220 animals may be taken by marking with bleach or dye prior to December 31, 1978, subject to the following provisions:

(a) One hundred and seventy animals, including the animals marked in 1977, may be marked on Laysan Island.

(b) Fifty additional animals may be marked on Kure Atoll if a shark abatement program is instituted.

(c) Each animal of the 220 authorized may be remarked one time."

This modification is effective on the date of publication of this notice in the FEDERAL REGISTER.

The permit, as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731; and

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue, North, Seattle, Wash. 98109.

Dated: March 16, 1978.

JACK W. GEHRINGER,
Deputy Director, National
Marine Fisheries Service.

[FR Doc. 78-8528 Filed 3-30-78; 8:45 am]

[3510-22]

UNITED FISHERMEN OF ALASKA

Issuance of General Permits

General permits were issued on March 28, 1978, to the United Fishermen of Alaska, Juneau, Alaska, to take marine mammals incidental to commercial fishing operations under categories (iii), encircling gear, purse seining not involving the intentional taking of marine mammals; (iv) stationary gear; and (v) other gear, pursuant to 50 CFR 216.24 (42 FR 64551-64560).

The permits are available for public inspection in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.

Dated: March 28, 1978.

WINIFRED H. MEIBOHM,
National Marine
Fisheries Service.

[FR Doc. 78-8529 Filed 3-30-78; 8:45 am]

[3510-04]

National Technical Information Service

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for $4.00 ($8.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, 1900 Half Street NW., Washington, D.C. 20314.

Patent application 837,135: Single Dispersive Delay Line Compressive Receiver; filed Sept. 28, 1977.

Patent application 841,776: Ramp Toe Stowage System; filed Oct. 13, 1977.

Patent application 844,163: Parachute Canopy Deployment Control Apparatus; filed Oct. 21, 1977.

Patent application 848,622: Degasser and Liquid Seal Reservoir; filed Nov. 4, 1977.

Patent application 852,112: Parachute Inspection Arch; filed Nov. 16, 1977.

Patent 4,058,141: Supersonic Flow Diffuser with Energy Redistribution; filed July 19, 1976; patented Nov. 15, 1977; not available NTIS.

Patent 4,058,331: Remotely Actuated Two Stage Structural Latch; filed Oct. 29, 1976; patented Nov. 15, 1977; not available NTIS.

Patent 4,058,734: Passive Infrared Resolution Target; filed July 19, 1976; patented Nov. 15, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 828,562: Liquid Propellant Gun Breech Pressure Axial Injector; filed Aug. 29, 1977.

Patent application 831,635: Wing in Ground Effect Vehicle; filed Sept. 8, 1977.

Patent application 833,852: Ignitor; filed Sept. 16, 1977.

Patent 3,351,463: High Strength Nickel-Base Alloys; filed Aug. 20, 1965; patented Nov. 7, 1967; not available NTIS.

Patent 3,594,239: Method of Treating Unique Martensitic Alloys; filed Feb. 26, 1968; patented July 20, 1971; not available NTIS.

[FR Doc. 78-8501 Filed 3-30-78; 8:45 am]

[3510-17]

Office of the Secretary

ADVISORY PANEL FOR THE GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Establishment

In accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. (1976)) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, the Department of Commerce has determined that the establishment of the Advisory Panel for the Gulf of Mexico Fishery Management Council is in the public interest in connection with the performance of duties imposed on the Department by the Fishery Conservation and Management Act of 1976, Pub. L. 94-265 (16 U.S.C. 1852).

The Panel will provide the Council with advice and counsel with respect to activities on matters of fishery management policy, the preparation and review of fishery management plans, and the effectiveness of plans which have been implemented.

The Panel shall be composed of individuals who are knowledgeable or experienced with regard to the management, conservation, or recreational or commercial harvest of the fishery resources of the Council's geographical area of concern. The Panel will operate through sub-panels, each concerned with carrying out the objectives and duties of the Panel with respect to a particular fishery management unit.

Eleven sub-panels will be initially established.

The Panel will function solely as an advisory body in compliance with the Federal Advisory Committee Act. Its charter will be filed 15 days from the publication date of this notice. On that filing date, the following five existing advisory panels for the Gulf of Mexico Fishery Management Council will be terminated:

Billfishes/Pelagic Sharks Advisory Panel for the Gulf of Mexico Fishery Management Council (FMC).

Groundfish Advisory Panel for the Gulf of Mexico FMC.

Migratory Coastal Pelagic Fishery Advisory Panel for the Gulf of Mexico FMC.

Reef Fishes Advisory Panel for the Gulf of Mexico FMC.

Shallow Water Shrimp Fishery Advisory Panel for the Gulf of Mexico FMC.

Interested persons are invited to submit comments regarding the establishment of the Advisory Panel for the Gulf of Mexico Fishery Management Council. Such comments, as well as inquiries, may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Md. 20852, telephone 443-8731.

Dated: March 28, 1978.

GUY W. CHAMBERLIN, Jr.,
Deputy Assistant Secretary for Administration.

[FR Doc. 78-8606 Filed 3-30-78; 8:45 am]

[3510-25]

NEW COTTON TEXTILE AGREEMENT WITH THE SOCIALIST REPUBLIC OF ROMANIA

Announcing Import Restraint Levels

MARCH 28, 1978.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton textile products from Romania during the twelve-month period which began on January 1, 1978, pursuant to a new cotton textile agreement.

SUMMARY: On January 6 and 25, 1978, the Governments of the United States and the Socialist Republic of Romania exchanged notes establishing a new Bilateral Cotton Textile Agreement for the period beginning on January 1, 1978, and extending through December 31, 1982. Among the provisions of the agreement are those establishing designated consultation levels for cotton textile products in Categories 313, 314, 315, 320, 333, 334, 335, 338, 339, 340, 347, 348, 352, 359, 361, and 369, produced or manufactured in Romania and exported to the United States during the twelve-month period which began on January 1, 1978.

Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs directing that entry for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Categories 313, 314, 315, 320, 333, 334, 335, 338, 339, 340, 347, 348, 352, 359, 361, and 369 be limited to the designated twelve-month levels of restraint.

(A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421).)

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: April 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Edmond Callahan, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS,
March 28, 1978.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 6 and 25, 1978, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on April 3, 1978 and for the twelve-month period beginning on January 1, 1978 and extending through December 31, 1978, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in the following categories in excess of the indicated levels of restraint:

Category	*12-mo level of restraint*[1]
313	2,000,000 yd[2]
314	1,500,000 yd[2]
315	Do.
320	2,000,000 yd[2]
333	66,298 doz.
334	36,320 doz.
335	36,320 doz.
338	450,000 doz. of which not more than 97,222 dozen shall be in T.S.U.S.A. Nos. 380.0028, 380.0029, 380.0651, and 380.0652
339	138,889 doz.
340	112,500 doz.
347	140,449 doz.
348	7,865 doz.
352	161,818 doz.
359	652,174 lb.
361	483,871 numbers.
369	652,174 lb.

[1] The levels of restraint have not been adjusted to account for any imports after December 31, 1977.

Cotton textile products in the foregoing categories, produced or manufactured in Romania and exported to the United States prior to January 1, 1978, shall not be subject to this directive.

Cotton Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service

under the provisions of 19 U.S.C. 1448(b) before April 3, 1978, shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment according to the provisions of the bilateral agreement of January 6, and 25, 1978, between the Governments of the United States and the Socialist Republic of Romania, which provide, in part, that: (1) the two governments will consult regarding increases in consultation levels and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

A description of the categories in terms of T.S.U.S.A. Numbers was published in the FEDERAL REGISTER on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of cotton textile products from Romania have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 78-8543 Filed 3-30-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1978

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1978 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: March 31, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On December 23, 1977 and January 27, 1978 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (42 FR 64399) and (43 FR 3740) of proposed additions to Procurement List 1978, November 14, 1977 (42 FR 59015).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1978:

CLASS 7210

Mattress, Innerspring (IB)
7210-00-529-3709

CLASS 1220

Case, Carrying (IB)
1220-00-765-5870
1220-00-937-8286

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-8509 Filed 3-30-78; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Defense Contract Audit Agency

PRIVACY ACT OF 1974

Notice of Systems of Records: Deletions

AGENCY: Defense Contract Audit Agency (DCAA).

ACTION: Notification of deletions to DCAA systems of records.

SUMMARY: The DCAA proposes to delete nine systems of records from its inventory of records subject to the Privacy Act of 1974. The nine deleted systems and reasons for their deletions are specifically set forth below.

DATES: These systems shall be deleted without further notice in 30 calendar days from the date of this publication (April 30, 1978) unless comments are received during that time which would result in a contrary determination.

ADDRESS: Send comments to Records Administrator, DCAA, Cameron Station, Alexandria, Va. 22314.

FOR FURTHER INFORMATION CONTACT:

Mrs. Sybil L. Taylor, DCAA/CMR, Cameron Station, Alexandria, Va. 22314, 202-274-7285.

SUPPLEMENTARY INFORMATION: The DCAA systems of record as prescribed by the Privacy Act of 1974 were published in 42 FR 51358, Wednesday, September 28, 1977. The systems proposed for deletion do not contain information subject to the Privacy Act or the information contained in the records is not retrieved by name or some other personal identifier.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MARCH 28, 1978.

DELETIONS

Notice is given that the following Defense Contract Audit Agency systems of records are deleted:

RDCAA 110.8

System name: Parking Permits and Vehicle Registration (42 FR 51359).
Reason: Not a system of records.

RDCAA 110.9

System name: Temporary Passes and Permits for Visitors and Vehicles (42 FR 51360).
Reason: Not a system of records.

RDCAA 120.8

System name: Property Pass Files (42 FR 51360).
Reason: Not a system of records.

RDCAA 151.11

System name: Security Training and Orientation (42 FR 51360).
Reason: Not a system of records.

RDCAA 152.11

System name: Notification of Security Clearance Status (42 FR 51361).
Reason: Not a system of records.

RDCAA 153.3

System name: Key Control Records (42 FR 51366).
Reason: Not a system of records.

RDCAA 205.09

System name: Delegations of Authority (42 FR 51367).
Reason: Not a system of records.

RDCAA 341.6

System name: Letters of Commendation and Appreciation (42 FR 51373).
Reason: Not a system of records.

RDCAA 422.5

System name: Disbursement Vouchers (42 FR 51379).
Reason: Not a system of records.

[FR Doc. 78-8505 Filed 3-30-78; 8:45 am]

[3810-70]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON ICBM's/MX

Advisory Committee Meeting

The Defense Science Board Task Force on ICBMs/MX will meet in

closed session April 25-26, 1978, in the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will evaluate alternative basing modes for U.S. land-based ICBM's. Concepts will be examined against survivability, cost and SALT verification considerations.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, DOD/WHS.

MARCH 28, 1978.

[FR Doc. 78-8513 Filed 3-30-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group C (Mainly Imaging and Display) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at 2400 East El Segundo Boulevard, El Segundo, Calif. on 21 April 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This special device area includes such programs as Infrared and Night Vision Sensors. The review will include classified program details throughout.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Advisory Group meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

MARCH 28, 1978.

[FR Doc. 78-8472 Filed 3-30-78; 8:45 am]

[3810-70]

DOD ADVISORY GROUP ON ELECTRON DEVICES

Advisory Committee Meeting

Working Group A (Mainly Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session at the Naval Postgraduate School, Monterey, Calif., on 4 May 1978.

The purpose of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The microwave area includes programs on developments and research related to microwave tubes, solid state microwave, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout. In accordance with section 10(d) of Appendix I, Title, 5, United States Code, it has been determined that this meeting of the Advisory Group on Electron Devices concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Correspondence & Directives, Washington Headquarters Service, Department of Defense.

MARCH 28, 1978.

[FR Doc. 78-8471 Filed 3-30-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

[DOE/EIS-0006-D]

WIND TURBINE GENERATOR SYSTEM, BLOCK ISLAND, WASHINGTON COUNTY, R.I.

Availability of Draft Environmental Impact Statement

Notice is hereby given that the U.S. Department of Energy (DOE) has issued a draft Environmental Impact Statement, DOE/EIS-0006-D, Wind Turbine Generator System, Block Island, R.I. The statement was prepared pursuant to implementation of the National Environmental Policy Act of 1969 to support the proposed construction and operation of this wind turbine generator system at a site on Block Island, Washington County, R.I. The system will provide operating data applicable to the use of such a system as part of an electric utility network. The statement assesses the potential environmental impacts associated with the construction and operation of the system.

Copies of the draft Environmental Impact Statement have been distributed for review and comment to appropriate Federal, Rhode Island State and local agencies, and other organizations and individuals who are known to have an interest in the activities at the Site.

Copies of the statement are available for public inspection at the DOE public document rooms located at:

DOE Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
Richland Operations Office, Federal Building, Richland, Wash.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

Comments and views concerning the draft Environmental Impact Statement are requested from other interested agencies, organizations and individuals. Single copies of the statement will be furnished for review and comment upon request addressed to W. H. Pennington, Director, Office of NEPA Coordination, Mail Station E-201, U.S. Department of Energy, Washington, D.C. 20545, 301-353-4241. Comments should be sent to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the

draft Environmental Impact Statement should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the draft Environmental Impact Statement. Commenting entities may recommend modifications and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the draft Environmental Impact Statement will be placed in the above referenced locations for inspection and will be considered in the preparation of the final Environmental Impact Statement, if received within 60 days of this notice.

Dated at Washington, D.C. this 27th day of March, 1978.

For the United States Department of Energy.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-8567 Filed 3-30-78; 8:45 am]

[3128-01]

Bonneville Power Administration

PROPOSED WHOLESALE ELECTRIC RATE INCREASE

Intent To Prepare a Draft Environmental Impact Statement

AGENCY: Department of Energy, Bonneville Power Administration.

ACTION: Notice of Intent To Prepare a draft Environmental Impact Statement.

SUMMARY: The Bonneville Power Administration (BPA) hereby gives public notice of its intent to prepare and circulate a draft Environmental Impact Statement (EIS) addressing the environmental impacts of a proposed wholesale electric rate increase. The proposed and alternative wholesale rate levels that will be discussed as part of this draft statement will be significantly higher than BPA's present rate level. Preliminary figures indicate the need for approximately a 90 percent revenue increase for the period through July 1981. This revenue increase is necessary to cover increasing costs of generating and transmitting bulk power. In addition to alternative rate levels, the EIS will also assess the environmental implications of alternative rate designs, both at the wholesale level and at the retail level. Among other things, the discussion of each alternative rate will examine its effect on utility costs, a description of the possible impacts on the use of electricity at the retail level (including residential, commercial, and industrial), impacts on generating requirements and load shape, and possible mitigating measures. Although BPA plans to conduct an extensive public involvement program concurrent with the preparation and review of the draft EIS (see 43 FR 2659), at this time we are soliciting input to the EIS preparation process so that concerns identified now can be fully considered in the preparation of the draft statement. Accordingly, any suggestions or questions regarding the EIS should be directed to the address listed below.

EFFECTIVE DATE: Any wholesale rate increase adopted would become effective on December 20, 1979.

FOR FURTHER INFORMATION CONTACT:

John E. Kiley, Environmental Manager, Bonneville Power Administration, Department of Energy, P.O. Box 3621, Portland, Oreg. 97208, 503-234-3361, extension 5137.

Issued in Washington, D.C., March 27, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-8566 Filed 3-30-78; 8:45 am]

[3128-01]

Economic Regulatory Administration

CASES FILED WITH THE OFFICE OF ADMINISTRATIVE REVIEW

Week of March 10 through March 17, 1978

Notice is hereby given that during the week of March 10 through March 17, 1978, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Administrative Review, Economic Regulatory Administration, Department of Energy, Washington, D.C. 20461.

Dated: March 22, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Administrative Review.

APPENDIX.—*List of cases received by the Office of Administrative Review*

[Week of Mar. 10 through Mar. 17, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 10, 1978	Consumer Federation of America, Washington, D.C. If granted: Consumer Federation of America would receive financial assistance for its intervention in connection with proceedings involving the pricing of middle distillate products.	DSG-0014	Special redress.
Do	R. H. Engelke, San Antonio, Tex. If granted: R. H. Engelke would be permitted to sell the crude oil produced from the Bertha Copsey lease located in Jackson County, Tex., at upper tier ceiling prices.	DEE-0904	Price exception (sec. 212.73).
Do	Ladd Petroleum Corp., Denver, Colo. If granted: Ladd Oil Co. would be permitted to sell the crude oil produced from the Collums Muddy Sand unit located in Campbell County, Wyo., at upper tier ceiling prices.	DEE-0903	Do.
Do	Lunday-Thagard Oil Co., Washington, D.C. If granted: Lunday-Thagard Oil Co. would receive a stay of its entitlement purchase obligations pending a final determination on its application for exception.	DES-0046	Stay request.
Do	Texaco, Inc., Arkadelphia, Ark. If granted: F. E. (Jack) Glover, Inc., would no longer be subject to DOE reporting requirements.	DEX-0046	Supplemental order.
Mar. 14, 1978	Adobe Oil & Gas Corp., Midland, Tex. If granted: Adobe Oil & Gas Corp.'s J. S. Bagwell No. 1 well located in Franklin County, Tex., would be classified as a stripper well property.	DEE-0907	Price exception (sec. 212.73).
Do	Braden-Deem, Inc., Wichita, Kans. If granted: The Oct. 13, 1976, consent order which Braden-Deem executed with the FEA regarding the pricing of crude oil at the Zoller State lease would be modified.	DMR-0017	Modification of the Oct. 13, 1976, consent order.

APPENDIX.—*List of cases received by the Office of Administrative Review*—Continued

[Week of Mar. 10 through Mar. 17, 1978]

Date	Name and location of applicant	Case No.	Type of submission
Do	County of Gloucester, Woodbury, N.J. If granted: The county of Gloucester would be assigned a new lower priced supplier of motor gasoline to replace its base period supplier, Exxon Corp.	DEE-0906	Exception to change suppliers (211.9).
Do	Eason Oil Co., Oklahoma City, Okla. If granted: Eason Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Crescent plant.	DXE-0921	Extension of the relief granted in *Eason Oil Co.*, case No. FXE-4356 (decided July 15, 1977) (unreported decision).
Do	Eason Oil Co., Oklahoma City, Okla. If granted: Eason Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Ames, Beaver, Dubach, Elmwood, Gillette, Lacasane, O'Keene, and Thomas plants.	DEE-0922 through DEE-0929	Price exception (sec. 212.165).
Do	Florida Gas Co., Washington, D.C. If granted: Florida Gas Co. would receive a stay of the provisions of 10 CFR 212.165 pending a final determination on its appeal of the FEA's decision in *Florida Gas Company*, case No. FEE-3745 (decided Aug. 3, 1977) (unreported decision).	DES-0047	Stay request.
Do	S&W Engine Supply Co., Oklahoma City, Okla. If granted: S&W Engine Supply Co. would be permitted to sell the crude oil produced from the Baker-Townsend lease located in Oklahoma County, Okla., at upper tier ceiling prices.	DXE-0909	Extension of the relief granted in *S&W Engine Supply Co.*, 1 DOE par. 81,016 (Nov. 7, 1977).
Do	Standard Oil Co. (Indiana), Chicago, Ill. If granted: Standard Oil Co. (Indiana) would receive an exception from 10 CFR 212.83(c) which specifies the method for calculating increased nonproduct marketing costs.	DEE-0905	Price exception (sec. 212.83).
Do	Sun Co., Inc., Dallas, Tex. If granted: Sun Co., Inc., would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Belle Isle, Canales, Fordoche, Newhall, Spivey, Tonkawa, and Wakita plants.	DXE-0914 through DXE-0920	Extension of the relief granted in *Sun Co., Inc.*, case No. DEE-0039 (decided Dec. 20, 1977) (unreported decision). Proposed decisions and orders dated Sept. 30, and Oct. 14, 1977.
Do	Texas Pacific Oil Co., Inc., Dallas, Tex. If granted: Texas Pacific Oil Co., Inc., would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Enville plant.	DEE-0910	Price exception (sec. 212.165).
Do	Texas Pacific Oil Co., Inc., Dallas, Tex. If granted: Texas Pacific Oil Co. would be permitted to increase its prices to reflect nonproduct cost increases incurred in producing natural gas liquids and natural gas liquid products at its Adena, Hamlin, and South Fullerton plants.	DXE-0911 through DXE-0913	Extension of the relief granted in *Texas Pacific Oil Co.*, case Nos. FXE-4808, FXE-4810, and FXE-4811 (decided Dec. 6, 1977) (unreported decision).
Do	Allen K. Trobaugh, Midland, Tex. If granted: Allen K. Trobaugh would be permitted to sell the crude oil produced from the Bailey lease located in Hockley County, Tex., at upper tier ceiling prices.	DXE-0908	Extension of the relief granted in *Allen K. Trobaugh*, 1 DOE par. 81,033 (Nov. 30, 1977).
Mar. 15, 1978	Bernbeck Oil Co., Lakin, Kans. If granted: Bernbeck Oil Co. would be assigned a new, lower priced supplier of motor gasoline to replace its base period supplier, Harry's Oil Co.	DEE-0930	Exception to change suppliers (211.9).
Do	Commonwealth Oil Refining Co., Washington, D.C. If granted: The Apr. 14, 1977, decision and order issued to Commonwealth Oil Refining Co. would be modified.	DEX-0047	Supplemental Order to *Commonwealth Oil Refining Co.*, 5 FEA par. 83,132 (Apr. 14, 1977).
Do	Intercoastal Operating Co., Houston, Tex. If granted: The DOE would review the exception relief from the provisions of pt. 212, subpt. D, granted in a decision and order issued to Intercoastal Operating Co. on Feb. 28, 1978.	DEX-0050	Supplemental order to *Intercoastal Operating Co.*, 1 DOE par. —— (Feb. 28, 1978).
Do	Litfle America Refining Co. If granted: Little America Refining Co. would receive a stay of a portion of its entitlement obligations pending a final determination on its application for exception.	DEX-0048	Supplemental order.
Do	McCulloch Gas Processing Corp., Washington, D.C. If granted: McCulloch Gas Processing Corp. would be permitted to increase its prices to reflect nonproduct cost increases in excess of $0.005/gal for natural gas liquid products produced at the Belle Fourche plant on a retroactive basis.	DEE-0931	Price exception (sec. 212.165).
Do	Rosslyn Exxon, Arlington, Va. If granted: Rosslyn Exxon would not be required to file form EIA-8 (Retail Motor Fuels Service Station Survey).	DEE-0902	Exception to the reporting requirements.
Do	United Refining Co., Washington, D.C. If granted: United Refining Co. would receive an exception from 10 CFR 211.62 with respect to the certified capacity of the Warren refinery.	DEE-0932	Allocation exception (sec. 211.62).
Mar. 16, 1978	Little America Refining Co., Washington, D.C. If granted: The decision and order issued to Little America Refining Co. on Oct. 18, 1977, would be amended to stay a portion of the firm's entitlement purchase obligations for the entitlement notices issued by the DOE during the period Sept. 1, 1977, through Feb. 28, 1978.	DEX-0049	Supplemental order to *Little America Refining Co.*, 1 DOE par. 82,505 (Oct. 18, 1977).

APPENDIX.—*List of cases received by the Office of Administrative Review*—Continued

[Week of Mar. 10 through Mar. 17, 1978]

Notices of objection received.—*Week of Mar. 10 through Mar. 17, 1978*

Date	Name and location of applicant	Case No.
Mar. 10, 1978	North Pole Refining, Washington, D.C	FEE-4451
Do	Milltown Skelgas, Inc., Minneapolis, Minn	DRO-0009
Mar. 14, 1978	A. Johnson & Co., Inc., New York, N.Y	DEE-0101
Do	Les K. Hanson, Inc., St. Paul, Minn	DRO-0010

[FR Doc. 78-8379 Filed 3-30-78; 8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF ADMINISTRATIVE REVIEW

March 13 through March 17, 1978

Notice is hereby given that during the period March 13 through March 17, 1978, the Proposed Decisions and Orders which are summarized below were issued by the Office of Administrative Review of the Economic Regulatory Administration of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Amendments to the DOE's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (42 F.R. 47210 (Septmeber 20, 1977)), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Administrative Review, Room B-120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m. e.s.t., except Federal holidays.

Dated: March 23, 1978.

MELVIN GOLDSTEIN,
Director,
Office of Administrative Review.

PROPOSED DECISIONS AND ORDERS

Biglane Operating Co., Natchez, Miss. FEE-4050, crude oil

The Biglane Operating Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Biglane to treat certain wells which it operates in the Ellis Lake Field and the Flat Lake Field as stripper well properties on both a prospective and retroactive basis. On March 17, 1978, the DOE issued a Proposed Decision and Order which determined that the request be granted on a prospective basis.

William P. Carr, Dallas, Tex., DXE-0484, crude oil

On February 2, 1978, William P. Carr filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Carr to sell a portion of the crude oil produced from the Stratmann Lease at upper tier ceiling prices. On March 17, 1978, the DOE issued a Proposed Decision and Order which determined that the request be granted in part.

City of Long Beach, Calif., Long Beach, Calif., DXE-0859, crude oil

The city of Long Beach, Calif., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Long Beach to continue to sell certain quantities of the crude oil produced from Fault Block Unit 3 of the Wilmington Field, located in Long Beach, Calif., at upper tier prices. On March 17, 1978, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Great Southern Oil & Gas Co., Inc., Lafayette, La., DXE-0523, crude oil

Great Southern Oil & Gas Co., Inc., filed an Application for Exception from the provisions of 10 CFR 212.73. The exception request, if granted, would permit the firm to sell the crude oil which it produces from the Catille RA SUA Breaux No. 1 well, located in St. Martin Parish, La. at upper tier ceiling prices. On March 16, 1978, the DOE issued a Proposed Decision and Order in which it determined that the exception request be granted in part.

Joseph O'Neill, Jr., Oil Properties, Scurry County, Tex., DEE-0449, crude oil

Joseph O'Neill, Jr., Oil Properties filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit O'Neill to sell a portion of the crude oil produced from the Feldman & Pardo Lease at upper tier ceiling prices. On March 16, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted.

Justiss-Mears Oil Co., Inc., Jena, La. DXE-0663, crude oil

Justiss-Mears Oil Co., Inc., filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Justiss to continue to sell certain quantities of the crude oil produced from the Saucier No. 1 well, located in the Five Mile Bayou Field in Avoyelles Parish, La., at upper tier ceiling prices. On March 14, 1978, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Marine Petroleum Co., Inc., Washington, D.C., FPI-0125, No. 2 fuel oil motor gasoline

Marine Petroleum Co., Inc., filed an Application for Exception from the provisions of 10 CFR 213.35(c). The exception request, if

granted, would result in the issuance of an Order authorizing the firm to import quantities of motor gasoline and No. 2 fuel oil during the current allocation period on a license fee-exempt basis. On March 17, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Pacific Northern Oil Corp., Seattle, Wash., FPI-0124, residual fuel motor gasoline

Pacific Northern Oil Corp. filed an Application for Exception from the provisions of 10 CFR, Part 213. The exception request, if granted, would permit Pacific Northern Oil Corp. to import 740,000 barrels of residual fuel oil and 47,000 barrels of motor gasoline into PAD Districts II-V on a license fee-exempt basis during the current allocation period ending April 30, 1978. On March 13, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Phillips Petroleum Co., Bartlesville, Okla., DXE-0617, crude oil

Phillips Petroleum Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Phillips to continue to sell certain quantities of the crude oil which it produces from the Foote Lease located in Oklahoma County, Okla., at upper tier ceiling prices. On March 14, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Quincy Oil, Inc., Quincy, Mass., DEE-0447, No. 6 fuel oil

Quincy Oil, Inc., filed an Application for Exception from Department of Energy Ruling 1977-5 which, if granted, would relieve Quincy of its obligation to refund overcharges relating to the firm's sales of No. 6 fuel oil during the period prior to June 1, 1976. On March 17, 1977 the DOE issued a Proposed Decision and Order which determined that the exception request be granted in part.

Tenneco Oil Co., Houston, Tex., DXE-0860, crude oil

Tenneco Oil Co. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Tenneco to continue to sell certain quantities of the crude oil produced from the South Coast Unit, located in St. Mary Parish, La., at upper tier ceiling prices. On March 16, 1978, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Texaco, Inc., Oak Brook, Ill., FEE-4836, motor gasoline

Texaco, Inc., filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would terminate Texaco's base period supplier/purchaser relationship with Carl Fyffe, a Texaco jobber in the Lexington, Ky. area. On March 13, 1978, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Administrative Review of the Department of Energy has issued Proposed Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The proposed exception relief permits the firms involved to increase the prices of the production of the gas plants listed below to reflect certain nonproduct cost increases:

Company	Case No.	Plant	Location	Amount of Price increase (per gallon)
Allied Chemical Corp	DXE-0540	Benedum	Upton, tex	$0.0384
	DXE-0541	Sligo	Boosier Parish, La	.0233
	DXE-0542	Walnut Bend	Grayson, Tex	.0274
Beacon Gasoline Co	DXE-0556	Minden	Webster Parish, La	.1901
Cabot Corp	DXE-0535	Beaver	Beaver, Okla	.0179
	DXE-0536	Estes	Ward, Tex	.0239
Coline Gasoline Corp	DXE-0516	Rincon	Ventura, Calif	.0473
Diamond Shamrock Corp	DXE-0641	McKee	Moore, Tex	.0164
Enkay Corp	DXE-0544	East Texas	Panola, Tex	.0226
H. W. Bass & Sons, Inc	DXE-0543	Walnut Bend	Grayson, Tex	.0378
Kerr-McGee Corp	DXE-0547	Beaver	Beaver, Okla	.0117
	DXE-0548	Beaver Creek	Fremont, Wyo	.0308
	DXE-0549	Maysville	Garvin, Okla	.0142
	DXE-0550	Pampa	Gray, Tex	.0268
Mustang Fuel Corp	DXE-0526	Calumet	Canadian, Okla	.07051
Standard Oil Co. of California	DEE-0463	IC	Kern County, Calif	[1]
	DEE-0471	Person	Karnes County, Tex	.0088
	DEE-0474	S.E. Marietta	Love County, Okla	.0268
	DEE-0476	Torrance	Los Angeles County, Calif	.0076

[1] Denied.

[FR Doc. 78-8380 Filed 3-30-78; 8:45 am]

[6740-02]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. G-8083, et al.]

MESA PETROLEUM CO., ET AL.

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

MARCH 24, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 20, 1978, file with the Federal Energy Regulatory 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.

Take further notice that, pursuant to the authority contained in and sub-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

ject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft [2]	Pressure base
G-6083, et al., D, Mar. 13, 1978.	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	El Paso Natural Gas Co., Blanco South, Pictured Cliffs field, San Juan County, N. Mex.	Ceased production, plugged and abandoned.	
G-7217, C, Mar. 13, 1978	Chevron U.S.A. Inc., P.O. Box 599, Denver, Colo. 80201.	El Paso Natural Gas Co., the Fowler field, Lea County, N. Mex.	([1])	14.65
G-7535, C, Mar. 13, 1978	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	El Paso Natural Gas Co., Langlie-Mattix, Jalmont, Yates, and other fields, Lea County, N. Mex.	([3])	14.65
CI61-1147, D, Mar. 10, 1978	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Michigan Wisconsin Pipe Line Co., Woodward area, various counties, Okla.	Nonproductive and leases released.	
CI64-156, C, Mar. 14, 1978	Marathon Oil Co. (operator), 539 South Main St., Findley, Ohio 45840.	Colorado Interstate Gas Co., Wamsutter unit area, Sweetwater County, Wyo.	([1])	15.025
CI66-897, D, Mar. 17, 1978	Shell Oil Co., Two Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	El Paso Natural Gas Co., JM field, Crockett, Terrell, and Val Verde counties, Tex.	Nonproductive and lease No. WT-5503, except for 28 acres, surrendered on Jan. 18, 1970.	
CI73-667, C, Mar. 13, 1978	Amoco Production Co	El Paso Natural Gas Co., Fowler upper Yeso field, Lea County, N. Mex.	([3])	14.65
CI76-654, C, Mar. 14, 1978	MRT Exploration Co., 9900 Clayton Rd., St. Louis, Mo. 63124.	Mississippi River Transmission Corp., E. T. Davis No. 1 unit, Mills Ranch (Hunton) field, Wheeler County, Tex.	([1])	14.65
CI78-533, A, Mar. 9, 1978	CNG Producing Co. 445 West Main St., Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corp., A platform block 246, ship shoal area, south addition, offshore, La.	([1])	14.73
CI78-539, A, Mar. 9, 1978	Sun Oil Co	Trunkline Gas Co., blocks A-369 and A-370, East High Island, offshore, Tex.	([4])	14.65
CI78-540, A, Mar. 10, 1978	Pioneer Production Corp. (operator), P.O. Box 2542, Amarillo, Tex. 79189.	Northern Natural Gas Co., Dixel gas unit No. 1, Gomez field, Pecos County, Tex.	([1])	14.65
CI78-541 (G-2954), B, Mar. 10, 1978.	Forest Oil Corp., 1500 Colorado National Bldg., 950 17th St., Denver, Colo. 80202.	Tennessee Gas Transmission Co., Kleberg-Driscoll unit, Brayton field, Nueces County, Tex.	Depleted, leases expired, plugged and abandoned.	
CI78-542 (G-18758), B, Mar. 10, 1978.	Forest Oil Corp	South Texas Natural Gas Gathering Co., Santa Rita field, Hidalgo County, Tex.	Do.	
CI78-543 (CI65-884), B, Mar. 10, 1978.	....do	Texas Eastern Transmission Corp., Dallas Husky field, Goliad County, Tex.	Do.	
CI78-544 (CI65-883), B, Mar. 10, 1978.	....do	....do	Do.	
CI78-545 (CI66-1159), B, Mar. 10, 1978.	....do	Tennessee Gas Transmission Co., North Weslaco field, Hidalgo County, Tex.	Do.	
CI78-546 (CI69-981), B, Mar. 10, 1978.	....do	Tennessee Gas Pipeline Co., block 174, west Cameron area, Offshore, La.	Do.	
CI78-547 (CI72-70), B, Mar. 10, 1978.	....do	Transwestern Pipeline Co., Haystack field, Chaves County, N. Mex.	Do.	
CI62-1152, D, Mar. 13, 1978	Terra Resources, Inc., P.O. Box 2329, Tulsa, Okla. 74101.	Florida Gas Transmission Co., Jones Creek field, Wharton County, Tex.	([5])	
CI78-549, A, Mar. 13, 1978	Shell Oil Co., Two Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	El Paso Natural Gas Co., Elk City field, Beckham County, Okla.	([1])	14.65
CI78-550, F, Mar. 13, 1978	Transco Exploration Co., (successor to the Preston Oil Co. and Forest Oil Corp.), P.O. Box 1396, Houston, Tex. 77001.	Columbia Gas Transmission Corp., a portion of Vermilion block 161, Offshore, La.	([6])	15.025
CI78-551, A, Mar. 13, 1978	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa, Okla. 74114.	Michigan Wisconsin Pipe Line Co., west Cheyenne field, Roger Mills County, Okla.	([7])	14.73
CI78-552 (CI60-555), B, Mar. 13, 1978.	Amoco Production Co., P.O. Box 3092, Houston, Tex. 77001.	Valley Gas Transmission, Inc., South Oakville field, Live Oak County, Tex.	Leases expired.	
CI78-553, B, Mar. 13, 1978	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79105.	PGP Gas Products, Inc., Frank Simmons well No. 1 and the Frank Simmons B well No. 1, in the Clearfork, Fusselman, Montoya, and Wolfcamp formations, Abell field, Pecos County, Tex.	Depleted.	
CI78-554, A, Mar. 13, 1978	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	Tennessee Gas Pipeline Co., certain acreage in the Lake Washington field, Plaquemines Parish, La.	([1])	15.025
CI78-555 (G-18938), F, Mar. 10, 1978.	Gulf Oil Corp. (successor to George H. Coates), P.O. Box 2100, Houston, Tex. 77001.	South Texas Natural Gas Gathering Co., certain acreage in the Elstaggs field, Hidalgo County, Tex.	([1])([8])	14.65
CI78-556 (G-10686), E, Mar. 6, 1978.	Cotton Petroleum Corp. (successor in interest to Manning Gas & Oil Co. and Northwest Production Corp.), 4200 One Williams Center, Tulsa, Okla. 74103.	El Paso Natural Gas Co., certain acreage in Rio Arriba County, N. Mex.	([9])	14.65
CI78-557 (CI78-154), B, Mar. 13, 1978.	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.	Chevron U.S.A. Inc., Hico Knowles field, Lincoln Parish, La.	([10])	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI78-558, F, Jan. 13, 1978	A. G. Hill, et al., (successor in interest to Atlantic Richfield Co. and Texas American Oil Corp.), First National Bank Bldg., Dallas, Tex. 75202.	Natural Gas Pipeline Co. of America, R.O.C. No. 1 well, Caprito field, Ward County, Tex.	(1)(11)	14.65

[1] Applicant is willing to accept the applicable national rate pursuant to opinion No. 770, as amended.
[2] Applicant is filing under casinghead gas contract dated Mar. 26, 1951, amended by amendment dated Feb. 2, 1978.
[3] Applicant is filing under casinghead gas contract dated Feb. 21, 1973, amended by amendment dated Jan. 19, 1978.
[4] Applicant is filing under gas purchase contract dated Feb. 10, 1978.
[5] The E. W. Drapela No. 1 well ceased producing in 1976, the lease expired of its own terms and the well sold for salvage effective December 1, 1976. Consequently, of a total of 18 leases originally dedicated to the gas purchase contract, only five leases comprising the Zimmerman-Nohavitza gas unit No. 1 remain in effect. Therefore, producer is seeking to cancel from its GRS No. 16 all Jones Creek leases with the exception of the five seller's lease Nos. L-99, L-100, L-121, L-123, and L-124.
[6] By assignment of June 22, 1976, both Preston and Forest conveyed to C & K Offshore the subject federal lease OCS-G-1127 and said assignment to C & K Offshore was effective as of Dec. 12, 1976. Thereafter, by formal assignment of June 20, 1977, TXC acquired its 25 percent gross working interest from C & K Offshore. Said assignment is effective as of Dec. 31, 1975 and applicant requests that the Commission issue a certificate of public convenience and necessity authorizing TXC, effective Dec. 31, 1975, to continue a part of the service previously rendered by Preston and Forest to Columbia from Vermilion block 161.
[7] Applicant is filing under gas purchase contract dated Jan. 5, 1977.
[8] Pursuant to a farm-in agreement from Mokeen Oil Co., et al., dated Sept. 22, 1976 and an oil and gas lease dated Aug. 1, 1976 from the estate of George H. Coates and Elizabeth H. Coates Maddux, applicant acquired interest in certain acreage covered by the above mentioned contract dated June 1, 1959, as amended, heretofore authorized in docket No. G-18938 under George Coates, et al.
[9] On May 4, 1977, Manning conveyed its interests in the properties described, to include all working interest in the then producing properties, to applicant. Manning and applicant executed transfer orders covering the producing properties, which orders were effective July 1, 1977. On July 15, Aug. 31, Oct. 31 and Nov. 15, 1977, Northwest conveyed to applicant all working interest in the remaining properties subject to this application.
[10] Hico Knowles plant reached its economic limit and has ceased operations. Agreements under which this gas was processed have expired. Chevron's plant connection was severed on July 1, 1977.
[11] Gifford & Mitchell secured farmout agreements from Atlantic Richfield Co. and Texas American Oil Corp. for the drilling of the subject well. Gifford and Mitchell assigned an interest to A. G. Hill, et al., per instrument dated February 5, 1975.

Filing code:
A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc. 78-8331 Filed 3-30-78; 8:45 am]

[6740-02]

[Docket Nos. G-11122, et al.]

SUN OIL COMPANY, ET AL.

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates[1]

MARCH 22, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 14, 1978, file with the Federal Energy Regulatory 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.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 Applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-11122, D, Mar. 2, 1978	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	Colorado Interstate Gas Co., Leroy Long unit, wells 1 and 2, Laverne field, Harper County, Okla.	(1)	.....
G-12106, C, Mar. 6, 1978	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., certain acreage located in Morton County, Kans.	(2)	14.65
CI67-1005, F, Feb. 17, 1978	Sun Oil Co.	Cities Service Gas Co., the Mitchell heirs lease, Grant County, Okla.	(3)	.....
CI73-4, C, Mar. 2, 1978	Energy Reserves Group, Inc., P.O. Box 1201, Wichita, Kans. 67201.	El Paso Natural Gas Co., certain acreage located in Apache County, Ariz.	(3)	14.73
CI74-528, C, Feb. 24, 1978	Exxon Corp., P.O. Box 2180, Houston, Tex 77001.	El Paso Natural Gas Co., J. B. Tubb wells Nos. 139, 144, and 149, Sand Hills field, Crane County, Tex.	(3)	14.73
CI75-729, C, Mar. 2, 1978	Union Texas Petroleum, a division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001.	El Paso Natural Gas Co., South Carlsbad and Russell fields, Eddy County, N. Mex.	(3)	14.65
CI77-133, C, Mar. 3, 1978	CIG Exploration, Inc., 5 Greenway Plaza East, Houston, Tex. 77046.	Colorado Interstate Gas Co., certain acreage from the Lott area, Wheeler County, Tex.	(3)	14.65
CI77-465, D, Feb. 28, 1978	Belco Development Corp., c/o Belco Petroleum Corp., 1 Dag Hammarskhjold Plaza, New York, N.Y. 10017.	Colorado Interstate Gas Co., certain acreage from the Natural Buttes unit area, Uintah County, Utah.	(4)	.....

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.³	Pressure base
CI77-685, C, Mar. 10, 1978	Pennzoil Co., P.O. Box 2967, Houston, Tex. 77001.	Montana Dakota Utilities Co., Second Creek and North Fork fields, Richland County, Mont.	(2)	14.73
CI78-471, A, Feb. 27, 1978	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Transcontinental Gas Pipe Line Corp., Garden Island Bay field, onshore, Plaquemines Parish, La.	(2)	15.025
CI78-472, A, Feb. 27, 1978	Texaco Inc.	Columbia Gas Transmission Corp., Vermilion Bay, West Gueydan, and Parcperdue fields, onshore, Vermilion, Iberia, and St. Mary Parishes, La.	(2)	15.025
CI78-473, A, Feb. 27, 1978	Texaco Inc., P.O. Box 2100, Denver, Colo. 80201.	Colorado Interstate Gas Co., Table Rock unit, Sweetwater County, Wyo.	(2)	15.025
CI78-474, A, Feb. 27, 1978	Texaco Inc.	Colorado Interstate Gas Co., Table Rock, Southwest field, Higgins unit, Sweetwater County, Wyo.	(2)	15.025
CI78-475, A, Feb. 27, 1978	Texaco Inc., P.O. Box 2420, Tulas, Okla. 74102.	Transcontinental Gas Pipe Line Corp., Mayfield west field, Beckham County, Okla.	(2)	14.65
CI78-477, A, Feb. 27, 1978	Texaco Inc., P.O. Box 430, Bellaire, Tex. 77401.	United Gas Pipe Line Co., Sugar Creek field, Tyler County, Tex..	(2)	14.65
CI78-478, A, Feb. 27, 1978	Texaco Inc., P.O. Box 3109, Midland, Tex. 79702.	El Paso Natural Gas Co., Deadwood field, Glasscock County, Tex.	(2)	14.65
CI78-479, A, Feb. 27, 1978	Texaco Inc.	El Paso Natural Gas Co., Bryant G, Headlee North, and Parks fields, Midland and Ector Counties, Tex..	(2)	14.65
CI78-480, A, Feb. 27, 1978	....do.	Transcontinental Gas Pipe Line Corp., Gomez (Wolfcamp) field, Pecos County, Tex..	(2)	14.65
CI78-481, A, Feb. 27, 1978	....do.	Transcontinental Gas Pipe Line Corp., Gem-Hemphill field, Hemphill County, Tex.	(2)	14.65
CI78-482, A, Feb. 27, 1978	....do.	Transcontinental Gas Pipe Line Corp., Davidson Ranch Penn (7,890 ft.) field, Crockett County, Tex.	(2)	14.65
CI78-483, A, Feb. 27, 1978	....do.	El Paso Natural Gas Co., block 12 (Yates) field, Andrews County, Tex.	(2)	14.65
CI78-484, A, Feb. 27, 1978	....do	El Paso Natural Gas Co., South Salt Lake and Burton Flat fields, Lea and Eddy Counties, N. Mex..	(2)	14.65
CI78-485, A, Feb. 27, 1978	....do.	El Paso Natural Gas Co., White City field, Eddy County, N. Mex.	(2)	14.65
CI78-486, A, Feb. 27, 1978	....do.	West Texas Gathering Co., Emperor and South Kermit fields, Winkler County, Tex.	(2)	14.65
CI78-487, A, Feb. 27, 1978	Texaco Inc., P.O. Box 3109, Midland, Tex. 79702.	El Paso Natural Gas Co., Sunoco Snyder gasoline plant, Scurry County, Tex.	(2)	14.65
CI78-490 (CI70-516), B, Feb. 27, 1978.	Lear Petroleum Corp., 950 1 Energy Sq., 4925 Greenville Ave., Dallas, Tex. 75206.	Panhandle Eastern Pipe Line Co., Hodges No. 1 well, Beaver County, Okla.	Plugged and abandoned.	15.025
CI78-491, A, Feb. 27, 1978	Cities Service Co., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Co., Christensen "C" No. 1 well, NW/4, sec. 33, T46N, R76W, Campbell County, Wyo.	(2)	15.025
CI78-492, A, Feb. 27, 1978	Placid Oil Co., 1600 First National Bank Bldg., Dallas, Tex. 75202.	Transcontinental Gas Pipe Line Corp., certain acreage located in the Oakvale field, Jefferson Davis County, Miss.	(2)	15.025
CI78-493, A, Feb. 27, 1978	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001.	United Gas Pipe Line Co., certain acreage in South Red Fish Bay area, Nueces County, Tex.	(5)	14.65
CI78-494 (G-4951), B, Feb. 27, 1978.	Sun Oil Co., P.O. Box 20, Dallas, Tex. 75221.	United Gas Pipe Line Co., Slick-Wilcox field, Goliad and Dewitt Counties, Tex.	Leases expired and released back to lease owner, plugged and abandoned.	
CI78-504, A, Feb. 27, 1978	Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221.	Southern Natural Gas Co., Breton Sound block 53 area, offshore, Louisiana.	(2)	15.025
CI78-505, A, Mar. 1, 1978	Pioneer Production Corp., P.O. Box 2542, Amarillo, Tex. 79189.	Northern Natural Gas Co., Jarvis No. 1, Canadian, Upper Morrow field, Hemphill County, Tex.	(2)	14.65
CI78-507 (CI64-1462), B, Mar. 2, 1978.	Sun Oil Co.	CRA, Inc., Numa Red Fork Sand unit, Grant County, Okla.	(6)	.....
CI78-508, A, Mar. 2, 1978	....do.	Michigan Wisconsin Pipe Line Co., Robertson "A" lease, located in sec. 27, T26N, R26W, Laverne field, Harper County, Okla.	(7)	14.65
CI78-509, B, Mar. 3, 1978	Gary Lamb, Box 6, Burnt House, W. Va. 26336.	Consolidated Gas Supply Corp., Murphy District, Ritchie County, W. Va.	(5)	.....
CI78-510, A, Mar. 3, 1978	Florida Gas Exploration Co., P.O. Box 44, Winter Park, Fla. 32790.	Texas Eastern Transmission Corp., block 118 field, East Cameron area, offshore, Louisiana.	(2)(9)	15.025
CI78-512, A, Mar. 6, 1978	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	Florida Gas Transmission Co., certain acreage in the High Island area, South Addition, blocks A-531, A-536 and A-537, offshore, Texas..	(10)	14.65
CI78-513, A, Mar. 6, 1978	Amoco Production Co.	Florida Gas Transmission Co., certain acreage in the High Island area, East Addition, South Extension, block A-341, offshore, Texas..	(10)	15.025
CI78-514, A, Mar. 6, 1978	....do.	Florida Gas Transmission Co., certain acreage in High Island area, East Addition, South Extension, block A-309, offshore, Texas.	(10)	14.65
CI78-515, A, Mar. 6, 1978	....do.	Florida Gas Transmission Co., High Island, block A-469, offshore, Texas.	(10)	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI78-516, A, Mar. 6, 1978	do	Florida Gas Transmission Co., Eugene Island, blocks 301 and 322, offshore, Louisiana.	([10])	15.025
CI78-517, A, Mar. 6, 1978	Canadian Superior Oil (U.S.) Ltd., P.O. Box 1521, Houston, Tex. 77001.	Michigan Wisconsin Pipe Line Co., South Marsh Island area, blocks 243 and 244, offshore, Louisiana.	([3])	15.025
CI78-518, A, Mar. 6, 1978	Florida Gas Exploration Co., P.O. Box 44, Winter Park, Fla. 32790.	Florida Gas Transmission Co., block 75 (block 76 field) Grand Isle area, offshore, Louisiana.	([3])	15.025
CI78-519, A, Mar. 6, 1978	Gulf Oil Corp., P.O. Box 2100, Houston, Tex. 77001.	El Paso Natural Gas Co., certain wells located in Lea and Eddy Counties, N. Mex.	([2])	14.73
CI78-520, A, Mar. 6, 1978	Southland Royalty Co., 1000 Fort Worth Club Tower, Fort Worth, Tex. 76102.	El Paso Natural Gas Co., certain acreage in Eddy County, N. Mex.	([2])	14.73
CI78-521, A, Mar. 6, 1978	Helmerich & Payne, Inc., 1579 East 21st St., Tulsa, Okla. 74114.	El Paso Natural Gas Co., Northwest Reydon field, Roger Mills County, Okla.	([2])	14.73
CI78-522 (CI60-822), B, Mar. 6, 1978.	Anadarko Production Co., P.O. Box 1330, Houston, Tex. 77001.	Panhandle Eastern Pipe Line Co., Texas County Okla.	Uneconomical.	
CI78-523, A, Mar. 6, 1978	Texaco Inc. (operator), et al., P.O. Box 2100, Denver, Colo. 80201.	Montana-Dakota Utilities Co., Charlson field, McKenzie County, N. Dak.	([2])	15.025
CI78-524 (CI70-543), B, Mar. 6, 1978.	Ocean Production Co., P.O. Box 61780, New Orleans, La. 70161.	Transcontinental Gas Pipe Line Corp., block 172, Eugene Island area, offshore Louisiana.	Depleted, and lease expired.	
CI78-525, A, Mar. 6, 1978	Amoco Production Co., Security Life Bldg., Denver, Colo. 80202.	Northern Natural Gas Co., Northeast Catesby field, Ellis County, Okla.	([2])	14.65
CI78-526, A, Mar. 6, 1978	Exxon Corp., P.O. Box 2180, Houston, Tex. 77001.	Natural Gas Pipeline Co. of America, East Holly Beach field, Cameron Parish, La.	([11])	14.73
CI78-527, A, Mar. 8, 1978	Continental Oil Co., P.O. Box 2197, Houston, Tex. 77001.	El Paso Natural Gas Co., San Juan field, San Juan 28-7, Chacra unit, Rio Arriba County, N. Mex.	([12])	14.65
CI78-528, A, Mar. 8, 1978	Continental Oil Co.	El Paso Natural Gas Co., San Juan field, San Juan 28-7, Dakota unit, Rio Arriba County, N. Mex.	([13])	14.65
CI78-529, A, Mar. 8, 1978	Arkla Exploration Co., P.O. Box 21734, Shreveport, La. 71151.	Arkansas Louisiana Gas Co., Midway area, Roger Mills County, Oklahoma and Hemphill Counties, Tex.	([14])	14.65
CI78-530, A, Mar. 7, 1978	Coastal States Gas Producing Co. (operator), et al., 5 Greenway Plaza East, Houston, Tex. 77046.	Tennessee Gas Pipeline Co., E. R. Henry No. 1 well, East Calcasieu Pass field, Cameron Parish, La.	([15])	14.73
CI78-531 (G-2803), B, Mar. 8, 1978.	Autral Oil Co., Inc., agent for Oil Participations Inc., 2700 Exxon Bldg., Houston, Tex. 77002.	Columbia Gas Transmission Corp., certain acreage in the Florence field, Vermilion Parish, La.	Depleted, leases released, plugged, and abandoned.	
CI78-532, A, Mar. 8, 1978	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Natural Gas Pipeline Co. of America, West Cameron area, block 437, offshore, Louisiana.	([2])	14.73
CI78-534 (G-13348), B, Mar. 7, 1978.	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.	Arkansas Louisiana Gas Co., Colquitt field, Claiborne Parish, La.	Depleted, leases expired and released, plugged and abandoned.	
CI78-535, A, Mar. 9, 1978	Texas Pacific Oil Co., Inc., 1700 1 Main Place, Dallas, Tex. 75250.	El Paso Natural Gas Co., Walden No. 4 well, Drinkard Gas field, Lea County, N. Mex.	([16])	14.65
CI78-536, A, Mar. 9, 1978	Shell Oil Co., 2 Shell Plaza, P.O. Box 2099, Houston, Tex. 77001.	Montana-Dakota Utilities Co., Stateline Plant area, Richland County, Mont., and McKenzie County, N. Dak.	([3])	15.025
CI78-537, A, Mar. 9, 1978	Gulf Oil Corp. (successor in interest to Viersen & Cochran), P.O. Box 2100, Houston, Tex. 77001.	Cities Service Gas Co., Southwest Wakita field, Grant County, Okla.	([17])	14.65
CI78-538 (CI67-308), B, Mar. 9, 1978.	Energy Reserves Group, Inc., P.O. Box 1201, 217 North Water St., Wichita, Kans. 67201.	Natural Gas Pipeline Co. of America, North Fort Supply field, Harper County, Okla.	Lease terminated, plugged, and abandoned.	
CI78-322, C, Mar. 7, 1978	Union Texas Petroleum, division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001.	El Paso Natural Gas Co., Britt B-2 well, Monument field, Lea County, N. Mex.	([3])	14.65

[1] Leases S-17867, S-17867 A-J, S-17900, S-17900 A and S-17979 were released unto the lessor on Nov. 30, 1974 and the Leroy Long unit, wells Nos. 1 and 2 were plugged and abandoned.

[2] Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.

[3] Effective Sept. 1, 1977, Sun Oil Co. acquired the Mitchell heirs lease, well No. 1 located in SE/4 of sec. 3-T2 7N-7W, Grant County, Okla., from Curtis McGee.

[4] Deletion of that certain acreage is required in order to reflect accurately the acreage which is potentially subject to Belco's contract with CIG.

[5] Applicant is filing under contract dated Nov. 16, 1977.

[6] Sales ceased in June 1975, due to CRA's decision to abandon approximately four (4) miles of their sales line serving the unit due to the poor condition of that line and reduced gas production from the unit due to waterflood response.

[7] Applicant is filing under gas purchase contract, dated Nov. 16, 1977.

[8] A new gas pipeline is required to produce either gas or oil from these wells. It is much more economical to run approximately 600 ft to Cabot, than approximately 3,700 ft to Consolidated.

[9] Applicant requests that it certificate of public convenience and necessity be made effective, from July 14, 1977, the effective date of the Commission's order No. 568.

[10] Applicant is filing under gas purchase contract, dated Mar. 3, 1978.

[11] Applicant agrees to accept a permanent certificate of public convenience and necessity conditioned in accordance with the Commission's opinion No. 749.

[12] Applicant is filing under gas purchase and sales agreement dated Feb. 10, 1978.

[13] Applicant is filing under gas purchase and sales agreement dated Feb. 21, 1978.

[14] Applicant is filing under gas sales contract, dated Oct. 4, 1977.

[15] Applicant is filing under gas sales contract, dated Mar. 1, 1978.

[16] Applicant is filing under gas purchase agreement, dated Feb. 20, 1978.

[17] Applicant requests to continue in part the sale of gas to Cities Service Gas Co. from the Southwest Wakita field, Grant County, Okla., pursuant to a contract dated Mar. 29, 1960, as amended, which was heretofore authorized to Viersen & Cochran in Docket No. CS71-55.

Filing code:

A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc. 78-8332 Filed 3-30-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. AR64-2, et al.]

SOUTH TEXAS NATURAL GAS GATHERING CO., ET AL.

Filing of Pipeline Refund Reports and Refund Plans

MARCH 24, 1978.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before April 11, 1978. Copies of the respective filings are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

Date filed	Docket No.	Company	Type of filing
Aug. 15, 1977	AR64-2, et al	South Texas Natural Gas Gathering Co.	Plan.
Sept. 8, 1977	RP72-157	Consolidated Natural Gas Service Co.	Do.
Oct. 31, 1977	RP72-154	Northwest Pipeline Corp	Do.
Nov. 28, 1977	AR61-2 and AR69-1, et al.	Trunkline Gas Co	Do.
Nov. 29, 1977	AR61-2 and AR69-1, et al.	Columbia Gas Transmission Corp	Do.
Dec. 1, 1977	AR61-2 and AR69-1, et al.	Sea Robin Pipeline Co	Do.
Dec. 8, 1977	RP71-7 and RP75-80	Alabama-Tennessee Natural Gas Co	Report.
Dec. 19, 1977	AR64-2, et al. and AR61-2 and AR69-1, et al.	United Gas Pipe Line Co	Plan.
Jan. 30, 1978	AR64-2, et al	South Texas Natural Gas Gathering Co.	Do.
Dec. 23, 1977	RP71-11, et al	Tennessee Natural Gas Lines	Report.

[FR Doc. 78-8455 Filed 3-30-78; 8:45 am]

[6740-02]

[Docket No. E-9578]

TEXAS POWER AND LIGHT CO.

Further Extension of Time

MARCH 24, 1978.

On March 21, 1978, Tex-La Electric Cooperative, Inc., and Texas Power and Light Co. filed a motion to extend further the time for filing data requests by all parties and the date for a prehearing conference, set by the Commission's order issued October 31, 1977, in the above referenced proceeding. Previous extensions of time for filing data requests and for a prehearing conference were granted by notices issued January 3, 1978, and March 10, 1978. The instant motion states that all intervenors and Staff Counsel concur in the requested extension.

Upon consideration, notice is hereby given that new procedural dates are established as follows:

Filing of data requests by all parties, including Staff Counsel, April 24, 1978.

Prehearing conference, May 3, 1978.

All other procedural dates will be established in accordance with the October 31, 1977 Order.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8456 Filed 3-30-78; 8:45 am]

[6740-02]

[Docket Nos. AR61-2 and AR69-1, et al. and AR64-1, et al.

UNITED GAS PIPE LINE CO.

Proposed Plan of Refund

MARCH 24, 1978.

Take notice that on December 1, 1977, United Gas Pipe Line Co. (United) submitted for filing with the Federal Energy Regulatory Commission (Commission) its plan to flow through producer refunds received pursuant to the Commission's orders issued September 23, 1977, at Docket Nos. AR61-2 and AR69-1, et al. and July 14, 1977, at Docket Nos. AR64-1, et al.

United's proposed refund plan reflects the receipt of producer refunds aggregating $21,564,737, of which United proposes to flow through to its jurisdictional customers $13,850,492.

A copy of this filing has been served upon United's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 7, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestant parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8454 Filed 3-30-78; 8:45 am]

[6740-02]

[Docket No. CP74-192]

FLORIDA GAS TRANSMISSION

Certification of Proposed Settlement Agreement and Record of Hearing Held Thereon

MARCH 27, 1978.

Take notice that on March 16, 1978, Presiding Administrative Law Judge William Jensen certified to the Commission a proposed Stipulation and Settlement Agreement as to Certain Specified Issues, dated February 6, 1978, together with the hearing record from evidentiary hearings on the Settlement held on March 7, 8, 9, and 10, 1978.

On September 12, 1977, in an Order Deferring Decision and Convening Settlement Conference, the Commission deferred its final decision in this proceeding and directed the Presiding Administrative Law Judge "to issue all necessary orders to convene a Settlement discussion among the parties to this proceeding concerning the question of FGT's gas supply from Amoco." That conference was convened on September 21, 1977. Thereafter, informal Settlement discussions commenced, eventually culminating in the above-mentioned Stipulation and Settlement Agreement, which appears in the certified record as Exhibit No. 203. All parties to the proceeding except the Commission Staff and Gardinier, Inc. support the Settlement.

Pursuant to the Settlement agreement, in addition to gas delivered under the 1964 contract Amoco Production Co., (Amoco) will make available to Florida Gas Transmission Co., (FGT) under new conventional gas purchase contracts reserves estimated to be in excess of 200 billion cubic feet. The Settlement agreement sets forth the following Commission action, in the form of a final nonappealable Commission order, which is necessary before the Settlement will become effective.

1. Acceptance of the Settlement as a full and complete resolution and final disposition of all issues which have been asserted regarding past deliveries of gas under the 1964 Amoco warranty contract and the resulting 1965 Commission certificate at Docket No. CI65-584, including any and all alleged violations of the Natural Gas Act.

2. The 1965 certificate at Docket No. CI65-584 provides that no more than 50 percent of the annual deliveries of gas under the Amoco warranty contract can originate from offshore areas. Pursuant to the Settlement, certain offshore Louisiana and offshore Texas Gulf Coast reserves identified in Exhibit 203 which are used by Amoco to perform its obligations under the 1964 contract would be exempt from the 50 percent provision.

3. The 1965 certificate at Docket No. CI65-584 provides that the sources from which deliveries of warranty gas are made shall be limited to the Southern Louisiana area. Pursuant to the Settlement, Amoco would be permitted to deliver gas pursuant to the warranty contract from offshore Texas Gulf Coast sources.

4. The Commission must grant Amoco's pending applications for certificate authorization to sell gas to FGT and grant FGT's pending applications for certificate authorization to construct and operate pipeline and related facilities to receive gas from Amoco.

5. The Commission must grant pending applications for transportation and/or exchange authority to permit the sale and delivery of the reserves identified in the Settlement Agreement.

Initial comments on the proposed Settlement are to be filed on or before April 10, 1978. Reply comments are to be filed on or before May 1, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8517 3-30-78; 8:45 am]

[6740-02]

[Docket No. E-9574]

FLORIDA POWER & LIGHT CO.

Order Granting Intervention and Denying Requested Limitations

MARCH 27, 1978.

On January 25, 1978, the United States Department of Justice (Department) filed a petition to intervene in the above-captioned proceeding, a hearing under section 203 of the Federal Power Act on the proposed purchase of the electric system of the City of Vero Beach, Fla., (Vero Beach) by Florida Power & Light Co., (FP&L). As grounds for the petition, the Department stated that it has responsibility for enforcing the antitrust laws of the United States and for presenting to regulatory agencies facts and considerations relating to the accomodation of antitrust law and policy with regulatory policy. The Department further states that it fully supports the publically stated position of the Commission's Staff in opposing the application of FP&L to acquire the electric system of Vero Beach, since the acquisition would tend substantially to lessen competition in various markets contrary to the public interest. To assist the Commission in determining whether the proposed acquisition would be in the public interest, the Department petitions to intervene for the purpose of filing a post-hearing brief limited to a discussion of the anticompetitive effect of the proposed acquisition after the close of the evidentiary record in this proceeding.

On February 2, 1978, FP&L filed a motion for an extension of fifteen days of the time to answer the petition to intervene. By notice issued February 8, 1978, the time to answer was extended to and including February 24, 1978. On the latter date, answers were filed by the Commission Staff counsel and FP&L.

The Staff counsel's answer notes that the Department's petition was timely filed[1] and supports the request

[1] FP&L filed an amended application on December 12, 1977. By notice issued December 23, 1977, protests and petitions to intervene were due on or before January 25, 1978.

to intervene on the ground that the expertise of the Department in the field of antitrust enforcement can assist the Commission in accommodating antitrust law and regulatory policy.

FP&L's answer does not oppose the intervention, but requests that the Commission specify that the Department is limited in its brief, to the extent it opposes the proposed acquisition, to supporting the Commission staff's theory of the case as presented in Staff's testimony and as it may be limited by evidentiary rulings of the Presiding Administrative Law Judge during the course of the Phase III hearing. In support of its request, FP&L contends that it would be highly prejudicial to allow the Department to "sit back" and watch the record in the case develop and then propound a new theory of the case on brief after the close of the evidentiary record, possibly requiring the company to request a reopening of the record in order to present evidence to fully protect its rights.

We find that the Department of Justice has sufficient interest in this proceeding to warrant intervention for the limited purposes set out in the petition to intervene.

As to the further limitations on the Department's intervention sought by FP&L in its answer, we find no merit in the company's request. It is not the substantive position advanced by a petitioner which should be the basis for granting, denying or limiting intervention, but rather whether the petitioner has an interest which may be adversely affected by a decision in the subject proceedings.[2] Here, the interest of the Department of Justice is in promoting the accommodation of antitrust law and policy with regulatory policy. The Department's interest in giving and the Commission's interest in receiving the assistance of the Department's expertise in this area would not be well served by limiting the input of the Department to the theory of the case which the Commission Staff has already adopted.

The cases cited by FP&L in support of its request to limit the Department's theory of the case on brief are inapposite: *Easton Utilities Commission* v. *AEC*[3] concerned denial of an untimely petition to intervene and *Algonquin LNG Inc.* v. *FERC*[4] involved a rate first proposed on brief which was rejected because it was found to be inadequately supported by the record evidence. In the instant case, the petition to intervene was timely filed, and the Department, like all parties, will be limited to the evidentiary record as it is developed at hearing for factual support of whatever theory it adopts on brief.[5] Similarly, like all parties, the Department will be free to present on brief whatever theory of the case or policy considerations it believes to be appropriate in light of the record evidence, subject only to the limitations set forth in the petition to intervene.

The Commission finds:

Intervention in these proceedings by the Department of Justice for the purposes stated in the petition to intervene may be in the public interest.

The Commission orders:

(A) The Department of Justice 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 the issues set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any orders of the Commission entered in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

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

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8518 Filed 3-30-78; 8:45 am]

---

[2] *Midwestern Gas Transmission Co.*, 34 FPC 1132 (1965).

[3] 424 F.2d 847, 852 (D.C. Cir. 1970).

[4] D.C. Cir. No. 76-2157, decided January 6, 1978.

[5] To the degree that official notice of facts is permitted after the conclusion of a hearing by our Rules of Practice and Procedure (§ 1.26), an opportunity to show the contrary is also permitted on timely request.

[6740-02]

[Docket Nos. E-9104 and ER76-40]

NEVADA POWER CO.

Notice of Intent to Act

MARCH 24, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject to these proceedings were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

By order issued on July 21, 1977, the Federal Power Commission set the just and reasonable rates in Docket No. E-9104 for Nevada Power Co. (Nevada) to its sole wholesale customer, California-Pacific Utilities Co. (Cal-Pac) at Cal-Pac's Henderson and Needles-Searchlight delivery points. Nevada had filed a wholesale rate increase for Cal-Pac on November 12, 1974 and, by FPC order issued January 17, 1975, the rates were accepted for filing, suspended, and the matter set for hearing. Among other things, the July 21, 1977 order required Nevada to revise its fuel clause to reflect only Account 151 fuel costs and to allow for losses solely associated with wholesale sales. In compliance with the order, Nevada tendered for filing on September 22, 1977 a revised cost of service and amendments to its rate schedules. This filing included a new calculation of the base cost under the fuel clause. On December 23, 1977, Nevada tendered for filing a supplement which added language to the fuel clause and added more cost support for the fuel clause base cost and purchase power expense. The supplemental filing was noticed by the Commission on February 3, 1978.

The rates in Docket No. E-9104 are locked-in as to the Needles-Searchlight delivery point, because, on March 17, 1976, Nevada's subsequent July 28, 1975 filing in Docket No. ER76-40 as to the rates for the Needles-Searchlight delivery point became effective, subject to refund, pursuant to a Federal Power Commission suspension order.[1] In the suspension order, the FPC rejected Nevada's proposed increase for the Henderson de-

[1] FPC order issued October 15, 1975 in Docket No. ER76-40.

livery point, but accepted the increase for the Needles-Searchlight delivery point.

By order issued on July 1, 1977, the Federal Power Commission established the just and reasonable rate level for Nevada in Docket No. ER76-40. As it had in the July 21, 1977 order in Docket No. E-9104, the FPC affirmed Nevada's obligation to revise its fuel clause to reflect Account 151 fuel costs and to allow for losses solely related to wholesale sales. Again, in compliance with the July 1, 1977 order, Nevada tendered for filing on September 1, 1977 a revised cost of service and amendments to include a new calculation of the fuel clause base cost. On November 17, 1977, Nevada tendered for filing a supplement to add language to the fuel clause and more cost support for the base cost and purchase power expense. On December 23, 1977 Nevada tendered for filing a further supplement to the September filing to add language to the fuel clause. Notices of these filings were issued on September 19, 1977 and on February 2, 1978.

On February 24, 1978, Cal-Pac filed a Motion to Reject, Suspend and Request for a Hearing. Cal-Pac protests and moves to reject Nevada's tendered fuel clause filings which were noticed on February 2, 1978 in Docket No. ER76-40 and on February 3, 1978 in Docket No. E-9104. Cal-Pac states that Nevada has improperly calculated the fuel clause base cost by using for intersystem sales its average cost of fuel rather than the actual cost of fuel it recovers through such sales. Cal-Pac states that in doing such, Nevada has violated Section 35.14(2)(iv) of the Commission's regulations under the Federal Power Act (18 CFR 35.14(2)(iv)) but also will likely recover double fuel costs. If the Commission denies its Motion to Reject, Cal-Pac requests the Commission to suspend the fuel clause filing for the full statutory period and set the matter for hearing.

Pursuant to Section 1.12(e) of the Commission's Rules of Practice and Procedure, the Motion of Cal-Pac would be deemed denied on March 26, 1978, unless the Commission acts before that time. In order to allow sufficient time for due consideration of the merits of Cal-Pac's Motion, the Commission has determined that Section 1.12(e) of the Rules should be tolled, and notice given of the Commission's intention to act on this Motion. Notice is hereby given that the Commission will act on the February 24, 1978 Motion of Cal-Pac and that the Commission by the issuance of this notice is tolling the operation of Section 1.12(e) of its Rules.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8519 Filed 3-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-229]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Notice of Application

MARCH 27, 1978.

Take notice that on March 13, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP78-229, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the rendition of a transportation service for Continental Oil Co. (Continental), all as more fully set forth in the application which is on file with the Federal Energy Regulatory Commission (Commission) and open to public inspection.

Specifically, Tennessee requests authorization herein to transport natural gas for Continental from the offshore Federal Domain to mutually agreeable points onshore. Tennessee states that Tennessee and Continental executed a Gas Purchase and Sales Agreement (Agreement) on June 17, 1976, which provides for the commitment by Continental to Tennessee of one-half of all gas to be produced from the recoverable gas originally in place and attributable to the interest of Continental in Blocks 34, 35, and 66 of the West Cameron Area, offshore Louisiana. It is stated that in that Agreement (Continental Rate Schedule 430), Continental retained for its own use the remaining one-half of the gas to be produced from and attributable to Continental's interest in Blocks 34, 35 and 66 of the West Cameron Area. Tennessee states that the interest retained by Continental is designated as "Seller's retained reserves."

Tennessee further states that Continental has elected to have its "retained reserves" transported to mutually agreeable points of redelivery located on Continental's onshore pipeline system for further transportation to the facilities of Olin Corp. and Firestone Tire and Rubber Co., located in Calcasieu Parish, La.

Tennessee asserts that it has agreed to transport Continental's reserves pursuant to the terms of a Gas Transportation Agreement (Transportation Agreement). Tennessee states that under the terms of that Transportation Agreement, Tennessee will receive natural gas from Continental at the following points:

A. West Cameron Block 66 "A" Platform
B. West Cameron Block 66 "B" Platform
C. Gibbstown Separation Station
D. Oak Grove Separation Facility

and Tennessee states that it will deliver the gas, less volumes for Tennessee's system fuel and use requirements for this transportation service, for the account of Continental at the following redelivery points:

x. At the point where Continental's onshore pipeline intersects Tennessee's Kinder-Sabine Line in section 29, Township 8 South, Range 9 West, Calcasieu Parish, La.
y. At the point where Continental's onshore line intersects Tennessee's Kinder-Sabine Line in Section 31, Township 8 South, Range 10 West, Calcasieu Parish, La.
z. At the tailgate of the Egan Gas Processing Plant in Acadia Parish, La.

The rates which Tennessee states it will charge Continental for this transportation service and the fuel and use percentages which Tennessee will receive for such service are as follows:

	Delivery points	Rate per 1,000 ft³ Delivered	Fuel and use
Receipt point:		*Cents*	*Percent*
A	X	3.55	0.54
A	Y	3.84	.59
A	Z	3.61	.55
B	X	3.60	.55
B	Y	3.89	.59
B	Z	3.67	.56
C	X	2.48	.38
C	Y	2.77	.42
C	Z	2.54	.39
D	X	3.13	.48
D	Y	3.42	.52
D	Z	3.19	.49

Any person desiring to be heard or to make any protest with reference to said application, on or before April 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own

review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8531 Filed 3-30-78; 8:45 am]

[6740-02]

[Docket No. CP77-439]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Notice of Petition To Amend

MARCH 27, 1978.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by Section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR —, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

Take notice that on March 17, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Petitioner), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP77-439 a petition to amend the order of June 17, 1977 (57 FPC —) issued by the Federal Power Commission (FPC) in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Petitioner to transport natural gas for United Gas Pipe Line Co. (United) for an extended period of time and to authorize an increase in the volumes of gas which Petitioner is authorized to transport for United, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the FPC's order of June 17, 1977, Petitioner was authorized to transport gas for United for a period of one year from the date deliveries of natural gas commenced, which transportation service commenced on June 30, 1977. It is stated that the gas is being transported from Hancock County, Miss., through Petitioner's existing facilities to United at an existing point of interconnection of the facilities of Petitioner and United at Chauncey, Miss., pursuant to a gas transportation agreement between the parties dated June 9, 1977. Such agreement is on file with the Commission in Applicant's FERC Gas Tariff, Sixth Revised Volume No. 2, as Rate Schedule T-48, it is said.

Petitioner requests herein that the Commission amend the June 17, 1977 order so as to authorize it to transport gas for United for an extended six months period or through December 31, 1978, and to authorize an increase in the volumes of gas which Petitioner is authorized to transport for United to 50,000 Mcf per day. Petitioner states that United has advised it that United would not complete construction of its facilities attaching the gas supply in Hancock County, until an estimated six months beyond the one-year authorized term, and that United has also advised Petitioner that increased deliveries would be available for delivery to Petitioner in approximately one month. It is indicated that Petitioner and United have entered into a letter agreement dated March 16, 1978, which letter agreement amends the June 9, 1977, agreement between the parties so as to provide for an extension in the term in which Petitioner would transport gas for United to December 31, 1978, and to provide for a maximum transportation quantity of 50,000 Mcf per day, with Petitioner having the right, but not the obligation, to accept volumes in excess of such quantity. Petitioner states that there is no change in any other provision of the agreement.

Any person desiring to be heard or tc make any protest with reference to said petition to amend should on or before April 18, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8520 Filed 3-30-78; 8:45 am]

[6740-02]

[Docket No. RP75-73]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Certification of Settlement Agreement

MARCH 27, 1978.

Take notice that on March 20, 1978, the Presiding Administrative Law Judge certified to the Commission a proposed Stipulation and Agreement in Docket No. RP75-73 (advance payments) which, if approved, would resolve all issues in the proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before April 5, 1978. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8521 Filed 3-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-227]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Limited-Term Certificate Application

MARCH 27, 1978.

Take notice that on March 10, 1978, Transcontinental Gas Pipe Line Corp. (Applicant); P.O. Box 1396; Houston, Tex. 77001, filed in Docket No. CP78-227 an application pursuant to Section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing Applicant to transport natural gas for Trunkline Gas Co. (Trunkline), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport on an interruptible basis for

Trunkline during a limited term ending not later than December 31, 1978, up to 75,000 Mcf per day of natural gas which Trunkline will deliver or cause to be delivered into Applicant's Southwest Louisiana Gathering System in Cameron Parish, La. Applicant will deliver a thermally equivalent quantity, less 0.6 percent for compressor fuel and line loss make-up, to Trunkline at existing points of interconnection between the two systems located near Katy, Waller County, Tex. and Ragley, Beauregard Parish, La.

Trunkline will pay Applicant an initial share of 3.5 cents per dekatherm transported. No additional facilities are required to render the proposed service.

Any person desiring to be heard or to make any protest with reference to said application, on or before April 17, 1978, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8523 Filed 3-30-78; 8:45 am]

[6740-02]

[Docket No. CP78-176]

TRANSCONTINENTAL GAS PIPELINE CORP., ET AL.

Notice of Amended Joint Petition for Declaratory Order

MARCH 27, 1978.

Take notice that on March 2, 1978, Transcontinental Gas Pipeline Corp. (Transco) and Transco Exploration Co. (TXC), P.O. Box 1396, Houston, Tex. 77001, and Lovera Pipeline Co. (Lovera), P.O. Box 1201, Wichita, Kans. 67201 (collectively referred to as Petitioners) filed in Docket No. CP78-176 a first amendment to the joint petition for declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure.

Added to the questions presented by the joint petition as originally filed[1] is the petitioners request that the Commission include a finding and determination that "the proposed utilization of Lovera's gathering facilities will not result in converting any of Houston Pipe's present intrastate facilities downstream from the outlet of the Mustang Island separation plant into jurisdictional interstate facilities and that none of the gas flowing therein will be in interstate commerce within the meaning of the Natural Gas Act."

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 17, 1978 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8524 Filed 3-30-78; 8:45 am]

[6740-02]

[Docket No. RP78-44]

TRUNKLINE GAS CO.

Notice of Change in Rates

MARCH 27, 1978.

Take notice that Trunkline Gas Co. (Trunkline) on February 27, 1978, tendered for filing Sixteenth Revised Sheet No. 37 to its FERC Gas Tariff, Original Volume No. 2. Trunkline requests that this rate change to its FERC Rate Schedule F-2 become effective April 1, 1978.

Trunkline states that this rate change reflects the price to be paid under Rate Schedule F-2 as prescribed by the Commission in Opinion No. 770-A in FPC Docket No. RM75-14 and pursuant to Section 2.56a(a)(1) of the Commission's Regulations.

A copy of this filing has been furnished to Tennessee Gas Pipe Line Co.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 7, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-8525 Filed 3-30-78; 8:45 am]

[1] The joint petition was originally filed on January 30, 1978 and noticed by the Commission on February 17, 1978.

[3128-01]

Office of Intergovernmental and Institutional Relations

NUCLEAR WASTE MANAGEMENT TASK FORCE DRAFT REPORT AND WASTE ISOLATION PILOT PLANT (WIPP) PROJECT

Public Meetings

The Department of Energy will conduct open public meetings in New Mexico on its March 15, 1978, nuclear waste management task force draft report and the Waste Isolation Pilot Plant (WIPP) project. The public meetings will be held on April 11, 1978, in Carlsbad at the Rodeway Inn; April 12, 1978, in Albuquerque at the Convention Center; and April 14, 1978, in Santa Fe at the National Guard Auditorium. The meetings in Carlsbad and Albuquerque will be held in both the afternoon and evening while the meeting in Santa Fe will be held in the afternoon only. All afternoon meetings will start at 1:00 p.m. and conclude at 5:30 p.m.; the evening meetings will start at 7:00 p.m. and conclude at 10:00 p.m.

DOE senior representatives will present an overview of the waste management problem and the task force rec-

ommendations with emphasis on the WIPP project. Public comments on the above-mentioned subjects are solicited at the meetings.

Individuals wishing to schedule time to deliver prepared statements are requested to call Susan Huskisson, Department of Energy, Albuquerque Operations Office, toll free in New Mexico at 1/800-432-6766 or from anywhere in the continental U.S. at 1/800-545-6556.

It is requested that the telephone notice of desire to make a presentation be received by April 5 to insure scheduling. An effort will be made to schedule the full time requested, but, in order to assure all participants a fair opportunity to present their views within the time constraints, the presentations may be limited in length.

Time will also be allotted during each public meeting to permit members of the audience to pose questions to the panel. Persons who do not wish to make an oral presentation, or whose schedules do not permit appearance at the meeting may submit a written statement to DOE. The statements should be sent to Ms. Susan Huskisson, Department of Energy, Albuquerque Operation Office, P.O. Box 5400, Albuquerque, N.M. 87115.

Questions concerning the meetings may be addressed to Ms. Huskisson at the aforementioned toll-free numbers.

Single copies of the task force report may be obtained from Ms. Huskisson.

Issued at Washington, D.C. on March 29, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-8755 Filed 3-30-78; 11:05 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 875-8]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Availability

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from March 20, 1978 through March 24, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days; the date of submission of comment is May 15, 1978. The thirty (30) day period for each final statement begins on the day the statement is made available to the Environmental Protection Agency and to commenting parties.

On March 8, 1978, the Federal agencies were informed of an upcoming change in filing procedures for final EIS's. In July, 1974 the Council established that the 30 day review period for final EIS's would be counted from the date the statement was actually filed with the Council (now EPA). However, after consultation with the Council and in the interest of fairness to the public and commenting entities, it was determined that final EIS commenting period should be treated the same as for a draft EIS. Therefore, effective April 17, 1978, for all final EIS's received during a given week (Monday through Friday), the 30-day timeframe will commence on the Friday of the following week.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: March 29, 1978.

JOSEPH M. MCCABE,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Draft

Shelton Cooperative Sustained Yield Unit, Olympic, Washington County: Mason, Thurston, Grays Harbor, Mar. 21: The proposed action is the Development of the Updated ten year Timber Resource Management Plan for the Shelton Cooperative Sustained Yield Unit (CSYU) located in the Olympic National Forest. The Shelton CSYU is the result of an agreement, executed by the Forest Service and by Simpson Timber Co. in 1946, committing designated National Forest and Simpson Timber Co. Land in Grays Harbor, Mason, and Thurston Counties, State of Washington, to Cooperative Management for sustained production of timber. The proposal affects 350,176 acres of which 112,874 acres are National Forest Land and 237,302 acres are Simpson Timber Co. land. (USDA-FS-R6-DES(ADM)-78-10). (ELR Order No. 80263.)

Pond Run Watershed, West Virginia County: Wood, Mar. 21: The proposed action involves Watershed Protection and Flood Prevention of Pond Run in Wood County, W. Va. to be implemented under authority of the Watershed Protection and Flood Prevention Act. Project actions which are associated with the 13,190 linear feet of channel work described include land treatment measures on 1,185 acres of land, construction of one single purpose dam upstream from Vienna, W. Va., and the encouragement of sound land use on the Pond Run Flood Plain. With land treatment and the dam in place, channel work will result in flood protection from the 100 year flood for 163 buildings, certain roads, and streets. (USDA-SCS-EIS-WS-(ADM)-78-4(D)-W. Va. (ELR Order No. 80262.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Restationing of Troops redeploying from Korea, Mar. 24: This action pertains to the return of the Second Infantry Division, including nondivisional military units associated with the division, from Korea to the U.S. and retention in the force structure as an essential element of this country's defense. Upon return it is envisioned that this division would be reorganized from an infantry division to a mechanized infantry division composed of two active instead of the usual three brigades with a total of about 12,500 personnel. Receiving posts under consideration are Fort Bliss, Tex., Fort Benning, Ga., Fort Dix, N.J., Fort Denvens, Mass., and Fort Drum, N.Y. (ELR Order No. 80278.)

Lake Oahe/Lake Sharpe Wildlife Mitigation Plan, South Dakota, Mar. 24: The purpose of this statement is to present a plan to mitigate the loss of wildlife resources that resulted from the construction of Oahe Dam (Lake Oahe) and Big Bend Dam (Lake Sharpe) on the Missouri River, S.D. This report discusses the wildlife losses, presents a number of potential plan components, and describes the selected plan for the development and management of lands for wildlife. The selected plan incorporates the use of existing Corps of Engineers lands around Lakes Oahe and Sharpe and of other adjacent and non-adjacent lands proposed for acquisition. (ELR Order No. 80280.)

Final Supplement

Gulf ICW, Channel to Aransas Pass (S-2), Texas, Mar. 23: This statement supplements a final EIS filed with CEQ in May 1974 and relates to the Gulf Intracoastal Waterway, Tex., Tributary Channel to Aransas Pass. The proposed action involves designation of a former residential area located within the city of Aransas Pass for disposal of dredged material in connection with New Work Dredging and future maintenance of the project. This supplement addresses designating disposal area No. 7, a former residential area, as a disposal site in association with the new work, and maintenance dredging of the tributary channel to Aransas Pass. (Galveston District), (ELR Order No. 80270.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Hurricane Amelioration Research Project, Mar. 24: The primary goal of the Hurricane

Amelioration Research Project is to test the hypothesis that the maximum winds in hurricanes can be reduced by at least 10 to 15 percent by seeding the proper clouds in specified portions of the storms with freezing nucli (silver iodide). This report concerns the Eastern North Pacific operations which will be based at Lapaz, Mazatlan, and Acapulco. The area of operations will be within 600-nautical mile circular sectors outward from these cities. In each experiment, there will be about 16 flights over a period of 32 hours involving 5 different aircraft. Approximately 875 pounds of silver iodide will be dispended in 5 separate seeding flights. (ELR Order No. 80281.)

North Carolina Coastal Management Program, North Carolina, Mar. 24: It is proposed that the assistant administrator approve the coastal plan of the State of North Carolina pursuant to Pub. L. 92-583. Approval would permit implementation grants to be awarded to the State, and require that Federal actions be consistent with the program. Approval and implementation of the program will allow the State to better coordinate and more effectively implement existing State authorities for management of its coastal zone. The State will condition, restrict, or prohibit land and water uses in some parts of the North Carolina Coast, while encouraging development in other parts. (ELR Order No. 80275.)

Puerto Rico Coastal Management Program, Puerto Rico, Mar. 24: The purpose of the Federal Coastal Zone Management Act of 1972 (the CZMA) is to establish a national policy and develop a national program for the management, beneficial use protection, and development of the land and water resources of the Nation's coastal zones. The Federal Act provides three principal kinds of benefits to Puerto Rico (1) it provides planning funds for use by the commonwealth in preparing a management program for its coast (2) will provide management funds for use by commonwealth in implementing its coastal management program and (3) contains Federal consistency provisions.

DEPARTMENT OF ENERGY

Contact: Mr. W. Herbert Pennington, Office of NEPA Coordination, Department of Energy, Washington, D.C. 20545.

Draft

Wind Turbine Generator System, New York County: Washington, Mar. 24: The proposed action is an experimental wind turbine generator (WIG), designated MOD-OA, will be installed on a knoll in New Meadow Hill Swamp, Electrically integrated with the Adjacent Block Island Power Co. (BIPC) powerplant and operated to supply up to 200 kilowatts of electricity to the existing utility network for a field test period of two to four years. The test program will help determine performance characteristics, operating and maintenance needs, and economics of a wind energy system interconnected with a conventional powerplant and used to supply power through existing utility lines. Block Island is the popular name for the town of New Shoreham. (ELR Order No. 80282.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Joseph McCabe, Director, Office of Federal Activities, Room WSMW 537, 401 M Street SW., Washington, D.C. 20460, 202-755-0780.

Draft

Upper Housatonic River, Water Quality Management, Massachusetts County: Berkshire, Mar. 22: Proposed is the water quality management plan for the Upper Housatonic River located in Berkshire County, Mass. The proposed plan recommends a six point water quality management program for a 20-year planning period. the study area involves 262 square miles and 9 municipalities. The area is the western-most part of the State and is characterized by a narrow river valley and much hilly terrain. (ELR Order No. 80265.)

Final

Motorcycle Noise Emission Regulations, Mar. 20: The U.S. EPA has issued a proposed noise emission regulation for newly manufactured motorcycles and motorcycle replacement exhaust systems. the proposed regulations are intended to alleviate the problem of motorcycle noise not only in cities and on highways, but in off-road environments as well. This draft environmental and inflationary impact statement presents in summary form the benefits to be gained from the proposed motorcycle noise standards, and the economic implications of this action. Also presented are the principal regulatory options which are considered by EPA. HUD-R10-EIS77-2F. Comments made by: USDA, DOE, DOI, EPA. (ELR Order No. 80260.)

Final

Metro Denver Wastewater Sludge Management, Colorado County: Adams, Mar. 24: the Metropolitan Denver Sewage Disposal District No. 1 has proposed to construct the necessary facilities to transport sludge to a site in Adams County, Colo., for air drying in earthen basins, stockpiling in aboveground windows, and distributing to the farming community to be reused on land for growing crops. Adverse effects of varying degree will result at the sludge drying and distribution center, at the sludge reuse areas, and at the Lowry bombing range sludge disposal area. (Region VIII). Comments made by: DOD, ERDA, USDA, FEA, DOI, HEW, DOE, HUD. State and local agencies, groups and individuals. (ELR Order No. 80274).

DEPARTMENT OF HEW

Contact: Dr. Kenneth Taylor, Associate Commissioner for Science, Office of Science, HFS-30, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4500.

FOOD AND DRUG ADMINISTRATION

Final

Fluorocarbons: Environmental and Health Implications, Mar. 22: Proposed is the prohibition of non essential use of chlorofluorocarbons as propellants in aerosolized containers in products subject to the Federal Food, Drug and Cosmetic Act. The Commissioner of FDA has concluded that the continued use of chlorofluorocarbon propellants poses an unreasonable risk of long-term biological and climatic impacts. The regulations apply to the following products: human food, food additives, human drugs, including biological products, animal food, animal drugs, cosmetics, and medical devices. Among other beneficial effects, the regulation will cause a reduction of the steady state ozone depletion levels. Comments made by: DOI, FCC, NRC, STAT, HUD, CIA, LAB, EPA, ERDA, USDA (ELR Order No. 80268.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

East Hampton Development, Bartlett County: Shelby, Mar. 22: The proposed is the development of East Hampton Subdivision, a proposed 794 unit subdivision. These units will be mostly single-family with some townhouse units located in the northeast Shelby County, Tenn. This location is a rapidly growing sector of Shelby County. The area is bounded on the south by North Hampton Drive, on the west and north by the L&N Railroad, and on the east by Oak Road. East Hampton is being developed under the early start procedures which will contain 61 acres and 200 units. The proposed HUD action is limited to subdivision approval for mortgage insurance. HUD-R04-EIS-77-28D. (ELR Order No. 80267.)

Farmington Subdivision, Knoxville, Tennessee County: Knox, Mar. 21: Proposed is the development of Farmington subdivision, a 650 lot single-family subdivision in west Knox County, Tenn. It is located in a sector of Knox County that is growing rapidly. There is a substantial amount of undeveloped land in this area and may be developed for single-family use. The area chosen for study is bounded on the south by Fort Loudon Lake, on the west by Fox Road, on the north by Kingston Pike and Westland Drive and on the east by Wright Ferry Road. The project will be developed on about 310 acres with 85 acres being developed under the early start procedures. The early start section will contain 172 single-family units. HUD-R04-EIS-77-18D. (ELR Order No. 80264.)

Final

Metropolis Development, Carolina, P.R., Puerto Rico, Mar. 23: The proposed action involves the development of 365.14 cuerdas (1 CDA.=0.97 acre), in the Martin Gonzalez Ward of Carolina, into a residential area, under plans already approved by all pertinent commonwealth agencies. The project provides for the construction of approximately 2,970 residential units, of which 1,775 will be single family dwellings. Adverse effects include alteration of topography, elimination of existing flora, and increases in noise and fugitive dust levels. Comments made by: EPA, DOT, FPC, USDA, HEW, DOD. Local agencies. (ELR Order No. 80269.)

SECTION 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Draft

East End/Valley Street Redevelopment Plan, North Carolina County: Bancombe, Mar. 24: Proposed is the redevelopment of East End/Valley Street, approximately 230 acres located in the southeast quadrant of the city of Asheville, N.C. The purpose of the project is to (1) improve the physical

condition and appearance of the area with the least amount of disruption to the present community, (2) provide an adequate storm drainage system, (3) provide standard streets, proper curbs, sidewalks, etc., (4) provide an all weather street from south Valley to Poplar, (5) provide a connector from Baltimore Avenue to Carrol Avenue, (6) provide adequate parks and play areas, (7) provide adequate parking for churches, and (8) improve residential living by removal of substandard structures. (ELR Order No. 80277.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Building, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

Draft

West-Central North Dakota Study on Energy Development, several counties, N. Dak, Mar. 23: This statement summarizes the West-Central North Dakota Regional Environmental Impact Study on Energy Development, an assessment of the cumulative impacts of proposed coal and energy related development in west-central North Dakota. The seven-county study area comprises 11,213 square miles and includes all of Burleigh, Dunn, McLean, Mercer, Morton, Oliver and Stark Counties. These counties encompass that portion of North Dakota having a high potential for energy development due primarily to coal and water resource availability. (ELR Order No. 80273.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, 301-492-8446.

Final

Fort Calhoun Station, Unit 2, Harrison, Washington County, Nebr., Mar. 22: The proposed action is the determination of the suitability of the site of the Fort Calhoun Station for eventual construction of a second nuclear unit by the Omaha Public Power District. The proposed site is located on the west bank of the Missouri River, approximately 20 miles north of Omaha, Nebr. The station will produce 342 MWT, which will be used by a steam turbine generator to produce 1150 MWE (NET) of electric power capacity. Adverse effects include the impingement of 247,000 juvenile fish annually, and the removal of 60 acres of forest. NUREG-0434. Comments made by: AHP, USDA, COE, ERDA, EPA, HEW, DOI, HUD, DOT, State and local agencies. (ELR Order No. 80266.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Banfield Transitway Project, Multinomah County, Oreg., Mar. 23: The purpose of the Banfield Transitway project is to provide a multi-model facility to accommodate projected increases in commuter trips originating in the central East Portland and east Multnomah County area, with emphasis on improved public transit service. The intent is to provide such a facility within the environmental constraints that are consistent with local and regional goals, while having a minimum disruption on local communities. FHWA-OR-EIS-78-3-D. (ELR Order No. 80271.)

Draft

OR-42, Coos Bay to Roseburg Highway, Douglas County, Oreg., Mar. 23: The proposed project would realign and reconstruct 11 miles of Ore-42, a major east-west rural primary highway in Douglas County, Oreg. Camas Valley, Oreg., is situated approximately in the center of the project. This small, unincorporated community lies about 25 miles southwest of Roseburg, Oreg., the area's largest city. The western project terminus is Mystic Creek (mile post 51.35) and the eastern terminus is Mans Creek (mile post 62.27). The present highway is narrow, curvy and hilly, which restricts the flow of traffic and creates hazardous driving conditions. The highway is the main link between Coos Bay-North Bend and Roseburg. FHWA-OR-EIS-78-2-D. (ELR Order No. 80272.)

Final

17th Street, Idaho Falls, Bonneville County, Idaho, Mar. 24: Proposed is the improvement of a 0.6-mile section of 17th Street between South Boulevard and Yellowstone Avenue in Idaho Falls. The street would be widened from two to four lanes of traffic. The existing two-lane railroad underpass structure would be retained for two lanes of westbound traffic and a new railroad underpass constructed for east-bound vehicles. The project will require the cutting of trees and encroachment upon private property for right-of-way. Comments made by: EPA, DOC, DOI. (ELR Order No. 80279.)

[FR Doc. 78-8650 Filed 3-30-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket Nos. 78-40—78-43; File Nos. BPH-10, 105, etc.]

AMERICAN INTERNATIONAL DEVELOPMENT, INC., ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: March 17, 1978.

Released: March 23, 1978.

In re applications of American International Development, Inc., Phoenix, Ariz., Req: 99.9 MHz, Channel 260, 100 kW (H & V), 1,670 feet, BC Docket No. 78-40, File No. BPH-10,105; KXIV, Inc., Phoenix, Ariz., Req: 99.9 MHz, Channel 260, 97 kW (H & V), 1,740 feet, BC Docket No. 78-41, File No. BPH-10,109; Radio Phoenix, Inc., Phoenix, Ariz., Req: 99.9 MHz, Channel 260, 100 kW (H & V), 1,670 feet, BC Docket No. 78-42, File No. BPH-10,336; Herbert W. Owens, Jr., Phoenix, Ariz., Req: 99.9 MHz, Channel 260, 100 kW (H & V), 1,670 feet, BC Docket No. 78-43, File No. BPH-10,349; for construction permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it, the above-captioned applications, which are mutually exclusive in that they seek the same FM broadcast channel in Phoenix, Ariz. KXIV, Inc., is the licensee of standard broadcast station KXIV, Phoenix, and Radio Phoenix is the licensee of standard broadcast station KRDS in nearby Tolleson, Ariz.

2. American International Development, Inc., proposes a specialized format of programming for the Spanish-American community. The other applicants, in contrast, propose general market programming. Thus, the relative needs for these different types of programming will be considered under the standard comparative issue. *Ward L. Jones,* FCC 67-82 (1969); *Policy Statement on Comparative Hearings,* 1 FCC 2d 393, 397 n. 9 (1965).

3. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

4. Accordingly, *it is ordered,* That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order upon the following issues:

(a) To determine which of the proposals would, on a comparative basis, best serve the public interest.

(b) To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

5. *It is further ordered,* That the applicants herein, to avail themselves of the opportunity to be heard, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within 20 days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

6. *It is further ordered,* That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-8476 Filed 3-30-78; 8:45 am]

[6712-01]

[Report No. 903]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MARCH 27, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (See section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it 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 the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's rules)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21000-CD-P-78 Richard L. Adcock, d.b.a. Dial-A-Page (new) C.P. for a new 1-way station to operate on 158.70 MHz to be located on Highway No. 24, 1 mile west of Watseka, Ill.

21001-CD-P-(2)-78 Western Radio Services Company, Inc. (new) C.P. for a new station to operate on 152.09 and 152.18 MHz to be located at Gray Butte, near Terrebonne, Oreg.

21005-CD-P-78 McCord Communication Service, Inc., d.b.a. Anniston Communications Service (KIY532) C.P. for additional facilities to operate on 152.18 MHz located at Blue Mountain, 0.75 mile NE. of Anniston, Ala.

21009-CD-P-78 Tele-Page, Inc. (KUS240) C.P. to relocate facilities operating on 152.09 MHz at Loc. No. 1 to be located at 1900 Block of Willow Creek Road, Prescott, Ariz.

21044-CD-P-(2)-78 Radiotelephone Communicators of Puerto Rico, Inc. (WWA311) C.P. for additional facilities to operate on 2112.0 MHz, control at Loc. No. 2: Cerro de Punta, 3 miles south of Jayuya, P.R. and for additional facilities to operate on 2178.0 MHz, repeater, at a new site described as Loc. No. 6: Monte del Estado, 2 miles south of Maricao, P.R.

21045-CD-AL-(3)-78 Akron Mobile Telephone, Inc. Consent to Assignment of License from Akron Mobile Telephone, Inc., Assignor to Cleveland Mobile Telephone, Inc., Assignee. Stations: KQK713, Wadsworth, Ohio; KWU443, Akron, Ohio; KWU447, North Ridgeville, Ohio.

21046-CD-P-(2)-78 Radio & Communications Consultants, Inc. (new) C.P. for a new station to operate on 454.275 and 454.300 MHz to be located at 2026 DeSoto, Shreveport, La.

21048-CD-P-78 Berks County Communications, Inc. (new) C.P. for a new 1-way station to operate on 158.70 MHz to be located at Neversink Mountain, site of WRFY-FM, Reading, Pa.

21049-CD-P-78 Oneida County Rural Telephone Co. (new) C.P. for a new 1-way station to operate on 158.10 MHz to be located at Junction of New York State Route 12C and Benton Road, near Marcy, N.Y.

21050-CD-P-78 The Pacific Telephone and Telegraph Company (KMM585) C.P. for additional facilities to operate on 454.450 MHz located at Rocky Hill, 3 miles east of Exeter, Calif.

21051-CD-TC-(2)-78 Camden Rural Telephone Company, consent to transfer of control from Delbert White and William MacRitchie, et al., Transferors to C, C & S Systems, Inc., Transferees. Stations: KQK716, Camden, Mich. and KQK719, Pittsford, Mich.

21052-CD-P-(2)-78 Warren W. Lepczyk d.b.a. Maryland Mobile Telephone Co. (new) C.P. for a new station to operate on 454.125 and 454.325 MHz to be located at 2401 Violet Avenue, Baltimore, Md.

21053-CD-P-78 Brainerd Area Radio Paging, Inc. (new) C.P. for a new 1-way station to operate on 152.24 MHz to be located 0.5 miles SW. of city limits, Brainerd, Minn.

21056-CD-P-78 Modern Communications Corporation (new) C.P. for a new station to operate on 152.03 MHz to be located at Nittany Mountain, 2.15 miles west of Centre Hall, Pa.

21057-CD-P-78 Capitol Radiotelephone Co., Inc. (KQD614) C.P. for additional facilities to operate on 152.21 MHz to be located at a new site described as Loc. No. 4: near 900 Block of South Park Drive, Charleston, W. Va.

21058-CD-P-78 Alan H. Rosenson Trust d.b.a. All Florida Communications Co. (KIN645) C.P. for additional facilities to operate on 35.22 MHz at Loc. No. 4: 7150 West 32nd Avenue, Hialeah, Fla.

21059-CD-P-(2)-78 Canaveral Communications, Inc. (KFL876) C.P. for additional facilities to operate on 454.050 and 454.300 MHz located at 3554 Ocean Drive, Vero Beach, Fla.

21060-CD-P-78 Milledgeville Mobilfone, Inc. (KUC919) C.P. for additional facilities to operate on 158.70 MHz to be located at a new site described as Loc. No. 2: On Highway 15, 0.7 mile West of Highways 15, and 22 intersection, near Sparta, Ga.

21062-CD-MP-78 RAM Broadcasting of Washington, Inc. (KUO584) Modification of C.P. to relocate facilities operating on 43.58 MHz at Loc. No. 5 to be located at McMiken Heights Water Tower, Water District No. 75, Seattle, Wash.

21063-CD-P-(3)-78 General Communications Service, Inc. (KOE257) C.P. to relocate facilities operating on 35.22 MHz, base at Loc. No. 3 and for additional facilities to operate on 2179.6 MHz, repeater at Loc. No. 3: Shaw Butte, 1.5 miles North of Phoenix, Ariz.; and for additional facilities to operate on 2129.6 MHz, control to be located at a new site described as Loc. No. 5: 365 North Sixth Avenue, Phoenix, Ariz.

INFORMATIVE

In a February 22, 1977 Public Notice (Common Carrier Services Information Report No. 899, Mimeo No. 97427, Page 10) the Bureau indicated that if no change had occurred since the date of the last filing, a letter to that effect would satisfy the requirements of § 21.11(a). *This policy has been changed.* From April, 1, 1978 forward, only the actual completed Form 430's will be acceptable as complying with § 21.11(a). Any other type filing will be returned to the filer as unacceptable.

RURAL RADIO SERVICE

60189-CR-P-78 Southwestern Bell Telephone Company (new) C.P. for a new rural subscriber station to operate on 158.01 MHz to be located 12 miles SW. of Westbrook, Tex.

60130-CR-P/L-78 Aurora Ortiz Ranch (new) C.P. and License for a new rural subscriber station to operate on 158.49 and 158.52 MHz to be located 9.4 miles SW. of Villanueva, N. Mex., Route 3 Ant. 1.7 miles from Route 3, Villanueva, N. Mex.

POINT TO POINT MICROWAVE RADIO SERVICE

ND—1496-CF-P-78 Souris River Telephone (KAN85) Minot A.F.B. 12 miles north of Minot, (Ward) N. Dak. Lat. 48°25'01" N. Long. 101°19'13" W. C.P. to add a new point of communication on frequency 2162.4H MHz on azimuth 350.2° toward Lansford, N. Dak.

ND—1497-CF-P-78 Same (new) Laurel St between 1st and 2nd Aves. Lansford, (Bottineau) N. Dak. Latitude 48°37'42" N. Longitude 101°22'30" W. C.P. for a new station on frequencies 2112.4H MHz on azimuth 170.2° toward Minot, N. Dak. and 2117.2H MHz on azimuth 326.7° toward Mohall, N. Dak.

ND—1498-CF-P-78 Same (new) Elizabeth St. between 3rd and 4th Mohall, (Renville) N. Dak. Lat. 48°45'52" N. Long. 101°30'38" W. C.P. for a new station on frequency 2167.2H MHz on azimuth 146.6° toward Lansford. N. Dak.

MI—1531-CF-P-78 General Telephone Co. of Michigan (new) 860 Terrace Muskegon,

(Muskegon) Mich. Lat. 43°14'13" N. Long. 86°14'47" W. C.P. for a new station on frequencies 10875V and 11035V MHz on azimuth 175.5° toward Grand Haven, Mich.

MI—1532-CF-P-78 Same (new) 440 64th Ave., Coopersville, (Ottawa) Mich. Lat. 43°04'07" N. Long. 85°56'44" W. C.P. for a new station on frequencies 10875V, 11035V MHz on azimuth 268.5° toward Grand Havens, Mich. and 10875V, 11035V MHz on azimuth 109.2° toward Walker, Mich.

MI—1533-CF-P-78 Michigan Bell Telephone Co. (WAX85) 114 North Division St., Grand Rapids, (Kent) Mich. Lat. 42°57'57" N. Long. 85°40'03" W. C.P. to add a new point of communication on frequencies 10875V and 11035V MHz on azimuth 312.4° toward Walker, Mich.

MI—1534-CF-P-78 Same (new) On 3 Mile Rd., 2 miles west of Walker, (Kent) Mich. Lat. 43°01'00" N. Long. 85°44'36" W. C.P. for a new station on frequencies 11405V and 11565V MHz on azimuth 132.4° toward Grand Rapids, Mich., 11405V and 11565V MHz on azimuth 289.4° toward Coopersville, Mich.

MI—1535-CF-P-78 Same (new) 501 Washington St., Grand Haven, (Ottawa) Mich. Lat. 43°03'46" N. Long. 86°13'33" W. C.P. for a new station on frequencies 11405V, 11565V MHz on azimuth 88.3° toward Coopersville, and 11405V, 11565V MHz on azimuth 355.1° toward Muskegon, Mich.

PA—1577-CF-P-78 Bell Telephone Co. of Pennsylvania (KIK88) 723 Linden Street, Allentown, (Lehigh) Pa. Lat. 40°36'13" N. Long. 75°28'26" W. C.P. to add a new point of communication on frequencies 10975H, 10815H and 10855V MHz on azimuth 142.5° toward Lanark, Pa.

PA—1578-CF-P-78 Bell Telephone Co. of Pennsylvania (new) Lanark 3 miles SE. of Allentown, (Lehigh) Pa. Lat. 40°33'59" N. Long. 75°26'11" W. C.P. for a new station on frequencies 11385H, 11545H, 11585V MHz on azimuth 322.5° toward Allentown, Pa., and 11425V, 11665V, 11465H MHz on azimuth 180.7° toward Finland, Pa.

PA—1579-CF-P-78 Same (new) 0,95 mile NW. of Finland, (Bucks) Pa. Lat. 40°23'36" N. Long. 75°26'12" W. C.P. for a new station on frequencies 10735V, 10975V, 10855H MHz on azimuth 0.7° and 10735V, 10975V, 10855H MHz on azimuth 186.0° toward Schwenksville, Pa.

PA—1580-CF-P-78 Same (new) Spring Mountain Road, Schwenksville, (Montgomery) Pa. Lat. 40°16'06" N. Long. 75°27'24" W. C.P. for a new station on frequencies 11425V, 11665V, 11465H MHz on azimuth 6.7° toward Finland, Pa., 11425V, 11665V, 11465H MHz on azimuth 164.6° toward Eagleville, Pa.

PA—1581-CF-P-78 (new) Wilson Boulevard, Eagleville, (Montgomery) Pa., Lat. 40°09'32" N. Long. 75°25'05" W. C.P. for a new station on frequencies 10735V, 10975V, 10855H MHz on azimuth 344.9° toward Schwenksville, Pa., and 10735V, 10975V, 10855H MHz on azimuth 169.6° toward Wayne, Pa.

PA—1582-CF-P-78 Same (new) 60 West Avenue, Wayne, (Delware) Pa. Lat. 40°02'44" N. Long. 75°23'30" W. C.P. for a new station on frequencies 11425V, 11665V and 11465H MHz on azimuth 349.8° toward Eagleville, Pa.

AZ—1617-CF-P-78 South Central Utah Telephone Association, Inc. (new) Colorado City, (Mohave) Ariz. Lat. 36°59'30" N. Long. 112°58'29" W. C.P. for a new station on frequency 2120V MHz on azimuth 301.8° toward Little Creek, Ariz.

OH—1618-CF-P-78 Ohio Bell Telephone Co. (WQO51) 0.5 mile east of Bloomfield, (Muskingum) Ohio. Lat. 40°02'56" N. Long. 81°44'01" W. C.P. to add frequency 6004.5V MHz toward Barnesville, Ohio.

OH—1619-CF-P-78 Same (KQH37) Morganton Ave., Barnesville, (Belmont) Ohio. Lat. 39°59'12" N. Long. 81°09'39" W. C.P. to add frequency 6256.5V MHz on azimuth 278.2° toward Bloomfield, Ohio, add a new point of communication on frequency 6256.5H MHz on azimuth 54.1° toward Fairpoint, Ohio and increase structure height.

OH—1620-CF-P-78 Same (new) 2.6 miles Northeast of Fairpoint, (Belmont) Ohio. Lat. 40°08'13" N. Long. 80°53'22" W. C.P. for a new station on frequencies 6004.5H MHz on azimuth 234.3° toward Barnesville, Ohio, and 6004.5V MHz on azimuth 44.8° toward Mingo Junction, Ohio.

OH—1621-CF-P-78 Ohio Bell Telephone Co. (KQN47) Mingo Junction 2.2 miles SW. of Steubenville, (Jefferson) Ohio. Lat.40°19'58" N. Long. 80°38'07" W. C.P. to add a new point of communication on frequencies 6256.5V MHz on azimuth 224.9° toward Fairpoints, Ohio, and 10875V MHz on azimuth 27.2° toward Steubenville, Ohio.

OH—1622-CF-P-78 Same (new) 218 North Fifth St. Steubenville, (Jefferson) Ohio. Lat. 40°21'45" N. Long. 80°36'55" W. C.P. for a new station on frequency 11325V MHz on azimuth 207.3° toward Mingo Junction, Ohio.

OR—1623-CF-P-78 Pacific Northwest Bell Telephone Co. (KOC65) 819 SW. Oak Street Portland, (Multnomah) Oreg. Lat. 45°31'22" N. Long. 122°40'42" W. C.P. to replace transmitters on 11305V MHz toward Oregon City, Oreg.

OR—1624-CF-P-78 Same (KOS29) 4.3 miles ENE. of Oregon City, (Clackamas) Oreg. Lat. 45°22'56" N. Long. 122°31'13" W. C.P. to replace transmitters on frequencies 10895V MHz toward Portland, Oreg., and 10955V MHz toward Silverton, Oreg.

OR—1625-CF-P-78 Same (KOS28) 2.8 miles SSE. of Silverton, (Marion) Oreg. Lat. 44°57'48" N. Long. 122°45'12" W. C.P. to replace transmitters on frequencies 11405V MHz toward Oregon City, Oreg., 6375.2H MHz and 11385H MHz toward Peterson Butte, Oreg.

OR—1626-CF-P-78 Same (KOR66) Peterson Butte 4.1 miles WSW. of Lebanon, (Linn) Oreg. Lat. 44°30'33" N. Long. 122°58'43" W. C.P. to replace transmitters on frequencies 6004.5V, 10975H MHz toward Silverton, Oreg,. and 6123.1H, 10995H MHz toward Blanton Hill, Oreg.

OR—1627-CF-P-78 Same (KOR65) Blanton Hill 3.5 miles south of Eugene, (Lane) Oreg. Lat. 44°00'04" N. Long. 123°06'22" W. C.P. to replace transmitters on frequencies 6256.5V, 11445H MHz toward Peterson Butte, Oreg., and 11565H, 11645V MHz toward Eugene, Oreg.

OR—1628-CF-P-78 Same (KOR65) 112 10th Ave. East Eugene, (Lane) Oreg. Lat. 44°02'55" N. Long. 123°05'23" W. C.P. to replace transmitters on frequencies 10715V and 11115H MHz toward Blanton Hill, Oreg.

CA—1650-CF-P-78 Pacific Telephone and Telegraph Co. (KML61) 1520 20th St. Bakersfield, (Kern) Calif. Lat. 35°22'39" N. Long. 119°01'08" W. C.P. to move and replace antennas on frequency 4190V MHz toward Temblor Ran, Calif.

WI—1651-CF-P-78 Wisconsin Telephone Co. (KSO85) 221 West Washington St. Appleton, (Outagamie) Wis. Lat. 44°15'45" N. Long. 88°24'30" W. C.P. to add a new point of communication on frequencies 6197.2V, 6375.2V and 11305V MHz on azimuth 76.0° toward Lark, Wis.

WI—1652-CF-P-78 Same (WDE38) 2 miles north of Lark, (Brown) Wis. Lat. 44°20'40" N. Long. 87°56'46" W. C.P. to add a new point of communication on frequencies 5974.8H, 6123.1V, 10975V MHz on azimuth 256.3° toward Appleton, Wis., and 5974.8V, 6004.5H, 10975V MHz on azimuth 343.8° toward Green Bay, Wis.

WI—1653-CF-P-78 Same (KSO87) 205 South Jefferson St. Green Bay, (Brown) Wis. Lat. 44°30'43" N. Long. 88°00'50" W. C.P. to add a new point of communication on frequencies 6197.2V, 6375.2V and 11305V MHz on azimuth 163.8° toward Lark, Wis.

NJ—1654-CF-P-78 New Jersey Bell Telephone Co. (KYS27) 18 Paterson Street New Brunswick, (Middlesex) N.J. Lat. 40°29'40" N. Long. 74°26'37" W. C.P. to add transmitters and frequencies 10895H, 10975V and 10975H MHz toward Jamesburg, N.J.

NJ—1655-CF-P-78 Same (WCF992) Jamesburg N/N Spotswood Gravel Hill Rd. Monroe Township, (Middlesex) N.J. Lat. 40°21'31" N. Long. 74°24'21" W. C.P. to add transmitters and frequencies 11585H, 11665V, 11665H MHz toward New Brunswick, N.J., and 11585H, 11665V, 11665H MHz toward Freehold, N.J.

NJ—1656-CF-P-78 Same (WCF993) Freehold 175 West Main St. Freehold Township, (Monmouth) N.J. Lat. 40°15'03" N. Long. 74°17'28" W. C.P. to add transmitters and frequencies 10895H, 10975V, and 10975H MHz toward Jamesburg, N.J.

MAJOR AMENDMENTS

3600-CF-P-76 RCA American Communications, Inc. (new), Chicago (CTO), 2 north Riverside Plaza Office Building, Illinois. (Lat. 41°52'57" N., Long. 87°38'21" W.). Application amended to change frequencies to 6226.9H MHz, 6286.2H MHz, and 6345.5H MHz toward Wauconda, Ill., on azimuth 317.9°. All other particulars same as reported on Public Notice dated April 26, 1976, Report No. 803.

151-CF-P-78 Western Tele-Communications, Inc. (new), Phoenix Earth, 4.75 miles NNW of Buckeye, Ariz. (Lat 33°26'06" N., Long. 112°36'56" W.). C.P. for a new station to operate on 11385H, 11305H, 11225H MHz toward Phoenix W.U.2, Ariz. and 11585V MHz toward KPHO-TV, Arizona on azimuths 88.3° and 81.8° respectively. This entry replaces Public Notice dated October 31, 1977, Report No. 882, as previous reported.

152-CF-P-78 Same as above (new), Phoenix WU 2, 10th Avenue and Jefferson Street, Phoenix, Ariz. (Lat. 33°26'48" N., Long. 112°05'08" W.). C.P. for a new station to operate on 10775H, 10935H MHz toward Phoenix Earth, Ariz. and 10895H, 10815H MHz toward KTVK-TV, Arizona on azimuths 268.6° and 38.2° respectively. This replaces entry of Public Notice dated October 31, 1977, Report No. 882.

153-CF-P-78 Same (new), KPHO-TV, 4016 North Black Canyon Highway, Phoenix, Ariz. (Lat. 33°29'40" N., Long. 112°06'47" W.). C.P. for a new station to operate on 10895V MHz toward Phoenix Earth, Ariz. on azimuth 262.1° This replaces entry of Public Notice dated October 31, 1977, Report No. 882.

154-CF-P-78 Same (new), KTVK-TV, 3435 North 16th Street, Phoeniz, Ariz. (Lat.

33°29'17" N., Long. 112°02'48" W.). C.P. for a new station to operate on 11585H MHz toward Phoenix WU 2, Ariz. on azimuth 218.2°. This replaces entry of Public Notice dated October 31, 1977, Report No. 882.

[FR Doc. 78-8480 Filed 3-30-78; 8:45 am]

[6712-01]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: March 23, 1978.

Released: March 24, 1978.

Notice is hereby given, pursuant to § 1.573(d) of the Commission's rules, that the FM broadcast applications listed in the attached Appendix below will be considered as ready and available for processing on May 5, 1978. Since the listed applications for Lubbock, Tex., are timely filed and mutually exclusive with the earlier filed and cut-off application of Radio Lubbock, Inc., File No. BPH-10,375, no other applications which involve conflict with these applications may be filed. Rather the purpose of this Notice is to establish a date by which the parties to the forthcoming comparative hearing may compute the deadlines for filing amendments as a matter of right under § 1.522(a)(2) of the rules and pleadings to specify issues pursuant to § 1.584.

The attention of any party in interest desiring to file a petition to deny any listed application pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

This notice supersedes "FCC Public Notice-Mimeo No. 96751," adopted February 7, 1978, released February 9, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

BPH-10,463 NEW, Lubbock, Tex., Rex Broadcasting Corp., Req: 102.5 MHz; Channel No. 273C, ERP: 100 KW; HAAT: 749 Ft.

BPH-10,522 NEW, Lubbock, Tex., David P. Pinkston and Robert E. Clark, tr/as Western Broadcasting Co., Req: 102.5 MHz; Channel No. 273C, ERP: 78 kW; HAAT: 238 Ft.

[FR Doc. 78-8479 Filed 3-30-78; 8:45 am]

[6712-01]

[BC Docket Nos. 78-104—78-106; File Nos. BPH-9903, etc.]

GRAY-SCHWARTZ BROADCASTING ET AL.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: March 15, 1978.

Released: March 28, 1978.

In re Applications of Marvin G. Schwartz and Enid Schwartz d.b.a. Gray-Schwartz Broadcasting, Palm Springs, Calif., Req: 100.9 MHz, Channel 265, 575 W (H&V); 620 feet, BC Docket No. 78-104, File No. BPH-9903; KPSI Radio Corp., Palm Springs, Calif., Req: 100.9 MHz, Channel 265, 525 W (H&V); 640 feet, BC Docket No. 78-105, File No. BPH-10,069; Westminster Broadcasting Corp., Palm Springs, Calif., Req: 100.9 MHz, Channel 265, 3.0 kW (H&V); 300 feet, BC Docket No. 78-106, File No. BPH-10,266; For construction permits.

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications. KPSI Radio Corp. is the licensee of standard broadcast station KPSI, and Westminster Broadcasting Corp. is the licensee of standard broadcast station KCMJ, both licensed to Palm Springs, Calif.

2. Gray-Schwartz Broadcasting (Gray-Schwartz) has failed to comply with the requirements of the "Primer on Ascertainment of Community Problems by Broadcast Applicants," 27 FCC 2d 650, 21 RR 2d 1507 (1971), (hereinafter "Primer"). By letter dated June 2, 1977, the Commission advised Gray-Schwartz in detail of the deficiencies in its ascertainment showing. The applicant has failed, in large part, to remedy these deficiencies. For example, the applicant has provided an inadequate compositional study of Palm Springs in that it has not described the public service organizations of the community, as required by Question and Answer 9 of the "Primer." The Commission, therefore, has an insufficient basis for determining whether the applicant has contacted leaders of all significant groups in Palm Springs; indeed, it appears that groups such as charitable, recreational and women's organizations have not been contacted. Leaders of certain other groups, such as the elderly, education, and cultural organizations, were contacted only by Edward J. Jaeger, who has been shown not to be a principal or management-level employee of the applicant. Further the application discloses no interviews with leaders in other communities to be served [1] other than interviews conducted by Mr. Jaeger. Since Question and Answer 11(a) of the "Primer" recognizes as valid only interviews conducted by principals, management-level or prospective management-level employees, these interviews must be disallowed. Thus, leaders of several significant groups in the proposed community of license have apparently not been validly consulted, and the applicant's ascertainment showing appears defective.[2] An ascertainment issue will therefore be specified as to Gray-Schwartz.

3. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purposes of comparison, the areas and populations which would receive FM service of 1.0 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

4. None of the applicants will be able to provide a 3.16 mV/m signal to the entire city of Palm Springs, as required by § 73.315(a) of the Commission's rules. All three proposals would, however, serve all the developed areas of the city. The portion of Palm Springs not encompassed within the 3.16 mV/m contour contains parts of a National Forest, Indian reservation and state game refuge, and is almost entirely mountainous terrain. It is virtually uninhabited. Under the circumstances, we have determined that waiver of this provision is appropriate. "Quality Broadcasting Corp.," 62 FCC 2d 586, 39 RR 2d 905 (1977). A grant of the successful application will be conditioned accordingly.

5. Westminister Broadcasting Corp. proposes duplication of the programming of its commonly owned AM station, KCMJ, during 15.1 percent of its proposed schedule. Therefore, evidence regarding program duplication will be admissible under the standard comparative issue. When duplicated programming is proposed, the showing permitted under the standard comparative issue will be limited to evidence concerning the benefits to be derived from the proposed duplication which would offset its inherent inefficiency. "Jones T. Sudbury," 8 FCC 2d 360, 10 RR 2d 114 (1967).

---

[1] Questions and Answers 6 and 7 of the "Primer" require an applicant to ascertain the problems of major communities (other than the community of license) within its service contour, or to show why it intends not to serve those communities. In Exhibit 6 of the Gray-Schwartz application, the applicant states its intention to serve six such communities near Palm Springs.

[2] Question and Answer 16 of the "Primer" indicates that failure to contact leaders of a significant group in the community renders the ascertainment defective.

6. Question 26 of Section IV-A of FCC Form 301 requests the applicant to state its normal maximum of commercial matter in any hour. If the applicant plans to exceed this limit, it must state under what circumstances and how often it will do so, and what limits will then apply. The original Gray-Schwartz application stated that the applicant would exceed its normal limit of 12 minutes per hour only for "political addresses," but did not state how often this would occur or what limits would then apply. The Commission's deficiency letter requested the missing information, but the applicant's amendment stated only that it would allow political addresses of up to 30 minutes. It has not stated how often this will occur. Also, it is not clear whether by "political addresses" the applicant means paid political matter; if so, the porposal appears inconsistent with the Commission's "Statement of Policy re Political Spot Announcements on Radio," 59 FCC 2d 103, 36 RR 2d 1633 (1976).[3] An appropriate issue will therefore be specified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. *Accordingly, it is ordered,* That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine the efforts made by Gray-Schwartz Broadcasting to ascertain the problems, needs and interests of the area to be served and the means by which the applicant proposes to meet them.

(2) To determine whether the commercial proposal of Gray-Schwartz Broadcasting complies with Commission policy.

(3) To determine which of the proposals would, on a comparative basis, best serve the public interest.

(4) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. *It is further ordered,* That the applicants herein, to avail themselves of the opportunity to be heard, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney shall, within twenty days of the mailing of this Order, file in triplicate with the Commission a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. *It is further ordered,* That the applicants herein shall, pursuant to § 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-8477 Filed 3-30-78; 8:45 am]

[3] This policy statement calls into question a commercial proposal for more than a normal maximum of 18 minutes of commercial matter per hour, with exceptions of: (1) Up to 20 minutes of commercial matter per hour in no more than 10 percent of the hours in any broadcast week, and (2) up to 24 minutes where the excess over 20 minutes is purely political advertising, in no more than 10 percent of the applicable lowest unit charge period.

[6712-01]

PERSONAL USE RADIO ADVISORY COMMITTEE (PURAC)

Renewal and Announcement of Final Meeting

A. NOTICE OF RENEWAL

The Federal Communications Commission has determined that renewal of the Personal Use Radio Advisory Committee as an advisory committee of the Federal Government is necessary and in the public interest. Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463) notice of renewal is hereby provided.

The purpose of the committee is to advise the Commission on potential solutions to the interference and enforcement problems being experienced in the personal radio services.

The PURAC has been renewed for an additional two-week period extending until May 1, 1978.

B. ANNOUNCEMENT OF FINAL MEETING

DATES: April 19-20, 1978.

TIME: 9 a.m. each day.

LOCATION: Sheraton Inn, Gettysburg, Pa.

AGENDA: PURAC members will discuss and vote on recommendations from the following task areas: Local Interference; Electromagnetic Compatibility; Public Safety Uses; General Mobile Radio Services; and Future Needs.

There will be no individual task area meetings.

Interested members of the public may attend and participate in discussion, but only PURAC members are eligible to vote.

Any PURAC member who is unable to attend may designate his proxy with a signed statement identifying the member who will vote for him.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-8473 Filed 3-30-78; 8:45 am]

[6712-01]

[BC Docket No. 78-94; File No. BRH-526; FCC 78-178]

SJR COMMUNICATIONS, INC.

Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: March 8, 1978.

Released: March 21, 1978.

By the Commission: Commissioners Quello and Fogarty concurring in the result.

1. Before the Commission for its consideration are: (a) SJR Communications, Inc.'s 1976 renewal application for Station WQAL(FM), Cleveland, Ohio; (b) two Commission letters of inquiry, dated August 6, 1976, and March 25, 1977; and (c) licensee's responses to those inquiries as amendments to its renewal application, dated August 23, 1976, and May 3, 1977. The Commission has reviewed this application and is of the view that substantial and material questions remain as to the responsiveness of the licensee's past programming and the adequacy of its proposed programming for the 1976 through 1979 renewal period. Therefore, for the reasons set forth infra, WQAL's renewal application will be designated for an evidentiary hearing.

2. By way of background, in its renewal application WQAL proposed 2.3 percent news and 0.6 percent public affairs for its total non-entertainment programming. These low percentages marked the application for special attention, since section 0.281 of the Commission's rules provides that applications by commercial FM licensees proposing less than six percent (6.0 percent) total non-entertainment programming be referred to the Commission en banc for its consideration. 47 CFR 0.281(a)(8)(i). In response to a Broadcast Bureau request that WQAL explain its public interest justifications for the low proposal, licensee stated it served the public interest through locally-produced "meaningful and quality Public Affairs programming" and that the station's operation "has received widespread acclaim in the community and has been afforded wholesale praise by community leaders as well as members of the general public." Further, WQAL stated that

because of the number of stations in the Cleveland area, it was "highly unlikely" that changing its program schedule could "better contribute to the community needs and problems or the diversity of available broadcast matter in the market * * *."

3. The Broadcast Bureau, pursuant to § 0.281 of the Commission's rules, brought WQAL's non-entertainment programming proposal and public interest justifications to the Commission for its consideration on March 1, 1977. The Commission found the licensee's arguments unpersuasive and instructed the Broadcast Bureau to seek yet another explanation from WQAL. In its second inquiry the Commission noted its problems with the licensee's explanation, and pointed out that favorable public acceptance of a licensee's programming format does not indicate whether the ascertained needs and problems are being met and that other stations cannot fulfill the licensee's public interest responsibilities. Licensee responded by reiterating its proposal to meet community problems with newscasts, public service announcements, and regularly scheduled public affairs programming and by citing its distinguished service record.

4. This licensee has been given several opportunities to provide public interest justifications as to how it will meet its community's problems, needs, and interests. The licensee's responses have provided little additional insight, however, and the Commission must proceed on the basis of the information now before it.[1]

5. Besides reviewing WQAL's proposed programming, we have also noted its past programming.[2] In its 1973 renewal application WQAL proposed 2.3 percent news and 0.6 percent public affairs programming. Its 1976 renewal application indicates that the station actually broadcast 3.2 percent news and 0.9 percent public affairs in the composite week. The only public affairs program proposed in 1973, a half-hour "Community Close-Up," was to be broadcast on Saturday and Sunday mornings[3] from 7:30 to 8 a.m., but was actually broadcast between 4:30 and 6 a.m. In addition to "Community Close-Up," composite week logs show two unexplained five-minute[4] programs logged as "public affairs" Monday through Friday at about 8:25 a.m. and 6:25 p.m., one apparently sponsored by the Cleveland Electric Illuminating Co. and the other by Blue Cross of Northeast Ohio.[5]

6. In an effort to determine the responsiveness of these public affairs programs to ascertained community needs, the Commission has reviewed summaries of each "Community Close-Up" broadcast in the renewal period, and titles of the week-day programs broadcast in the composite week.[6] It appears that some segments of both may consist of programming other than public affairs, and based upon an analysis of the station's program logs, that part of the five minutes logged for the week-day programs may be commercial matter. The Commission is therefore unable to determine from the information now available how ascertained problems were and are to be met with the licensee's past and proposed non-entertainment programming.

7. Another matter that particularly concerns the Commission is the scheduling of WQAL's public affairs programming. WQAL's 1976 renewal application shows "Community Close-Up" will be aired between 4:30 and 6 a.m. Sunday mornings. While the Commission prefers to allow each licensee discretion in the scheduling of its non-entertainment programs, "the applicant is expected to schedule the time of presentation on a good faith judgment as to when it could reasonably be expected to be effective." Question and Answer 36, "Primer on Ascertainment of Community Problems by Broadcast Applicants", 27 FCC 2d 650, 687 (1971); "Time-Life Broadcast, Inc.", 33 FCC 2d 1050, 1092 (1972). See also Question and Answer 31, "Ascertainment of Community Problems by Broadcast Applicants", 57 FCC 2d 418, 445 (1976). While we have been extremely reluctant to intervene in this area, we are deeply concerned as to how this licensee has met its public interest obligations by scheduling its public affairs programming between 4:30 and 6 a.m. on Saturday and Sunday mornings. Since the applicant has not explained how its programming was reasonably effective during these times, we believe that this matter must be fully explored in hearing. Therefore, a question is raised as to WQAL's ability to meet its ascertained problems with its non-entertainment programming time schedule.

8. In light of the time period in which "Community Close-Up" was broadcast, the questionable content of both public affairs programs, and the very limited amount of such programming, we are unable to conclude that WQAL's past programming has been responsive to the community's problems, needs, and interests. Since the applicant's proposed programming is in essentially the same format and time period, we likewise are unable to conclude that WQAL's future programming will be responsive to the community's problems, needs, and interests. Therefore, we will specify a proposed programming issue as well.

9. *Accordingly, it is ordered,* That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the application for renewal of license of SJR Communications, Inc. for Station WQAL (FM), Cleveland, Ohio, is designated for hearing at a time and place to be specified in a subsequent Order, upon the following issues:

(1) Whether the non-entertainment programming broadcast by WQAL during the 1973-1976 license period was reasonably responsive to ascertained problems, needs, and interests; and

(2) Whether WQAL's proposed programming during the 1976-1979 license period is adequate to meet ascertained problems, needs, and interests; and

(3) To determine, in light of the evidence adduced under the preceding issues, whether a grant of the captioned application would serve the public interest, convenience, and necessity.

---

[1] In a concurrent action, we have carefully examined the program proposals of five other FM stations proposing less than six percent non-entertainment programming. However, it appears that the non-entertainment programming of those other stations could reasonably be expected to meet ascertained community problems, needs and interests. Therefore, we have authorized the Chief of the Broadcast Bureau to grant these renewal applications when possible. The five stations are WKLS(FM), Atlanta; WWJ-FM, Detroit; WYSP(FM), Philadelphia; WJMD(FM), Bethesda, Md.; and WMJC(FM), Birmingham, Mich.

[2] A closer examination of WQAL's past programming is called for in light of licensee's heavy reliance on the effectiveness and adequacy of its past programming as justification for its low non-entertainment programming proposals.

[3] For the 1976-1979 license term, licensee proposes to broadcast "Community Close-Up" only on Sunday mornings.

[4] But see paragraph 6, infra.

[5] No further explanation of these programs or their contents has been provided by WQAL, and the Commission is unable to determine if these programs could reasonably be classified as public affairs.

[6] For example, the titles of some "Community Close-Up" segments were "The Singin' Angels," "Cleveland Comets (Wheelchair Basketball)," "Pilot Dogs Inc.," "Western Reserve Historical Museum (Crawford Auto-Aviation Museum)," "Cleveland Music School Settlement," "Y.W.C.A.," "U.S. Postal Service," "U.S. Navy," "Transcendental Meditation," "Cleveland Public Library," "North Ohio Patrolman Benevolent Association," "Camp Courage," "Cleveland College of Podiatry," "U.S. Coast Guard," "United Torch," and "The Alta House." The titles of the week-day programs logged as public affairs during the composite week were "Helene . . . One of a Kind," "To Your Good Health," "Don't Give Me Any Breaks," "Those Salty Salvagers," "The Grand Old Patriot," "New Progress in Alcoholism," "What's an Innocent Heart Murmur?", "Ski Binding Safety," "Problems in Drinking," and "Going to the Pediatrician." While some of these topics may indeed be public affairs programming, the records before the Commission does not provide sufficient information for an adequate determination.

10. *It is further ordered,* That in accordance with section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence and the burden of proof shall be on SJR Communications, Inc. with respect to all issues herein.

11. *It is further ordered,* That, to avail themselves of the opportunity to be heard, SJR Communications, Inc., pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, shall within twenty (20) days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

12. *It is further ordered,* That SJR Communications, Inc. shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing within the time and manner prescribed in such rules, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-8475 Filed 3-30-78; 8:45 am]

[6712-01]

[Report No. 1110]

PETITIONS FOR RECONSIDERATION OF ACTIONS IN RULEMAKING PROCEEDINGS FILED

MARCH 24, 1978.

Docket or RM No.	Rule No.	Subject	Date received
19544 RM-1838		Inquiry into problems of public coast radiotelegraph stations. Filed by L. H. Baumlin, assistant business agent, American Communications Association Local 10, International Brotherhood of Teamsters for the employees of Marine Radio Station WSC/Tuckerton Radio.	Mar. 16, 1978.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before April 17, 1978. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-8478 Filed 3-30-78; 8:45 am]

[6712-01]

[Docket No. 21109; RM-2748; RM-2853]

TABLE OF ASSIGNMENTS, TELEVISION BROADCAST STATIONS, MEDFORD AND GRANTS PASS, OREG.

Order Extending Time for Filing Oppositions to Petitions for Reconsideration

Adopted: March 22, 1978.

Released: March 24, 1978.

By the Chief, Broadcast Bureau:

1. On February 9, 1978, petitions for reconsideration[1] were filed by Sierra Cascade Communications, Inc., licensee of television Station KTVL, and Oregon Broadcasting Co., licensee of television Station KOBI, both of Medford, Oreg., concerning the above-captioned matter. The date for filing oppositions to these petitions is presently March 17, 1978.

2. Counsel for Reverend Ravan filed a request for an extension of time to and including April 3, 1978, to file an opposition to the aforementioned petitions for reconsideration. Counsel states that due to the press of prior commitments more time is needed in order to collect appropriate information for a response.

3. Pursuant to the provisions of section 1.46 of the rules, motions for extension of time are to be filed 7 days prior to the filing date. The exception which permits late-filed requests to be considered in case of last minute emergencies does not seem to apply. Rather, counsel should have anticipated that a longer period of time would be needed to collect the pertinent information. However, since the Commission feels it would be in the public interest to have all material available to it in arriving at a decision in this matter, and in view of the consent of counsel for both parties who have filed the petitions for reconsideration in this proceeding, we are granting the requested extension.

4. Accordingly, *it is ordered,* That the date for filing oppositions to petitions for reconsideration in Docket No. 21109 is extended to and including April 3, 1978.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 78-8526 Filed 3-30-78; 8:45 am]

[1] Public Notice of the petitions for reconsideration was given on March 3, 1978, in the FEDERAL REGISTER, 43 FR 8849.

[6710-01]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 214]

PAT GRIFFIN CO.

Receipt of Application for Permission To Acquire Control of Central Savings and Loan Association

MARCH 28, 1978.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Pat Griffin Co., Fort Collins, Colo., a savings and loan holding company, for approval of the acquisition of control of Central Savings and Loan Association, Casper, Wyo., an insured institution, under the provision of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730(e), and § 584.4 of the regulations for Savings and Loan Holding Companies, said acquisition to be effected through the purchase of at least 80 percent of the outstanding guaranty capital stock of Central Savings and Loan Association. Following said acquisition, it is proposed that Central Savings and Loan Association be merged into Capitol Savings and Loan Association, Cheyenne, Wyo., an insured subsidiary of the Pat Griffin Co. Comments on the proposed acquisition should be submitted to the Director, or Deputy Director, Office of Examinations and

Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before May 1, 1978.

J. J. FINN,
Secretary,
Federal Home Loan Bank Board.

[FR Doc. 78-8507 Filed 3-30-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

CHEMICAL NEW YORK CORP.

Proposed Expansion of Activities of Sun States Life Insurance Co. and Great Lakes Insurance Co.

Chemical New York Corp., New York, N.Y., has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to expand the activities of its indirect subsidiaries, Sun States Life Insurance Co., Cleveland, Ohio, and Great Lakes Insurance Co., Cleveland, Ohio. Notice of the application was published on March 9, 1978, in The Plain Dealer, a newspaper circulated in Cleveland, Ohio, and on February 6, 1978, in The New York Times, a newspaper circulated in New York, N.Y.

Applicant states that the proposed subsidiary would engage in the activities of reinsuring credit life and credit accident and health insurance that is directly related to extensions of credit made or acquired by its banking subsidiaries in New York State. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than April 31, 1978.

Board of Governors of the Federal Reserve System, March 24, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-8541 Filed 3-30-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of May 1978:

NATIONAL ADVISORY COUNCIL ON ALCOHOL ABUSE AND ALCOHOLISM

MAY 22-23: 9:30 A.M.

Conference rooms "G" and "H," Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Open—May 22. Closed—May 23.
Contact—Rhoda L. Christensen, Room 16-93, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4703.

Purpose. Advises the Secretary, Department of Health, Education, and Welfare regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda. May 22 will be devoted to a report of the budget, the status of the Third Special Report to the U.S. Congress on Alcohol and Health, discussion of the National Plan to Combat Alcohol Abuse and Alcoholism and a report on NIAAA legislation. Agenda items are subject to change as priorities dictate.

May 23, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

NATIONAL ADVISORY COUNCIL ON DRUG ABUSE

MAY 24-25: 9:30 A.M.

Conference Room 10-04, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.
Closed—May 24: 9:30 a.m.-noon. Open otherwise.
Contact—Ms. Mary Kielkopf, Room 10A-23, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6618.

Purpose. The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities, and the efficient administration of drug abuse research, training, demonstration, prevention, and community services programs. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes recommendations on grant applications.

Agenda. From 9:30 a.m. to 12 noon, May 24, the meeting shall be closed for final review of grant applications for Federal assistance in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Title 5, U.S. Code 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

The remainder of the meeting from 1:30 p.m. on May 24 until adjournment on May 25 will be open to the public for a discussion of issues in the field of drug abuse, orientation to the programs of the Institute, development of priorities for action by the Council, and administrative announcements. Agenda items are subject to change as priorities dictate.

Attendance by the public will be limited to space available. Substantive program information may be obtained from the contact person listed above.

The NIAAA Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3306. The NIDA Information Officer who will furnish summaries of the meeting and rosters of the committee members is Mr. Kenneth Howard, Program Information Officer for Drug Abuse, NIDA, Room 10A-56, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-6500.

Dated: March 27, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-8438 Filed 3-30-78; 8:45 am]

[4110-03]

Food and Drug Administration

PANEL ON REVIEW OF TOPICAL ANALGESICS

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Panel on Review of Topical Analgesics meeting scheduled for April 18 and 19, 1978, has been changed to April 19 and 20, 1978, in Conference Room J, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Lee Geismer, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration (FDA) announced in a notice published in the FEDERAL REGISTER of March 14, 1978 (43 FR 10624), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act.

Notice is hereby given that the meeting of the Panel on Review of Topical Analgesics scheduled for April 18 and 19, 1978, has been rescheduled for April 19 and 20, 1978, in Conference Room J, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. The open public hearing will begin at 9 a.m. on April 19.

Dated: March 23, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-8171 Filed 3-30-78; 8:45 am]

[4110-03]

[Docket No. 77N-0394]

VENTREX LABORATORIES, INC.

Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency is issuing for public comment the recommendation of the Clinical Chemistry Device Classification Panel that the Angiotensin Converting Enzyme (A.C.E.) Assay System be reclassified from class III (Premarket Approval) to class II (Performance Standards). This recommendation was made after review of a reclassification petition filed by Ventrex Laboratories, Inc., Portland, Maine, under section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)). After reviewing the panel recommendation and the public comments received, the agency will approve or deny the reclassification by order in the form of a letter to the petitioner. If the device is reclassified, the reclassification will be announced in the FEDERAL REGISTER.

DATE: Comments by May 1, 1978.

ADDRESS: Written comments (preferably four copies) to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Kaiser Aziz, Bureau of Medical Devices (HFK-440), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, Md. 20910, 301-427-7550.

SUPPLEMENTARY INFORMATION: On April 26, 1977, Ventrex Laboratories, Inc., Portland, Maine, submitted to the Food and Drug Administration (FDA) a premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(k)) stating that it intended to market a device the manufacturer calls the Angiotensin Converting Enzyme (A.C.E.) Assay System. After reviewing the information in the premarket notification, the Commissioner of Food and Drugs determined that the device is not substantially equivalent to any device that was in commercial distribution before May 28, 1976; nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date and subsequently reclassified. Upon this determination, the device is automatically classified in class III under section 513(f)(1) of the act.

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III because of section 513(f)(1) of the act can be marketed, it must either be reclassified under section 513(f)(2) of the act or have an approval of an application for premarket approval unless an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j(g)) is in effect.

On October 3, 1977, Ventrex Laboratories, Inc., submitted a reclassification petition for the device. Section 513(f)(2) of the act requires FDA to refer a classification petition to the appropriate classification panel and to receive a recommendation on whether to approve or deny the petition within 90 days after referral. The act also requires FDA to provide an opportunity for interested persons to submit data and views to the panel. The Food and Drug Administration ordinarily meets the latter requirement by scheduling an open panel meeting on the petition but could not do so in this case, because the next meeting of the Clinical Chemistry Device Classification Panel was tentatively scheduled for a date that was later than 90 days after referral. As a result, FDA obtained the panel's recommendation on this petition by mailing it to voting panel members. The agency also published in the FEDERAL REGISTER of December 30, 1977 (42 FR 65269) a notice inviting interested persons to submit information, data, and views for consideration by the panel. This notice stated that any data, information, and views submitted by January 30, 1978, would be mailed to the panel members for their consideration before recommendations were made. No data and views were submitted. The recommendations of the panel members were received by the agency by January 30, 1978. The panel recommended that the device be reclassified into class II.

To determine the proper classification of the device, the panel considered the criteria in section 513(a)(1) of the act.

For the purposes of classification, the panel assigned to the device the name "Radioassay, Angiotensin Converting Enzyme." The device is used to measure the levels of angiotensin converting enzyme in human serum or plasma. In normal human blood, angiotensin converting enzyme converts the substance angiotensin from one form called angiotensin I to another form called angiotensin II. The device is used as part of the diagnosis of diseases such as sarcoidosis, a disease characterized by the formation of nodules in the lungs, bones, and skin, and gaucher's disease, a hereditary disorder characterized by enlargement of the spleen, in which the angiotensin converting enzyme level tends to rise. The device may also be used as part of the method of diagnosis for conditions such as chronic lung disease in which angiotensin converting enzyme levels tend to fall. The panel recommended that all devices meeting this description and those substantially equivalent to this device be classified in class II.

SUMMARY OF THE REASONS FOR THE RECOMMENDATION

The panel made the following determinations in support of its recommendation:

1. The device is not an implant, nor is it life-sustaining or life-supporting.

2. Hazards to life or good health may result from the use of information derived from the device when it does not perform properly.

3. Sufficient information exists to develop a performance standard to

assure the safety and effectiveness of the device.

4. The safe and effective performance of the device should be maintained by following the precautions discussed below under the heading "Risks to Health."

SUMMARY OF THE DATA ON WHICH THE RECOMMENDATION IS BASED

The safety and effectiveness of the device was determined on the basis of data presented on the performance characteristics of the product. Sensitivity data generated by independent investigators supported the claim that the device measures values as low as 6 units per milliliter. A correlation study was performed on 85 human serum samples using the A.C.E. assay kit and a reference assay for measurement of angiotensin converting enzyme. Tabulated correlation study data showed similar results between the two methods. Precision studies were conducted on control samples of various levels of concentration by comparing results when using the same device several times on the same day as well as when using the same device several times on different days. The panel believes that these studies resulted in acceptable coefficients of variation. Stability of control serum was demonstrated by data obtained on several human serum pools which had been stored at −20° C for up to 8½ months with no adverse effects on the serum.

A study was carried out to determine the stability of kit components at various temperatures and under conditions representative of those that might influence a user's kit. Stability was determined by comparison of data on assays performed under three different conditions: first, with control serum at 37° C; second, with control serum at 3° C to 8° C; and finally, with control serum that had been subjected to 6 days transit under ordinary environmental conditions. The panel believes that these studies adequately support the stability claims for the product.

RISKS TO HEALTH

The panel noted that there is a risk of inaccurate results from the use of the device which may lead to misdiagnosis or improper treatment. Inaccurate results may arise from lack of specificity and sensitivity of the device. The panel recommended that the device be classified in class II and that a standard directed to the specificity and sensitivity of the device be developed. The panel recommended that development of this standard be a low priority in comparison to the development of a standard for other clinical chemistry devices.

RESTRICTIONS

The panel recommended that use of the product be restricted to trained clinical chemists, medical technologists, or other appropriately qualified persons that practice clinical chemistry. Tests should be performed only on the order of a licensed physician. Specimens should be properly collected and preserved. If the device is used by a research worker for research purposes, the results should not be used for diagnosis or treatment of a patient.

The panel noted that the product contains a radionuclide. Therefore, warnings, precautions, and restrictions which apply to such material should be made clear in the labeling. Warnings about the necessity of using glass tubes and the selection of proper preservatives should also be included in the labeling.

The petition is on file in the office of the Hearing Clerk, address noted above.

Dated March 22, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-8170 Filed 3-30-78; 8:45 am]

[4110-03]

[Docket No. 78F-0051]

INSTITUTE FOR RESEARCH, INC.

Notice of Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Institute for Research, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the use of an ion exchange resin consisting of polystyrene cross-linked with divinylbenzene, first chloromethylated and then aminated with trimethylamine and complexed with triiodide ion as a bacteriocide for an activated charcoal, potable water purification system.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: 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 6B3203) has been filed by Institute for Research, Inc., 8330 Westglen Drive, Houston, Tex. 77063 proposing that the food additive regulations be amended to provide for the use of an ion exchange resin consisting of polystyrene cross-linked with divinylbenzene, first chloromethylated and then animated with trimethylamine and complexed with triiodide ion as a bacteriocide for an activated charcoal, potable water purification system.

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 Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 22, 1978.

HOWARD R. ROBERTS,
Acting Director of Bureau of Foods.

[FR Doc. 78-8319 Filed 3-30-78; 8:45 am]

[1505-01]

[Docket No. 77P-0332]

EMI THERAPY SYSTEMS, INC.

Approval of Variance for Diagnostic X-Ray Systems

Correction

In FR Doc. 78-6045 appearing at page 9862 in the issue for Friday, March 10, 1978, in the third column, in the last line of the 3rd paragraph, the effective date now given as "April 30, 1978" should have read "April 10, 1978".

[4110-83]

Health Resources Administration

GRADUATE MEDICAL EDUCATION NATIONAL ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of April 1978:

NAME: Graduate Medical Education National Advisory Committee.

DATE AND TIME: April 18, 1978, 9 a.m.

PLACE: Conference Room 7-32, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782.

STATUS: Open for entire meeting.

PURPOSE: The Graduate Medical Education National Advisory Commit-

tee is responsible for advising and making recommendations with respect to: (1) present and future supply and requirments of physicians by specialty and geographic location; (2) ranges and types of numbers of graduate training opportunities needed to approach a more desirable distribution of physician services; and (3) the impact of various activities which influence specialty distribution and the availability of training opportunities including systems of reimbursement and the financing of graduate medical education.

AGENDA: Issues associated with the financing of graduate medical education, physician extenders, and the development of a manpower model will be discussed.

A portion of the meeting will be available for comments and participation by the public. Due to limited seating, attendance by the public will be provided on a first-come, first-serve basis.

Anyone wishing to obtain a roster of members, minutes of meeting, of other relevant information should contact Dr. Frederick V. Featherstone, Bureau of Health Manpower, Room 4-42, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6430.

Agenda items are subject to change as priorities dictate.

Dated: March 21, 1978.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc. 78-8320 Filed 3-30-78; 8:45 am]

[4110-84]

Health Services Administration

NATIONAL ADVISORY COUNCIL ON MIGRANT HEALTH

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of April 1978:

NAME: National Advisory Council on Migrant Health.

DATE AND TIME: April 24-26, 1978—9:30 a.m.

PLACE: April 24, Southwick Ramada Inn, 2340 South Reynolds Road, Toledo, Ohio 43614; April 25, Clinicas Migrantes Regional, 98 East Perry Street, Tiffin, Ohio 44883; April 26, Southwick Ramada Inn, 2340 South Reynolds Road, Toledo, Ohio 43614.

Open for entire meeting.

PURPOSE: The Committee is charged with advising, consulting with, and making recommendations to the Secretary and the Administrator, Health Services Administration, concerning the organization, operation, selection, and funding of Migrant Health Centers and other entities under grants and contracts under section 319 of the Public Health Service Act.

AGENDA: The Council will consider the following: (1) The role of the Regional Office in the development, funding, and administration of migrant health centers and projects. (2) The role of a migrant health center in the development, organization, and operation of comprehensive ambulatory health care for migrants and seasonal farmworkers.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should contact Billy M. Sandlin, Bureau of Community Health Services, Room 7A-55, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, telephone 301-443-1153.

Agenda items are subject to change as priorities dictate.

Dated: March 27, 1978.

WILLIAM H. ASPDEN, Jr.,
Associate Administrator for Management.

[FR Doc. 78-8448 Filed 3-30-78; 8:45 am]

[4110-08]

National Institutes of Health

ARTERIOSCLEROSIS AND HYPERTENSION ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Arteriosclerosis and Hypertension Advisory Committee, National Heart, Lung, and Blood Institute, May 8, 1978, conference room 10, Building 31, National Institutes of Health, Bethesda, Md.

The entire meeting will be open to the public from 9 a.m. to 5 p.m. on Monday, May 8 to evaluate program support in Arteriosclerosis and Hypertension. Attendance by the public will be limited on a space available basis.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, room 5A-03, Building 31, National Institutes of Health, Bethesda, Md. 20014, phone 301-496-4236, will provide summaries of the meeting and rosters of committee members.

Dr. Gardner C. McMillan, Associate Director for Etiology of Arteriosclerosis and Hypertension Program, NHLBI, room 516, Federal Building, National Institutes of Health, Bethesda, Md. 20014, phone 301-496-1613, will furnish substantive program information.

Dated: March 23, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-8367 Filed 3-30-78; 8:45 am]

[4110-08]

CARCINOGENESIS PROGRAM SCIENTIFIC REVIEW COMMITTEE

Cancellation of Meeting

Notice is hereby given of the cancellation of the first day of a two-day meeting of the Carcinogenesis Program Scientific Review Committee, National Cancer Institute, National Institutes of Health, April 3-4, 1978, which was published in the FEDERAL REGISTER on March 17, 1978 (43 FR 11269). The April 3d portion of the meeting is cancelled because it is felt that one day, April 4th, is sufficient to evaluate contract proposals submitted for committee approval and recommendations.

Dated: March 23, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-8363 Filed 3-30-78; 8:45 am]

[4110-08]

ETHICS ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Ethics Advisory Board in Washington, D.C., on May 12-13, 1978. Please contact Dr. Robert C. Backus, (address and phone number below) for time and place of meeting. The entire meeting will be open to the public.

The mandate of the committee directs the Board to advise the Secretary with regard to ethical issues involving the programs and missions of the Department. This meeting will be devoted to the development of plans for the accomplishment of this mandate. Attendance by the public will be limited to space available.

Dr. Robert C. Backus, Office for Protection from Research Risks, Westwood Building, Room 303, Bethesda, Md. 20034, phone 301-496-7005, will provide rosters of members, summaries of meetings, and substantive program information.

Dated: March 23, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-8364 Filed 3-30-78; 8:45 am]

[4110-08]

NATIONAL ADVISORY NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE COUNCIL

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, National Institutes of Health, May 25, 26, and 27, 1978, at 9 a.m. in Building 31-C, Conference Room 6, Bethesda, Md. 20014. The meeting will be open to the public from 9 a.m. until 11:30 a.m. on May 25, 1978, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4), and 552b(c)(6) of Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 11:30 a.m. on May 25, 1978, until the conclusion of the meeting that day, and from 8:30 a.m. until 6 p.m. on May 26 and 27, 1978, for review, discussion and evaluation of individual research grant applications and applications for Teacher-Investigator Awards, Research Career Development Awards and Individual Research Service Awards. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A08, NIH, NINCDS, Bethesda, Md., telephone 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. K. Kenneth Hisaoka, Executive Secretary, Federal Building, Room 1016, Bethesda, Md. 20014, telephone 301-496-9248, will furnish substantive program information.

Dated: March 21, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 13.851, 13.852, 13.853, 13.854, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-8369 Filed 3-30-78; 8:45 am]

[4110-08]

NATIONAL ADVISORY NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE COUNCIL PLANNING SUBCOMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee, May 10, 1978, at 8:30 a.m., in the Pennsylvania Room, the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Md. The meeting will be open to the public from 8:30 a.m. to 10:30 a.m. on May 10, 1978, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 10:30 a.m. on May 10, 1978, to adjournment on May 10, 1978. The portion of the meeting being closed involves the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A08, NIH, NINCDS, Bethesda, Md., telephone: 301-496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. O. Malcolm Ray, Executive Secretary of the Committee, Room 1020C, Federal Building, NIH, NINCDS, Bethesda, Md., telephone: 301-496-9234, will provide substantive program information.

Dated: March 21, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 13.851, 13.852, 13.853, 13.854, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 78-8368 Filed 3-30-78; 8:45 am]

[4110-08]

NATIONAL DIABETES ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of meetings of the National Diabetes Advisory Board on May 17, 1978.

The Executive Committee and the Board meeting will be held on the same day. The time and meeting location may be obtained by contacting Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014, 301-496-6045.

The meetings, which will be open to the public, are being held to continue review of the status and implementation of the long-range plan to combat diabetes formulated by the National Commission on Diabetes. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne (address above) will provide summaries of the meeting and a roster of the committee members.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

MARCH 23, 1978.

[FR Doc. 78-8366 Filed 3-30-78; 8:45 am]

[4110-08]

OPEN MEETINGS

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 200j14, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014, 301-496-5708, will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

CANCER CONTROL AND REHABILITATION ADVISORY COMMITTEE

Dates: May 2-3, 1978; 9 a.m.—adjournment.
Place: Building 31C, Conference Room 10, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To discuss current and projected programs of the Division of Cancer Control and Rehabilitation.
Executive Secretary: Dr. Veronica L. Conley, address: Blair Building, Room 7A07, National Institutes of Health, phone: 301-427-7941.

PRESIDENT'S CANCER PANEL

Dates: May 9, 1978; 9:30 a.m.—adjournment.
Place: Building 31C, Conference Room 7, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To hear reports on the President's Cancer Panel and the National Cancer Program, NCI.
Executive Secretary: Dr. Richard A. Tjalma, address: Building 31, Room 11A46, National Institutes of Health, phone: 301-496-5854.

PLENARY SESSION OF THE CLEARINGHOUSE ON ENVIRONMENTAL CARCINOGENS

Dates: May 15, 1978; 8:30 a.m.—adjournment.

Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To discuss the review of the bioassay backlog and data.
Executive Secretary: Dr. James M. Sontag, address: Building 31, Room 3A16, National Institutes of Health, phone: 301-496-5108.

NATIONAL CANCER ADVISORY BOARD'S SUBCOMMITTEE ON CENTERS

Dates: May 16, 1978; 9 a.m. to 5 p.m.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times: Open for the entire meeting.
Agenda: To consider the evaluation summaries from the site visits to comprehensive cancer centers conducted under the aegis of the National Cancer Advisory Board.
Executive Secretary: Dr. William D. Terry, address: Westwood Building, Room 826, National Institutes of Health, phone: 301-496-7427.

Dated: March 23, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-8365 Filed 3-30-78; 8:45 am]

[4110-12]

Office of the Secretary

PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

Meeting

The President's Committee on Mental Retardation was established by Executive order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee will meet on Thursday, April 20, 1978, 9 a.m. to 5 p.m., at the Hubert H. Humphrey Building, Conference Room 339A, 200 Independence Avenue SW., Washington, D.C. 20202, and on Friday April 21, 1978, 9 a.m. to 5 p.m., at the Disabled American Veterans Building, First Floor Conference Room, 807 Main Street SW., Washington, D.C. At the meeting the Committee will discuss full citizenship rights, humane service systems, trends in residential facilities, public awareness, and prevention of mental retardation.

These meetings are open to the public. A translator for the deaf will be available upon advanced request.

Further information of the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Exeuctive Director, Room 2614, ROB No. 3, 7th and D Streets SW., Washington, D.C. 20201, telephone number: area code 202-245-7634.

Dated: March 21, 1978.

FRED J. KRAUSE,
Executive Director, President's Committee on Mental Retardation.

[FR Doc. 78-8468 Filed 3-30-78; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-612; FDAA-551-DR]

ARIZONA

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the notice of major disaster declaration for the State of Arizona (FDAA-551-DR), dated March 4, 1978.

DATE: March 15, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The notice of major disaster for the State of Arizona dated March 4, 1978, and amended on March 8, 1978, is hereby further amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 4, 1978:

The counties of Apache, Mohave, Pima, and those portions of the Navajo and Hopi Indian Reservations that lie within the State of Arizona.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-8532 Filed 3-30-78; 8:45 am]

[4210-01]

[Docket No. NFD-613; FDAA-547-DR]

CALIFORNIA

Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Disaster Assistance Administration.

ACTION: Notice.

SUMMARY: This notice amends the notice of major disaster declaration for the State of California (FDAA-547-DR), dated February 15, 1978.

DATE: March 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenhaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410, 202-634-7825.

NOTICE: The notice of major disaster for the State of California dated February 15, 1978, and amended on March 6, 1978, is hereby further amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 15, 1978:

The counties of: Inyo, San Diego, and San Luis Obispo.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM H. WILCOX,
Administrator, Federal Disaster Assistance Administration.

[FR Doc. 78-8533 Filed 3-30-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

IRRIGATION OPERATION AND MAINTENANCE CHARGES

Water Charges and Related Information on the Fort Hall Irrigation Project, Idaho

This notice of operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

On December 30, 1977, in 42 FR 65277, there was published a notice of proposed assessment rates and related provisions on the Fort Hall Project for Calendar Year 1978 and subsequent years until further notice. These regulations were proposed pursuant to the authority contained in the Acts of March 1, 1907 (34 Stat. 1024), and August 31, 1954 (68 Stat. 1026).

Interested persons were given 30 days in which to submit written comments, views, or arguments regarding the proposed rates and related provisions. During this period no comments, suggestions or objections were

submitted. Therefore, the assessment rates and related provisions as set forth below are adopted effective May 1, 1978.

FORT HALL IRRIGATION PROJECT

REGULATIONS AND CHARGES

ADMINISTRATION

The Fort Hall Irrigation Project, which consists of the Fort Hall Unit including ceded area south of the Fort Hall Indian Reservation, the Michaud Unit and the Minor Units on the Fort Hall Indian Reservation, Idaho, is administered by the Bureau of Indian Affairs. The Superintendent of the Fort Hall Agency is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

IRRIGATION SEASON

Water will be available for irrigation purposes from April 1 to September 30 of each year. These dates may be varied by 15 days depending on weather conditions and the necessity for doing maintenance work.

METHODS OF IRRIGATION

Where soil, topography, and other physical conditions are unfavorable for surface irrigation, and the project facilities are designed to deliver water to farm units for sprinkler irrigation, the Officer-in-Charge may limit deliveries to this type of irrigation.

DISTRIBUTION AND APPORTIONMENT OF WATER

(a) Delivery: Water for irrigation purposes will be delivered throughout the irrigation season by either the continuous flow or rotation method at the discretion of the Officer-in-Charge. If during a time when delivery is by the rotation method, a water user desires to loan his turn to another eligible water user he shall notify either the Watermaster or the Ditch Rider who may permit such exchange, if feasible.

(b) Preparation and Submission of a Water Schedule: If the decision of the Officer-in-Charge is to deliver water by the rotation method, the Watermaster will assist the water users on each lateral in preparing a rotation schedule should they choose to get together and prepare the schedule. In cases where the water users fail to exercise this right before March 1, the Watermaster will prepare the schedule which shall be final for the season. Owners of 120 acres or more in one farm unit may elect between the continuous flow and rotation method of delivery, provided such choice does not interfere with delivery to other lands served by the lateral.

(c) Application for Deliveries of Irrigation Water: Requests for water changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the Ditch Rider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

DUTY OF WATER

Dependent upon available supplies of water for each unit of the Project, the duty of water is based on the delivery to the farm unit of 3.5 acre-feet of water per acre per irrigation season. This duty of water may be varied at the discretion of the Officer-in-Charge depending on supplies available, but each irrigable acre shall be entitled to its pro-rata share of the total water supply.

CHARGES

Bill covering irrigation charges will be issued to the owner of record taken from the Bannock, Bingham or Power County records as of January 1, preceding the due date. In the case of Indian-owned land leased to a non-Indian, when an approved lease contract is on file with the Superintendent of the Fort Hall Agency, operation and maintenance charges will be billed to the lessee of record.

BASIC AND OTHER WATER CHARGES

(a) The annual basic water charges for the operation and maintenance of the Fort Hall Irrigation Project lands in non-Indian ownership, and assessable Indian-owned lands leased to a non-Indian or a nonmember of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation, Idaho, are fixed for the Calendar Year 1978 and subsequent years until further notice as follows:

	Per acre
(1) Fort Hall Unit basic rate	$12.50
(2) Michaud Unit basic rate	16.75
Additional rate for sprinkler irrigation when pressure is supplied by project.	6.25
(3) Minor Units basic rate	10.00

(b) In addition to the foregoing charges there shall be collected a minimum charge of $5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

PAYMENT

The water charges become due on April 1 of each year and are payable on or before that date. To all assessments on lands in non-Indian ownership, and lands in Indian ownership which do not qualify for free water, remaining unpaid on or after July 1 following the due date, there shall be added a penalty of one and one-half percent per month, or fraction thereof, from the due date until paid. No water shall be delivered to any farm unit until all irrigation charges have been paid.

ASSESSMENTS ON INDIAN OWNED LAND

When land owned by members of the Shoshone-Bannock Tribes of the Fort Hall Indian Reservation is first leased to non-Indians or nonmembers of the tribe, and an approved lease is on file at the Fort Hall Agency, the leased land is not subject to operation and maintenance assessments for three years. The three years the land is not subject to assessment need not run consecutively. When land has been leased for a total of three years, the land, when under lease to non-Indians or nonmembers of the tribe, is subject to operation and maintenance assessments the same as lands in non-Indian ownership and lands owned by nonmembers of the tribe within the project. (See Solicitor's Opinion M28701, approved September 24, 1936, and the instructions of September 19, 1938, approved September 24, 1938, and instructions of December 1, 1938, approved December 17, 1938.)

Dated: February 8, 1978.

RICHARD M. BALSIGER,
Acting Area Director.

[FR Doc. 78-8099 Filed 3-30-78; 8:45 am]

[4310-02]

IRRIGATION OPERATION AND MAINTENANCE CHARGES

Water Charges and Related Information on the Wapato Irrigation Project, Washington

This notice of operation and maintenance rates and related information is published under the authority delegated by the Secretary of Interior to the Assistant Secretary—Indian Affairs in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Directors in 10 BIAM 3. The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and also under 25 CFR 191.1(e).

On December 30, 1977, in 42 FR 65278, there was published a notice of proposed assessment rates and related provisions on the Wapato Irrigation Project for calendar year 1978 and subsequent years until further notice.

These assessment rates were proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583), and March 7, 1928 (45 Stat. 210).

Interested persons were given 30 days in which to submit written comments, views, or arguments regarding the proposed rates and related provisions. During this period no comments, suggestions, or objections were submitted. Therefore, the assessment rates and related provisions as set forth below are adopted effective May 1, 1978.

WAPATO IRRIGATION PROJECT—GENERAL

ADMINISTRATION

The Wapato Irrigation Project, which consists of the Ahtanum Unit, Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The project engineer of the Wapato Irrigation Project is the officer-in-charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operations and Maintenance, Title 25—Indians, Code of Federal Regulations. (42 FR 30362, June 14, 1977)

IRRIGATION SEASON

Water will be available for irrigation purposes from April 1 to September 30 each year. These dates may be varied as much as 15 days when weather conditions and the necessity for doing maintenance work warrants doing so.

DELIVERY TO PATENT IN FEE LANDS

No water will be delivered to a patent in fee farm unit until all irrigation charges assessed against the land for construction, operation and maintenance, and all penalties that may have accrued, are paid.

DELIVERY TO INDIAN LANDS UNDER LEASE

No water will be delivered to trust Indian lands under lease until the lessee has paid the irrigation charges and any penalties assessed under these regulations, or in cases where the lease provides that the landowners pay the operation and maintenance charges from the lease rental, no water shall be delivered until the superintendent of the reservation has issued a certificate to the project engineer certifying that the lessee has complied fully with the terms of the lease.

DELIVERY TO INDIAN LANDS BEING FARMED BY INDIAN FARMERS

No water will be delivered to land operated by an Indian farmer until the charges fixed in these regulations are paid, or until the superintendent of the reservation has issued a certificate to the project engineer, certifying that the Indian will pay the charges through the superintendent, or that the Indian is financially unable to pay the charges.

TIME OF PAYMENT

The charges fixed by these regulations shall become due April 1 of each year and are payable on or before that date. To all charges assessed against lands in patent in fee ownership, and those paid by lessee of Indian lands direct to the project office, remaining unpaid on July 1 following the due date, there shall be added a penalty of one and one-half percent for each month, or fraction thereof, from the due date until the charges are paid.

AHTANUM UNIT

CHARGES

The operation and maintenance rate on lands of the Ahtanum Irrigation Unit, for the calendar year 1978 and subsequent years until further notice, is fixed at $5.25 per acre per annum for land to which water can be delivered from the project works.

TOPPENISH-SIMCOE UNIT

CHARGES

The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit, for the calendar year 1978 and subsequent years until further notice, is fixed at $5.45 per acre per annum for land for which an application for water is approved by the project engineer.

WAPATO-SATUS UNIT

CHARGES

The basic operation and maintenance rate on assessable lands under the Wapato Irrigation Project are fixed for the calendar year 1978 and subsequent years until further notice as follows:

(1) Minimum charge for all tracts	$15.00
(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands	15.00
(3) Rate per assessable acre for all lands with a storage water right, known as "B" lands, in addition to other charges per acre	1.80
(4) Basic rate upon all farm units or tracts for each accessable acre of Additional Works lands	15.90

ASSESSABLE LANDS

The assessable lands of the Wapato-Satus Unit are classified under these regulations as follows:

(a) All Indian trust (A or B) land designated as assessable by the Secretary of the Interior, except land which has never been cultivated if in the opinion of the project engineer the cost of preparing such land for irrigation is so high as to preclude its being leased at this time for agricultural purposes.

(b) All Indian trust (A or B) land not designated as assessable by the Secretary of the Interior for which application for water is pending, or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the project engineer.

(d) At the discretion of the project engineer and upon the payment of charges, patent in fee land for which an application for a water right or modification of a water right contract is pending.

Dated: February 8, 1978.

RICHARD M. BALSIGER,
Acting Area Director.

[FR Doc. 78-8098 Filed 3-30-78; 8:45 am]

[4310-84]

Bureau of Land Management

[NM 33099]

NEW MEXICO

Application

MARCH 24, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), TUCO, Inc., has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 12 S., R. 30 E.,
Sec. 27, SW¼SW¼.

This pipeline will convey natural gas across 0.119 of a mile of public land in Chaves County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

MARTHA A. KLINE,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-8442 Filed 3-30-78; 8:45 am]

[4310-84]

[W-62844]

WYOMING

Application

MARCH 21, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 92 W.,
Sec. 4, S½SE¼.

The proposed pipeline will transport natural gas from the Creston No. 1-4 well located in the SE¼SE¼ of Section 4, T. 18 N., R. 92 W., Carbon County to a point of connection with Northwest Pipeline Corporation's proposed Trunk "A" line in the SW¼SE¼ of Section 4, T. 18 N., R. 92 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-8443 Filed 3-30-78; 8:45 am]

[4310-84]

[W-62845]

WYOMING

Application

MARCH 21, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 18 N., R. 92 W.,
Sec. 26, E½SE¼.

The proposed pipeline will transport natural gas from the Creston No. 1-26 well located in the SE¼SE¼ of Section 26, T. 18 N., R. 92 W., Carbon County to a point of connection with Northwest Pipeline Corp.'s proposed Trunk "A" pipeline located in the NE¼SE¼ of Section 26, T. 18 N., R. 92 W., Carbon County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-8444 Filed 3-30-78; 8:45 am]

[4310-84]

[W—62886]

WYOMING

Application

MARCH 21, 1978.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp. of Salt Lake City, Utah filed an application for a right-of-way to construct a 4½ inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 25 N., R. 110 W.,
Sec. 22, SW¼NE¼.

The proposed pipeline will transport natural gas from the Federal No. 32-22 well to a point of connection with Northwest Pipeline Corp.'s proposed 6⅝ inch pipeline all located within the SW¼NE¼ of Section 22, T. 25 N., R. 110 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-8445 Filed 3-30-78; 8:45 am]

[4310-84]

AREA MANAGERS, ELKO DISTRICT, NEVADA

Delegation of Authority in General

Under authority of Bureau Order 701, dated July 23, 1964, and as amended, and subject to the limitations in part III of that order, the Area Managers administering the Elko and Wells Resource Areas of the Elko District, Nevada, are authorized to act on the following matters within their respective areas of responsiblity in accordance with existing policies and regulations of the Department, and under direct supervision of the Elko District Manager:

DELEGATION OF AUTHORITY IN SPECIFIC MATTERS

* * * * *

SEC. 3.3 *Fiscal affairs.* * * *

(d) *Trespass.* Determine liability and issue notice of trespass; recommend as to acceptance of settlement.

* * * * *

SEC. 3.6 *Minerals.* * * *

(m) Oil and Gas exploration operations.

(n) Geothermal Resource exploration operations.

* * * * *

SEC. 3.7 *Range management.* * * *

(a) Grazing District Administration.

(1) Process applications for the issuance of licenses and permits to graze or trail livestock.

(2) Permits or cooperative agreements to construct and maintain range improvements and determine the value of such improvements.

(3) Expenditure of funds appropriated by Congress or contributed by individuals, associations, advisory boards, or others for the construction, purchase, or maintenance of range improvements

* * * * *

(d) Soil and moisture conservation including control of Halogeton glomeratus.

(e) Controlled brush burning in accordance with plans and specifications approved by the State Director.

(f) Protection of wild free-roaming horses and burros.

* * * * *

SEC. 3.8 *Forest management.* * * *

(a) Disposition of forest products including sales of timber not exceeding $1,000 in value.

* * * * *

SEC. 3.9 *Land use.* * * *

(g) Disposition of materials other than forest products, not exceeding $2,000 in value.

(z) *Recreation.* All actions relating to recreation management and protection pursuant to 43 CFR Parts 6000 through 6290.

* * * * *

SEC. 3.10 *Designation of Action Officials.* * * *

(a) Area Managers may, by written order, designate qualified employees of the Resource Area to perform the functions of the Area Manager in his absence.

(b) Each employee who serves in an acting capacity shall document that service on Form 1203-1.

The District Manager may at any time temporarily reserve, restrict, or withhold any portion of the above delegated authority through use of Form 1213-1 District Office Authority and Responsibility Guide.

This order will be come effective April 3, 1978, and revokes previous delegation published July 17, 1974 (39 FR 27335); November 28, 1977 (42 FR 60617) and January 5, 1978 (43 FR 1011).

Dated: March 16, 1978.

E. A. MOORE,
District Manager.

Approved:

E. I. ROWLAND,
State Director, Nevada.

[FR Doc. 78-8504 Filed 3-30-78; 8:45 am]

[4310-84]

[Group 320 and 623]

CALIFORNIA

Filing of Plat of Survery

MARCH 23, 1978.

1. A plat of survey of the following described land, accepted January 16, 1978, will be officially filed in the California State Office, Sacramento, Calif., effective at 10 a.m. on May 5, 1978:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 28 1/2 S., R. 40 E.,
Sec. 31 to 36, inclusive.

The surveyed area described totals 867.40 acres.

The plat represents a survey of the east and west boundaries and subdivisional lines of the above listed township, a dependent resurvey of the south boundary of T. 28 S., R 40 E., and a portion of the south boundary of T.28 S., R. 39 E., Mount Diablo Meridian, California.

2. Effective January 16, 1978, the date of acceptance of the said plat of survey, title to Section 36 vested in the State of California as school grant land.

3. The area surveyed is geographically located in the California Desert Conservation Area. The elevation ranges from 3200 to 4300 feet above sea level. The surface is sandy and rocky with the vegetation being mainly creosote brush.

4. The public lands listed above are open to the operation of the public land laws, subject to any valid existing rights, and the requirements of applicable law, rules and regulations.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, Calif. 95825.

ELEANOR K. WILKINSON,
Chief Branch of Records and Data Management.

[FR Doc. 78-8466 Filed 3-30-78; 8:45 am]

[4310-84]

[Group 623]

CALIFORNIA

Filing of Plat of Survey

MARCH 23, 1978.

1. A plat of dependent resurvey and survey accepted January 16, 1978, will be officially filed in the California State Office, Sacramento, Calif., effective at 10 a.m. on May 5, 1978.

The newly surveyed area within the township is described as follows:

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 29 S., R. 40 E.,
Sec. 5, Lots 5, 6, 7, 8, 13, 14, 15, and 16;
Sec. 6, Lots 1, 2, 3, 4, 5, 6, and 7, S½NE¼, SE¼NW¼, E½SW¼ and SE¼;
Sec 7, Lots 3, 4, 5, 6, 7, 8, 9, and 10.

The surveyed area described totals 1,167.50 acres.

The plat, in two sheets, represents a dependent resurvey of the Seventh Standard Parallel through Range 40 East, a portion of the south, east and west boundaries, subdivisional lines and certain mineral surveys. The plat also represents a survey of the lands listed in paragraph 1, survey of subdivisions of section 35 and the metes and bounds survey of Lot 27 in Section 35 of the said township.

2. The above described lands are geographically located in the California Desert Conservation area. The elevation ranges from 2400 to 4000 feet above sea level. The surface is of a rocky nature. The undergrowth consists of creosote brush. The area has been heavily mined. The bottom portion of the township is suitable for off-road vehicle use.

3. The public lands listed above are open to the operation of the public land laws, subject to any valid existing rights, and the requirements of applicable law, rules and regulations.

4. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, Calif. 95825.

ELEANOR K. WILKINSON,
Chief, Branch of Records and Data Management.

[FR Doc. 78-8467 Filed 3-30-78; 8:45 am]

[4310-84]

CEDAR CITY DISTRICT GRAZING ADVISORY BOARD

Meeting

Notice is hereby given in accordance with Pub. L. 92-463 and 92-579 that the Grazing Advisory Board to the Cedar City District, Bureau of Land Management, U.S. Department of Interior, will meet beginning at 10 a.m., Friday, May 19, 1978, at the Bureau of Land Management, Cedar City District Office, 1579 North Main, Cedar City, Utah.

The function of the Grazing Advisory Board is to offer advice and make recommendations to the District Manager concerning the development of Allotment Management Plans and utilization of range-betterment funds. The meeting is open to the public and news media. Any organization, association, or individual may attend, file a statement with, or appear before the Board regarding topics on the meeting agenda; however, requests for oral presentations before the Board should be made to the official listed below at least two days prior to the meeting. Statements from the public will be heard from 11 a.m. to 12 noon. The chairman or authorized Federal officer may limit public attendance to the extent that available facilities and time require limitation.

The agenda for the meeting will include introductory and orientation items including a review of the Advisory Board charter, review of duties, election of officers and organization of the Board; Allotment Management Plans including Bureau policies, how AMP development fits into the planning program, and the District's program of AMP development; utilization of range-betterment funds including availability of funds and recommended projects.

Further information concerning this meeting may be obtained from Morgan S. Jensen, District Manager, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, telephone number 801-586-2401. Minutes of the meeting will be available for public inspection and copy two weeks after the meeting at the Cedar City District Office, 1579 North Main Street, Cedar City, Utah.

MORGAN S. JENSEN,
District Manager.

MARCH 20, 1978.

[FR Doc. 78-8502 Filed 3-30-78; 8:45 am]

[4310-84]

[NM 33127]

NEW MEXICO

Application

MARCH 23, 1978.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corp. has applied for one 4½-inch natural gas pipeline right-of-way across the following Land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 30 N., R. 14 W.,
Sec. 25, NE¼SW¼.

This pipeline will convey natural gas across 0.061 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Mangement, P.O. Box 6770, Albuquerque, N. Mex. 87107.

RAUL E. MARTINEZ,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-8503 Filed 3-30-78; 8:45 am]

[4310-55]

Office of the Secretary

[INT DES 78-8]

PROPOSED CANAAN VALLEY NATIONAL WILDLIFE REFUGE, W. VA.

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, Pub. L. 91-190, the Department of the Interior has prepared a draft environmental statement for the proposed Canaan Valley National Wildlife Refuge, Tucker County, W. Va.

The proposal recommends that 27,764 acres of mixed wetlands, upland and farmland habitat be acquired for the protection and preservation of a unique boreal bog ecosystem and to provide opportunities for wildlife oriented recreation and environmental education within the open space so provided. The proposed area would become a unit of the National Wildlife Refuge System and be operated in conformance with legislation, policies, regulations and established practices of that organization.

Copies of the draft statement are available for inspection at the following locations:

Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158.

Area Manager, U.S. Fish and Wildlife Service, 1500 North 2nd Street, Harrisburg, Pa. 17102.

Biologist in Charge, U.S. Fish and Wildlife Service, Forestry Building, Sycamore Street, Elkins, W. Va. 26241.

U.S. Fish and Wildlife Service, Division of National Wildlife Refuges, Room 2353, Interior Building, 18th and C Streets NW., Washington, D.C. 20240.

A limited number of single copies are available and may be obtained by writing the Environmental Impact Statement Coordinator at the Washington, D.C. address, or telephone 202-343-4047.

The service desires to achieve maximum public input to this proposed action. For this reason public hearings are being scheduled on the proposal and draft environmental statement. Locations, dates and times will soon be announced in the FEDERAL REGISTER and all interested individuals and organizations are invited to participate.

Dated: March 24, 1978.

LARRY E. MEIEROTT,
Deputy Assistant Secretary of the Interior.

[FR Doc. 78-8446 Filed 3-30-78; 8:45 am]

[4310-10]

PRIVACY ACT OF 1974

New System Notices

Notice is hereby given that the Department of the Interior has under consideration the adoption of system notices describing record systems which it proposes to maintain and which will be subject to section 3 of the Privacy Act of 1974, 5 U.S.C. 552a.

The proposed new systems are Office of Surface Mining Reclamation and Enforcement (OSM)—1, Payroll; OSM—2, Travel Advance File; OSM—3, Travel Vouchers and Authorizations; OSM—4, Property Control; OSM—5, Personnel Identification; OSM—6, Safety Files; and OSM—7, Personnel Security Files.

It is also proposed to amend the Biography File (Interior, Office of the Secretary—65) system to include biographical data on officials of OSM, such data to be used for generating press releases, public announcements, and in response to public inquiries.

A number of Privacy Act systems have been transferred to the Department of Energy. Systems covered are:

III. ALASKA POWER ADMINISTRATION

Administrative Management and Fiscal Records—Interior, Alaska Power Administration—1.

V. BONNEVILLE POWER ADMINISTRATION

Travel Records—Interior, BPA—1.
Payroll Files—Interior, BPA—2.
Audiometric Testing Forms—Interior, BPA—3.
Automotive Accident Files—Interior, BPA—4.
Motor Vehicle Operator Identification Records—Interior, BPA—5.
Industrial Accident Files and Employee Claims Files—Interior, BPA—6.
Safety Training Files—Interior, BPA—7.
Plant Services History Files—Interior, BPA—8.
Plant Services Personnel Accountability Property System—Interior, BPA—9.
Land Records—Interior, BPA—10.
Accounts Receivable—Interior, BPA—11.
Report of Inventions—Interior, BPA—12.
Parking Assignment Records—Interior, BPA—13.
Security Clearance File—Interior, BPA—14.

VII. SOUTHEASTERN POWER ADMINISTRATION

Administrative Management and Fiscal Records—Interior, Southeastern Power Administration—1.

IX. SOUTHWESTERN POWER ADMINISTRATION

Payroll System—Interior, Southwestern Power Administration—1.
Contracts System—Interior, Southwestern Power Administration—2.
Property Management System—Interior, Southwestern Power Administration—4.
Travel Record System—Interior, Southwestern Power Administration—5.
Imprest Fund Cashiers—Interior, Southwestern Power Administration—6.
Accidents—Interior, Southwestern Power Administration—7.

XIII. BUREAU OF RECLAMATION

Sale of Power to Individuals—Interior, Reclamation—31.

As published in the FEDERAL REGISTER April 11, 1977, Vol. 42, No. 69; page 18969-19122.

Comments on the proposed new system notices and the one revised system notice may be submitted to Mr. Warren L. Dahlstrom, the Departmental Privacy Act Officer, Office of Administrative and Management Policy, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, telephone 202-343-6669. Except as noted below, all comments received on or before May 1, 1978, will be considered. Copies of any comments received may be inspected in Room 5316 at the above address.

The Department has requested a waiver of the 60 day advance notice to

Congress in accordance with OMB Circular A-108. Provided no comments are received which justify a contrary determination, upon the waiver being granted before the expiration of the period for public comment, the proposed new systems notices will take effect except for the "Routine Use" paragraphs, which require advance publication for public comment. Published below are the new and revised system notices.

RICHARD R. HITE,
Deputy Assistant Secretary of the Interior.

MARCH 22, 1978.

INTERIOR/ESM-1

System name:

Payroll—Interior, OSM-1

System location:

(1) U.S. Bureau of Mines, Division of Finance, Building 53, Denver Federal Center, Denver, Colo. 80225. (2) Input documents supplied by all facilities of the Office of Surface Mining Reclamation and Enforcement (OSM).

Categories of individuals covered by the system:

Current OSM employees and employees separated within the prior 2 years.

Categories of records in the system:

A variety of documents which set forth or affect an employee's annual wage rate, leave, biweekly earnings, payroll deductions, and disposition of earnings. Hard copy records consist of a folder of action-type documents for each employee. The information from these documents is recorded on computer tape for payroll purposes.

Authority for maintenance of the system:

5 U.S.C. § 5101 et seq., 31 U.S.C. § 66a.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The primary uses of the records are: (a) to provide information and accounting records regarding employee pay and leave for the automated payroll data file; (b) to inform each OSM office of the composition of their labor cost changes by reporting total payroll changes for each individual made to various cost accounts within the finance system. This reporting is made every 2 weeks on a regular payroll cycle. Disclosures outside the Department of the Interior may be made: (1) to provide states with pay data relative to claims for unemployment; (2) to the Department of the Treasury for preparation of payroll checks and payroll deductions and other checks to Federal, state and local Government agencies, non-governmental orgainizations and individuals; (3) to the Internal Revenue Service and to state, commonwealth, territorial, and local governments for tax purposes; (4) to the Civil Service Commission in connection with the Civil Service Retirement System; (5) to another Federal agency to which an employee has transferred; (6) to the U.S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (7) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license; (8) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (9) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (10) to Federal, state, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant, or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained in file folders, magnetic tape, and punched card.

Retrievability:

File folders are maintained by name and magnetic tape and punched cards are maintained by social security number.

Safeguards:

File folders are maintained in metal file cabinets which are in a locked room during periods of non-work. During working hours, access is allowed only to Division of Finance, Bureau of Mines personnel or Division of Budget and Financial Mangement, OSM personnel. Punched cards have no interpreted printing on them and are retained in cardboard boxes locked into the same room as the file folders. Magnetic tapes are maintained in the Division of Data Processing with limited ADP personnel accessibility.

Retention and disposal:

Actively employed personnel file folders are retained indefinitely. Inactive employees' folders (death, resignation, retirement, and separation) are destroyed after 2 years. Cards are destroyed after 1 year. Magnetic tapes are erased and reused in accordance with memorandum dated December 29, 1970, from the Chief, Division of Finance to the Chief, Division of ADP, Bureau of Mines. All other official payroll data are disposed of in accordance with General Records Schedule FPMR 101-11.4 dated August 1, 1974.

System manager(s) and address:

Chief, Division of Budget and Financial Management, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Notification procedure:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures:

A request for access may be addressed to the System Manager. The reguest must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures:

A petition for amendment should be addressed to the System manager and must meet the content requirements of 43 CFR 2.71.

Record source categories:

Information in this system of records comes from the individual to whom it applies or is derived from information he supplied. Pay rates and their applicability and leave regulations are established by public law and their effect upon the individual are in accordance with such public laws and regulations. Generally, most payroll source data are echo records of official personnel actions.

INTERIOR/ESM-2

System name:

Travel Advance File—Interior, OSM-2.

System location:

U.S. Bureau of Mines, Division of Finance, Building 20, Denver Federal Center, Denver, Colo. 80225.

Categories of individuals covered by the system:

All Office of Surface Mining Reclamation and Enforcement (OSM) employees who have active travel advances or who have closed travel advances.

Categories of records in the system:

File consists of signed forms whereon employees request travel advances

for the purpose of paying travel expenses incurred in the performance of official government business. These forms also include repayments against any advances, whether by claims offset on travel vouchers or remittances by checks, money orders, etc.

Authority for maintenance of the system:

5 U.S.C. §§ 4111(b), 5701-5709, 5721-5733, 5742(b).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The primary uses of the records are (1) to provide an accounting record of obligations due to the U.S. Government from employees' authorized cash advances to defray expenses incurred in official travel. Payments to the traveler and repayments to the Government are reflected in this record; (b) to serve as a backup authority and manually reconciled file to the entries for travel expenses in the automated Finance system; (c) computer data are reported to each OSM office as part of the detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual OSM offices are available to that office. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a Congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained in cardboard boxes in the Division of Finance, Bureau of Mines.

Retrievability:

Files are stored alphabetically by fiscal year.

Safeguards:

Files are maintained in a locked steel file drawer during periods of non-work and are accessible during working hours only by personnel from the Division of Finance, Bureau of Mines, or the Division of Budget and Financial Management, OSM.

Retention and disposal:

Disposition is in accordance with General Records Schedule, FPMR 101-11.4 dated August 1, 1974.

System manager(s) and address:

Chief, Division of Budget and Financial Management, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Notification procedure:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories:

Information for this system originates with the traveler who specifies the need of a travel advance. The request is concurred in by signature of a responsible supervisory official. All entries on the file are as a result of actions taken by the individual to liquidate his travel advance.

INTERIOR/EMS-3

System name:

Travel Vouchers and Authorizations—Interior, OSM-3.

System location:

U.S. Bureau of Mines, Division of Finance, Building 20, Denver Federal Center, Denver, Colo. 80225, and the various Divisions of the Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Categories of individuals covered by the system:

All persons traveling for or in behalf of OSM on official business.

Categories of records in the system:

Voucher file consists of paid travel vouchers which reimburse travelers for expenses incurred in connection with official travel. Travel authorization file consists of record copies of authorizations for travel for which no travel vouchers have been submitted for payment.

Authority for maintenance of the system:

5 U.S.C. § 5701 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The primary uses of the records are (a) as backup entry data for obligations and disbursements in the automated Finance system of OSM; (b) computer data are reported to each OSM office as part of the detailed composition of monthly expense reports applicable to charges made to cost accounts within the Finance system. Only data pertinent to individual OSM offices are available to that office; (c) vouchers are used to determine allowability of expenses within the law, authorizing payment of travel expenses. The documents are used to determine which expenses incurred by the traveler can be paid and are sometimes used to report to other Federal agencies summarizations of those types of allowable expenses. Usually, the individual's name is not used in outside reporting but the data is. Disclosures outside the Department of the Interior may be made (1) to the U.S. Department of Justice when related to litigation or anticipated litigation involving the records or the subject matter of the records; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order or license, to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) from the record of an individual in response to an inquiry from a congressional office made at the request of that individual; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant or other benefit; (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or the issuance of a security clearance, contract, license, grant or other benefit.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained in steel filing cabinet in the Division of Fi-

nance, Bureau of Mines, and Divisions of OSM.

Retrievability:

Vouchers are filed by voucher number in sequence of payment within the overall numbering sequence of the Finance system. Authorizations are filed alphabetically by name awaiting payment of a travel voucher. Authorization becomes part of the voucher packet at time of payment.

Safeguards:

Files are maintained with safeguards meeting the requirements of 43 CFR 2.51 in the Division of Finance and are available only to personnel from the Department of Finance, Bureau of Mines, or the Divisions of the Office of Surface Mining.

Retention and disposal:

Disposition is in accordance with General Schedule, FPMR 101-11.4 dated August 1, 1974.

System manager(s) and address:

Chief, Division of Budget and Financial Management, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Notification procedure:

Inquiries regarding the existence of records should be addressed to the System Manager. A written, signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures:

A petition for amendment should be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories:

Information for these files is based on an authorization signed by the traveler in the form of a request. Travel vouchers are submitted by the traveler after incurring expenses for official travel and is a request for payment based on his record of official expenses.

INTERIOR/ESM-4

System name:

Property Control—Interior, OSM-4.

System location:

(1) Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. (2) All field facilities of OSM.

Categories of individuals covered by the system:

Employees who have custody or responsibility for OSM property.

Categories of records in the system:

Contains information indicating what property, including equipment, motor vehicle operator's license, keys, motor pool vehicles, transportation request books, and parking spaces, for which the employee has custody or responsibility. A list is maintained of inventions by name as a cross-reference to case numbers. In addition, all other records directly related to the property control function.

Authority for maintenance of the system:

Federal Property and Administrative Services Act of 1949, as amended, 40 U.S.C. § 483(b)(1); 5 U.S.C. 301.

Routine uses or records maintained in the system, including categories of users and the purposes of such uses:

The primary uses of the records are: (a) Identification, assignment, and control of OSM property; (b) assistance in locating carpools. Disclosures outside of the Department of Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investiating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in manual form in file folders or card indexes, a limited quantity on computer tape.

Retrievability:

Indexed by employee name or control number.

Safeguards:

Security will be provided to meet the requirements of 43 CFR 2.51.

Retention and disposal:

Upon completion of the use period, vital records are transferred to the Official Personnel Folder or Federal Records Center and all other records are destroyed.

System manager(s) and address:

Chief, Division of Administrative Services, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Notification procedure:

System Manager, or with respect to records maintained at field facilities, the administrative officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures:

A request for access may be addressed to the System Manager or, with respect to records maintained at field facilities, the administrative officer of the facility. The request must be in writing and signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures:

A petition for amendment shall be addressed to the System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories:

Employees. Property control information required for accountability purposes.

INTERIOR/ESM-5

System name:

Personnel Identification—Interior, OSM-5.

System location:

(1) Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. (2) All field facilities of OSM.

Categories of individuals covered by the system:

All employees of OSM.

Categories of records in the system:

Records concerning identification and location of employees.

Authority for maintenance of the system:

5 U.S.C. §§ 301, 3101; 43 U.S.C. § 1457.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The primary uses of the records are: (a) To provide identification cards to employees; (b) locator information provided for use by management to contact employees in case of an emergency. Disclosures outside the Department of the Interior may be made: (1) To the U.S. Department of Justice

when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Card indexes, manually.

Retrievability:

Indexed by employee name and identification card number.

Safeguards:

Security will be provided to meet the requirements of 43 CFR 2.51 for manual records.

Retention and disposal:

After use period, records transferred to Federal Records Center or destroyed.

System manager(s) and address:

Chief, Division of Personnel, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Notification procedure:

System Manager, or with respect to records maintained at field facilities, the administrative officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures:

A request for access may be addressed to the System Manager or, with respect to records maintained at field facilities, the administrative officer of the facility. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

Record source categories:

Employees. Information necessary to prepare the identification card and locator index.

INTERIOR/ESM-6

System name:

Safety Files—Interior, OSM-6.

System location:

(1) Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. (2) All field facilities of OSM.

Categories of individuals covered by the system:

Persons who have had an accident, injury, illness or fatality or are associated with a health hazard, radioactive materials, and radiation producing media in performance of job related duties or while a visitor.

Categories of records in the system:

Contains records about accident, injury, illness, or fatality of an employee in a work related situation or a visitor. Also, records of initial, reexamination, annual, and terminal health physical of employees in potentially hazardous health and radiation situation. In addition, all other records directly related to employee health and safety.

Authority for maintenance of the system:

(1) Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. § 668 and 5 U.S.C. § 7902. (2) Executive Order 11807 (September 28, 1974). (3) Federal Employees Compensation Act, as amended, 5 U.S.C. § 8101, et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The primary uses of the records are: (a) For managerial review of safety related work situations, and (b) for authenticating work related accident, injury, illness, or fatalities for employee compensation purposes. Disclosures outside the Department of the Interior may be made: (1) To the U.S. Department of Justice when related to litigation or anticipated litigation; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintenance in manual form in card index and file folders.

Retrievability:

Indexed by name or control number of the individual.

Safeguards:

Security will be provided to meet the requirements of 43 CFR 2.51 for manual records.

Retention and disposal:

Upon completion of work project or employee separation, health records are transferred to the Official Personnel Folder. All other records are transferred to Federal Records Centers upon completion of case processing.

System manager(s) and address:

Chief, Division of Personnel, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Notification procedure:

System Manager, or with respect to records maintained at field facilities, the safety officer of the facility. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures:

A request for access may be addressed to the System Manager or, with respect to records maintained at field facilities, the safety officer of the facility. The request must be in writing and signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

Contesting record procedures:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

Record source categories:

Individuals involved and physicians.

INTERIOR/ESM-7

System name:

Personnel Security Files—Interior, OSM-7.

System location:

Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240.

Categories of individuals covered by the system:

OSM personnel who have been authorized access to classified information.

Categories of records in the system:

Contains records concerning employees, including personal data submitted by the individual, information developed by investigatory authorities, and records of the requirement, basis, degree, and date of clearance. Contains a security briefing statement signed by the employee.

Authority for maintenance of the system:

Executive Order 10450, as amended.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The primary uses of the records is to identify OSM personnel who have security clearances and their degree of clearance. Disclosures outside the Department of the Interior may be made: (1) To a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit; (2) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee, or issuance of a security clearance, contract, license, grant, or other benefit; (3) to the U.S. Department of Justice when related to litigation or anticipated litigation; (4) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Maintained in manual form in file folders.

Retrievability:

Indexed by name.

Safeguards:

Maintained in a safe having a three-position dial-type, manipulation proof, combination lock, in the same manner as defense classified material.

Retention and disposal:

Maintained until the individual has been debriefed or terminated. Destroyed by fire, shredder, disintegrator, or pulverizer.

System manager(s) and address:

Chief, Division of Personnel, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Washington, D.C. 20240.

Notification procedure:

A written and signed request to the System Manager stating that the requester seeks information concerning record pertaining to him.

Record access procedures:

A request for access shall be addressed to the System Manager. The request must be in writing and signed by the requester.

Contesting record procedures:

A petition for amendment shall be addressed to the System Manager.

Record source categories:

Individual on whom the record is maintained and investigations conducted by Federal, State, or local agencies or other pertinent authorities.

INTERIOR/AOC-65

System name:

Biography File—Interior, Office of the Secretary—65.

System location:

(1) Office of Public Affairs, Research Office, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. (2) Bureau public information offices in the Bureau of Indian Affairs, the Bureau of Reclamation, the U.S. Geological Survey, the Mining Enforcement and Safety Administration, the National Park Service, the U.S. Fish and Wildlife Service, and the Office of Surface Mining Reclamation and Enforcement (OSM). (See System Manager paragraph for addresses.)

Categories of individuals covered by the system:

Officials of the Department of the Interior, including the Secretary, Assistant Secretaries, heads of Bureaus and Offices

Categories of records in the system:

The records are biographical news releases generally containing the individual's name, place and date of birth, education, military service, work experience, publications, membership in professional or scientific societies, marital status plus occasional newspaper clippings about the individual and in some cases a photograph of the individual.

Authority for maintenance of the system:

Statutes 5 U.S.C. §§ 301, 3101, 43 U.S.C. § 1467.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The primary use of the records is to maintain biographic information on key officials of the Department. Disclosures outside the Department of the Interior may be made (1) to the news media and the public for public information purposes.

Policies and practices for storing, retrieving, assessing, retaining, and disposing of records in the system:

Storage:

Biographies are in press release form, maintained in file folders.

Retrievability:

Alphabetized by name.

Safeguards:

Maintained in a locked room.

Retention and disposal:

Destroyed when obsolete.

System manager(s) and addresses:

Unless otherwise noted, the address for all system managers: U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240. (1) For the Office of Public Affairs: Director, Office of Public Affairs. (2) For the Bureau of Indian Affairs: Director, Public Information Staff, Bureau of Indian Affairs. (3) For the Bureau of Reclamation: Chief, Office of Public Affairs, Bureau of Reclamation. (4) For the Geological Survey: Information Officer, U.S. Geological Survey, the National Center, Reston, Va. 22092. (5) for MESA: Chief, MESA Information Office, Mining Enforcement and Safety Administration, Ballston Tower No. 3, 4015 Wilson Blvd., Arlington, Va. 22203. (6) For the National Park Service: Assistant to the Director, Office of Public Affairs, National Park Service. (7) For the Fish and Wildlife Service: Assistant Director—Public Affairs, U.S. Fish and Wildlife Service. (8) For Office of Surface Mining Reclamation and Enforcement, Chief, Public Affairs Staff.

Notification procedure:

Same as the above. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

Record access procedures:

Same as the above. The request must be in writing, signed by the requester. See 43 CFR 2.63.

Contesting record procedures:

A petition for amendment should be addressed to the appropriate System Manager and must meet the content requirements of 43 CFR 2.71.

Record source categories:

Data furnished by the individual and newspaper clippings.

[FR Doc. 78-8506 Filed 3-30-78; 8:45 am]

[4410-18]

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

FEDERAL GRANT-IN-AID SYSTEM

Change in Grant Application and Reporting Requirements

In accordance with the directive of President Carter to make the Federal Grant-In-Aid System less confusing and burdensome, LEAA is making some changes in its current proce-

dures. Notwithstanding any LEAA Guidelines or Regulations to the contrary, no State or local government is required to submit to LEAA more than one original and two copies of any grant application or reporting form.

JAMES M. H. GREGG,
Assistant Administrator,
Office of Planning and Management.

[FR Doc. 78-8447 Filed 3-30-78; 8:45 am]

[4510-24]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

The BRAC Committee on Occupational Safety and Health will meet at 10 a.m., April 18, 1978, at the New Department of Labor Building in Room N4437 A and B, 200 Constitution Avenue NW., Washington, D.C. The agenda for the meeting is as follows:

1. Progress in responding to the Office of Management and Budget on program alternatives.
2. Progress toward recommendations by the Interagency Task Force on Workplace Safety and Health.
3. The National Safety Council Symposium 1 on the improvement of occupational injury information.
4. Accessibility of the log. The Supplementary Data System: status, accessibility, and use.
5. Employee work injury report studies.
6. Feasibility study on illness data.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code 202-523-1559.

Signed at Washington, D.C., this 27th day of March 1978.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc. 78-8538 Filed 3-30-78; 8:45 am]

[4510-24]

BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON PRODUCTIVITY AND TECHNOLOGY AND FOREIGN LABOR STATISTICS

Meeting

The BRAC Committee on Productivity and Technology and Foreign Labor Statistics will meet at 9:30 a.m., April 20, 1978, at the new Department of Labor Building in Room N3437 (A, B, and C), 200 Constitution Avenue NW., Washington, D.C. The agenda for the meeting is as follows:

1. New weights for the productivity indexes for the steel industry.
2. Plans for additional international comparisons of productivity and costs.
3. Capital measures and labor productivity changes.
4. Use of production functions in productivity analysis.

This meeting is open to the public. It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on area code 202-523-1559.

Signed at Washington, D.C., this 22nd day of March 1978.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc. 78-8420 Filed 3-30-78; 8:45 am]

[4510-24]

SEASONALLY ADJUSTED WEEKLY UNEMPLOYMENT RATES UNDER REGULAR STATE UNEMPLOYMENT COMPENSATION PROGRAMS, 1978

Factors for Computation

The Bureau of Labor Statistics announces the 1978 weekly seasonal adjustment factors to be applied to the weekly unadjusted level of claims for regular State unemployment benefits to derive seasonally adjusted data for this series. The weekly seasonally adjusted level of insured unemployment under regular State programs is a major component in the derivation of the 13-week average seasonally adjusted national and State insured unemployment indicator rate which triggers Federal-State extended unemployment compensation payments under the provisions of State laws. The rate of insured unemployment for purposes of determining the beginning and ending of an extended benefits period is computed and announced by the U.S. Department of Labor's Employment and Training Administration, Unemployment Insurance Service.

Week ending date	*Factor*
Jan. 7	129.5
Jan. 14	128.5
Jan. 21	130.2
Jan. 28	129.8
Feb. 4	129.5
Feb. 11	130.3
Feb. 18	129.8
Feb. 25	130.1
Mar. 4	127.0
Mar. 11	124.5
Mar. 18	121.5
Mar. 25	118.2
Apr. 1	114.8
Apr. 8	111.5
Apr. 15	109.7
Apr. 22	102.9
May 6	99.3
May 13	97.0
May 20	94.1
May 27	90.1
June 3	91.9
June 10	90.7
June 17	90.4
June 24	88.7
July 1	86.4
July 8	95.1
July 15	96.2
July 22	94.9
July 29	92.2
Aug. 5	91.1
Aug. 12	89.0
Aug. 19	85.1
Aug. 26	82.2
Sept. 9	81.6
Sept. 16	78.4
Sept. 23	78.2
Sept. 30	77.2
Oct. 7	76.0
Oct. 14	79.5
Oct. 21	79.7
Oct. 28	81.1
Nov. 4	80.7
Nov. 11	84.9
Nov. 18	84.4
Nov. 25	91.1
Dec. 2	97.3
Dec. 9	99.8
Dec. 16	100.7
Dec. 23	102.2
Dec. 30	119.2

Inquiries regarding the contents of this announcement, the methodology for seasonal adjustment of this series, and the revised historical data are to be directed to the address listed below:

U.S. Department of Labor, Bureau of Labor Statistics, Office of Data Analysis, Office of Current Employment Analysis, Room 4868, 441 G Street NW., Washington, D.C. 20212, Attn.: Mr. Thomas J. Plewes, telephone 202-523-1237.

Signed at Washington, D.C., this 24th day of February 1978.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc. 78-8421 Filed 3-30-78; 8:45 am]

[4510-30]

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. the financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present

operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 27th day of March 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MARCH 24, 1978

Name of applicant and location of enterprise	Principal product or activity
Winona, Inc., Bridgton, Maine.	Outdoor environmental educational summer camp for boys.
Yeager Marine Industries, Inc., Gallipolis, Ohio.	Repair and construction of marine vessels.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MARCH 24, 1978—Continued

Name of applicant and location of enterprise	Principal product or activity
Robert Blankenship, Fredericktown, Ohio.	Nursing home.
Amdevco Packaging/Films, Inc., Fairmont, Minn. and Edwardsville, Kans.	Manufacture of plain and printed plastic sheeting and bags.
Miles Lure Co., Inc., Winnsboro, La.	Manufacture of artificial fishing lures.
I.M.P. Boats/Richmar Industries, Iola, Kans.	Manufacture of recreational fiberglass boats and aluminum gas tanks for boats.
Birch Street Manor, Dallas, Oreg.	Nursing services.

[FR Doc. 78-8378 Filed 3-30-78; 8:45 am]

[4510-30]

SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Plans for the Selection of Additional National Senior Community Service Employment Program Sponsors

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the Department of Labor's intention to award funds to additional national sponsoring organizations under the Senior Community Service Employment Program, SCSEP.

DATE: Proposals must be received in the manner indicated below, by 4:45 p.m. on May 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Gale B. Gibson, Division of National Training Programs, Room 6430, 601 D Street NW., Washington, D.C. 20213, 202-376-6710.

SUPPLEMENTARY INFORMATION: Pursuant to title IX of the Older Americans Act, the Department of Labor has made $5,481,000 available for the award of grants to sponsor SCSEP projects. These grants will be awarded on a competitive basis to private nonprofit organizations which meet the following criteria: (1) Incorporated nonprofit organizations or agencies (except political parties) may apply; (2) these organizations or agencies must have, either directly or through affiliates, conducted substantial business in at least five different States at any time during the period beginning July 1976; (3) the present five national sponsoring organizations are not eligible to compete. The Department of Labor reserves the right to make specific determinations as to what does and does not constitute substantial business. The meaning of the term does not include attendance or representation at meetings, conferences, conventions, or the like. In addition, organizations which have not previously worked with employment and training programs should, before undertaking the development of an application, consider the cost of preparing an application against the unlikely prospects of their being awarded a grant.

The SCSEP provides part-time subsidized employment in community service jobs to poor persons 55 years of age or older. The funds made available for new sponsors ($5,481,000) have been divided equally among 21 States which are clustered into four groups. These groups are as follows: Group I—Connecticut, Massachusetts, New York, New Jersey, Pennsylvania, Virginia; Group II—Mississippi, Alabama, Kentucky, Tennessee, North Carolina; Group III—Minnesota, Ohio, Wisconsin, Illinois, Indiana; Group IV—Louisiana, Oklahoma, Texas, Kansas, California. Applicants may propose to serve all four groups, one group, or any combination thereof. However, applicants may submit only one application and it must be designed to support programs in each of the States in the group(s) it proposes to serve.

All acceptable applications received by the Department of Labor will be reviewed and rated by a panel. The highest rated applications will be submitted to the Administrator, Office of National Programs for final selection and grant award. The grant period will begin on July 1, 1978, and terminate on June 30, 1979.

In order to be considered for funding, an application must be prepared and submitted in accordance with the instructions and specifications set forth in the Department of Labor's Solicitation for Grant Applications (SGA). To obtain a copy of this document, an interested organization must request one, in writing, from the Division of National Training Programs, Office of National Programs, Employment and Training Administration, Room 6402, Patrick Henry Building, 601 D Street NW., Washington, D.C. 20213.

The deadline for filing a grant application with the Office of National Programs is 4:45 p.m., May 5, 1978.

Signed in Washington, D.C., this 17th day of March, 1978.

LAMOND GODWIN,
Administrator, Office of National Programs, Employment and Training Administration, U.S. Department of Labor.

[FR Doc. 78-8543 Filed 3-30-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

OREGON

Proposed Rejection of Oregon Roll-Over Protective Structures (ROPS) Standards; Extension of Time for Written Data, Views, and Arguments

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of time to file written data, views, and arguments.

SUMMARY: This notice informs all interested persons that the time for written submissions concerning the proposed rejection of the Oregon standards for roll-over protective structures (ROPS) for tractors used in agricultural operations has been extended.

DATES: Written comments, data, and arguments must be postmarked by May 15, 1978.

ADDRESS: Submit written comments, data, and arguments to: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Wash. 98174.

FOR FURTHER INFORMATION CONTACT:

Mr. John Granchi, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Wash. 98174.

SUPPLEMENTARY INFORMATION: On August 16, 1977, a notice was published in the FEDERAL REGISTER (42 FR 41333) of the proposed rejection of the Oregon State standard comparable to 29 CFR 1928.51 roll-over protective structures (ROPS) for tractors used in agricultural operations. The notice has requested the submission of written data, views, and arguments not later than September 12, 1977. Subsequently, a notice was published on October 26, 1977, in the FEDERAL REGISTER (42 FR 56811) informing interested persons that a hearing would be held in Pendleton, Oreg., on December 1, 1977, with regard to the issue of the proposed rejection of the Oregon ROPS standard. Interested persons were invited to appear and present data, views, and argument. Following the hearing, several interested persons have requested an extension of time to submit their comments and arguments.

The Occupational Safety and Health Administration has decided to grant these requests and all comments and data submitted will be examined and accorded consideration equal to those comments submitted by interested persons prior to the hearing. On the basis of all comments submitted, and the evidentiary record gathered at the hearing, the Regional Administrator will, within a reasonable time, determine whether the state standard should be rejected.

Submission of written comments: Written comments, data, and arguments from interested persons must be submitted no later than May 15, 1978. Comments must be submitted in quadruplicate to: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 1st Avenue, Seattle, Wash. 98174.

Signed at Seattle, Wash., this 23rd day of March 1978.

JAMES W. LAKE,
Regional Administrator, Occupational Safety and Health Administration.

[FR Doc. 78-8539 Filed 3-30-78; 8:45 am]

[1505-01]

[V-77-4; V-77-14]

MINNESOTA MINING & MANUFACTURING CO.

Correction

In the *Correction* of the table appearing on page 12392 in the issue of Friday, March 24, 1978, in the 5th column, Maximum storage height portable tanks, the 1st entry, "Not permitted.", should be deleted. The 2nd entry, "Do." should be deleted, and "Not permitted." should be the 2nd entry and should appear next to "15' ".

[4510-23]

Office of the Secretary

[Secretary of Labor Order S.O. 3-78]

DELEGATION OF AUTHORITY AND ASSIGNMENT OF RESPONSIBILITY FOR MINE SAFETY AND HEALTH PROGRAMS

1. *Purpose.* To delegate authority and assign responsibility for the administration and enforcement of mine safety and health programs.

2. *Authority.* This Order is issued pursuant to the following: Act of March 4, 1913 as amended, 37 Stat. 736, (29 U.S.C. 551) and Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263 (29 U.S.C. 551 note); Act of August 12, 1958, Pub. L. No. 85-619, 72 Stat. 547 (5 U.S.C. 301); Act of August 2, 1946, 60 Stat. 809, (5 U.S.C. 302); and the Federal Mine Safety and Health Act of 1977, (Pub. L. No. 91-173 as amended by Pub. L. No. 95-164).

3. *Directives affected.* The authorities delegated herein are new but are subject to existing governmental and departmental regulations pertaining to procurement and contracting authority; to emergency preparedness and disaster relief; and other departmental delegations, policies and procedures pertaining to administrative, organizational, and management processes.

4. *Background.* The Federal Mine Safety and Health Act of 1977 establishes in the Department of Labor the Mine Safety and Health Administration headed by an Assistant Secretary of Labor for Mine and Safety and Health who is appointed by the President, by and with the advice and consent of the Senate. The Act provides authority and assigns responsibility for mine safety and health to the Secretary, and except as specifically provided otherwise, authorizes and directs the Secretary to carry out his functions under the Act through the Mine Safety and Health Administration.

The Solicitor of Labor is authorized under the Act to appear for and represent the Secretary in any civil litigation brought under this Act, except as provided in 28 U.S.C. 518(a), relating to litigation before the Supreme Court.

5. *Delegation of authority and assignment of responsibility.*

a. *The Assistant Secretary for Mine Safety and Health* is delegated authority and assigned responsibility for:

(1) Developing and administering all aspects of the Department's mine safety and health programs and activities under:

(a) The Federal Mine Safety and Health Act of 1977, except Title IV of such Act.

(b) All other Federal statutes, Executive Orders, and regulations respecting mine safety and health for which the Secretary of Labor has responsibility.

(2) Coordinating with other agencies having responsibilities affecting mine safety and health.

b. *The Solicitor of Labor* shall have the responsibility for providing legal advice and assistance to the Secretary, the Assistant Secretary for Mine Safety and Health, and to all other officers and employees of the Department relating to the administration and enforcement of the Federal Mine Safety and Health Act of 1977. The Solicitor shall have the responsibility for determining in each instance whether legal proceedings relating to mine health and safety may be appropriate, and for bringing appropriate legal actions on behalf of, and representing the Secretary in all civil proceedings.

6. *Reservation of authority.* The following functions are reserved to the Secretary:

a. The submission of reports and recommendations to the President and the Congress concerning the administration of the Federal Mine Safety and Health Act of 1977.

b. The authority under section 3(h) of the Federal Mine Safety and Health Act of 1977 to consider convenience of administration in determining what constitutes mineral milling.

7. *Redelegation of authority.* The Assistant Secretary for Mine Safety and Health and the Solicitor of Labor may redelegate this authority.

8. *Effective date.* This Order is effective March 9, 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-8419 Filed 3-30-78; 8:45 am]

[4510-30]

NATIONAL COMMISSION FOR MANPOWER POLICY

MEETING

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will hold a formal meeting on April 28, 1978, in the East Room of the Mayflower Hotel, located at 1127 Connecticut Avenue NW., Washington, D.C. The meeting will begin at 9 a.m. and adjourn at 5 p.m.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs.

The agenda will cover a variety of issues concerned with the Comprehensive Employment and Training Act, specifically: (1) Target populations; (2) funding formulas; and (3) management information systems.

Members of the general public or other interested individuals may attend the Commission meeting. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than 2 days before and 7 days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting permits. Such oral statements must be directly germane to the announced agenda items and written applications must be submitted to the Director of the Commission 3 days before the meeting. This application shall identify the following: The name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations shall be limited to statements of fact and views and shall not include any questions of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers, and other documents prepared for the meeting will be available for public inspection 5 working days after the meeting at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this 27th day of March 1978.

ISABEL V. SAWHILL,
Director, National Commission for Manpower Policy.

[FR Doc. 78-8540 Filed 3-30-78; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

SUBCOMMITTEE ON ANTHROPOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Anthropology of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: April 27-28, 1978; 9 a.m. to 6 p.m.

Place: Room 536, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. John Yellen, Program Director, Anthropology, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4208.

Purpose of subcommittee: To provide advice and recommendations concerning support for Museums.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Officer.

MARCH 28, 1978.

[FR Doc. 78-8512 Filed 3-30-78; 8:45 am]

[7555-01]

SUBCOMMITTEE ON HISTORY AND PHILOSOPHY OF SCIENCE OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on History and Philosophy of Science of the Advisory Committee for Social Sciences.

Date and time: April 28, 1978, 9 a.m. to 5 p.m.

Place: National Science Foundation, room 628.

Type of meeting: Closed.

Contact person: Dr. Ronald J. Overmann, Associate Program Director for History and Philosophy of Science, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4182.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in history and philosophy of science.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Office pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MARCH 28, 1978.

[FR Doc. 78-8510 Filed 3-30-78; 8:45 am]

[7555-01]

SUBCOMMITTEE TO REVIEW THE SPACE RADIATION EFFECTS LABORATORY

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics; Subcommittee to Review the Space Radiation Effects Laboratory.

Date and time: April 18, 1978; 4 p.m. to 8 p.m.

Place: Room 341, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Howel G. Pugh, Head, Nuclear Science Section, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4317.

Purpose of subcommittee: To review the proposed plans of the Space Radiation Effects Laboratory (SREL) at Newport News, Va.

Agenda: To review the proposed plans of SREL, their relationship to the program at Columbia University's Nevis synchrocyclotron, and their relevance to the needs of U.S. scientists for user facilities in intermediate energy nuclear science.

Reason for closing: The projects being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer, pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Committee Management Coordinator.

MARCH 28, 1978.

[FR Doc. 78-8511 Filed 3-30-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-46, issued to Nebraska Public Power District (the licensee), for operation of the Cooper Nuclear Station located in Nemaha County, Nebr.

The amendment would allow the operation of Cooper with a new fuel type during Cycle 4 and includes the Technical Specification modifications associated with the operating limits for the new fuel.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By May 1, 1978, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provision of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceedings, and the petitioner's contentions with respect to the proposed licensing action. Such petition must be filed in accordance with the provisions of the FEDERAL REGISTER notice and § 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. G. D. Watson, General Counsel, Nebraska Public Power District, P.O. Box 499, Columbus, Nebr. 68601, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated February 6, 1978, as supplemented March 3, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Auburn Public Library, 118—15th Street, Auburn, Neb. 68305.

Dated at Bethesda, Md. this 30th day of March 1978.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 78-8738 Filed 3-30-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0204]

AMERICAN BUSINESS CAPITAL CORP.

Issuance of a License To Operate as a Small Busniess Investment Company

On January 18, 1978, a Notice was published in the FEDERAL REGISTER (43 FR 2681) stating that an application had been filed with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (SBIC) for a license to operate as an SBIC by American Business Capital Corp., 3550 North Central Avenue, Suite 520, Phoenix, Ariz. 85012.

Notice is hereby given that pursuant to the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 et seq.), after having considered the application and all other pertinent information and facts in regard thereto, SBA has issued License No. 09/09-0204 on March 1, 1978, to American Business Capital Corp. to operate as an SBIC.

(Catalog of Federal Assistance Programs No. 59.011, Small Business Investment Companies.)

Dated: March 23, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-8460 Filed 3—30-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1448; Amdt No. 1]

ARIZONA

Declaration of Disaster Loan Area

The above numbered Declaration (see 43 FR 12140) is amended in accordance with the President's declaration of March 4, 1978, to include Gila, Graham, Greenlee, Navajo, and Yavapai Counties in the State of Arizona. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named counties, and adjacent counties within the State. All other information remains the same, i.e., the filing date for applications for physical damage is close of business on May 5, 1978, and for economic injury until close of business on December 5, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 17, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-8458 Filed 3-30-78; 8:45 am]

[8025-01]

[License No. 02/02-5335]

COHEN CAPITAL CORP.

Issuance of License To Operate as a Small Business Investment Company

On December 5, 1977, a notice was published in the FEDERAL REGISTER (42 FR 61524), stating that Cohen Capital Corp., located at 8 East 36th Street, New York, N.Y. 10016, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.702 (1977), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business December 20, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 02/02-5335 to Cohen Capital Corp., on March 1, 1978, to operate as a small business investment company, pursuant to Section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: March 23, 1978.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc. 78-8461 Filed 3-30-78; 8:45 am]

[8025-01]

[Delegation of Authority No. 30, Revision 15; Amdt 20]

ASSISTANT BRANCH MANAGERS FOR F and I

Delegation To Conduct Program Activities in Field Offices

Delegation of Authority No. 30, Revision 15, republished in the FEDERAL REGISTER on February 25, 1976 (41 FR 8240), as amended (41 FR 16234, 17829, 28049, 36702, 47610, 50883, 42 FR 56990, 59153, 61347, 43 FR 55, 1577, 6667, and 10998), is hereby further amended to delegate authority to a new position of Assistant Branch Manager for F&I, Springfield Branch office.

Accordingly, Delegation of Authority No. 30, Revision 15, Parts I, II and Part IV are amended as set forth below:

In Parts I, II and IV, the words "Assistant Branch Manager for F&I Biloxi Branch Office only" appearing throughout these Parts are changed to read "Assistant Branch Manager for F&I, Biloxi Branch Office and Springfield Branch Office only."

Effective date: March 31, 1978.

Dated: March 24, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-8464 Filed 3-30-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1400; Amdt. 4]

LOUISIANA

Declaration of Disaster Loan Area

The above-numbered declaration (See 42 FR 60240), Amendment 1 (See 43 FR 3199), and Amendment 2 (See 43 FR 8604), and Amendment 3 (See 43 FR 12141), are amended by adding the following parish:

Parish	*Natural Disaster(s)*	*Date*
St. Charles.	Drought at planting; Excessive rain and flooding at harvest.	May 1, 1977 to Nov. 30, 1977.

and adjacent parishes within the State of Louisiana as a result of natural disasters as indicated. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 21, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-8459 Filed 3-30-78; 8:45 am]

[8025-01]

MAXIMUM INTEREST RATES

Notice is given that the Small Business Administration ("SBA") has established the maximum rates of interest that lending institutions participating with SBA may charge on loans approved by SBA on and after April 1, 1978, under section 7 of the Small Business Act, as amended, and section 502 of the Small Business Investment Act, as amended.

Effective April 1, 1978, the maximum rate of interest acceptable to SBA on a guaranteed loan or a guaranteed revolving line of credit shall be ten percent (10%) per year, and the maximum rate on an immediate participation loan shall be nine percent (9%) per year. These maximum interest rates are unchanged from the rates published in the FEDERAL REGISTER on December 30, 1977 (42 FR 65343), and shall remain in effect until notification of a change is issued by SBA.

In recognition of the substantially different characteristics of the economy of Alaska, including a substantially higher level of loan interest rates, as compared with the "lower 49 States", an interest rate differential of three-fourths percent (¾%) above the maximum allowable interest rate otherwise applicable for SBA loans is adopted hereby, effective April 1, 1978, for SBA loans made to borrowers in Alaska by lenders located in Alaska. The action is taken in light of the relatively limited availability of loan funds, and the higher costs experienced by lenders in Alaska. The action is consistent with the fact that SBA, in recognition of the State's economy, has published a size standard differential for Alaskan small businesses, and in further recognition of existing differentials to wage scales and cost of living allowances as applicable to Alaska.

The "SBA Optional Peg Rate" for the April-June 1978 quarter will be seven and seven-eighths percent (7⅞%) per year. This is an optional "peg" rate for use in connection with fluctuating-interest rate loans made in participation with SBA.

This notice is issued under 13 CFR 120.3(b)(2)(iv). Catalog of Federal Domestic Assistance Programs:

No. 59.002 Economic Injury Disaster Loans (E, F)
No. 59.012 Small Business Loans (E, F)
No. 59.013 State and Local Development Company Loans (E, F)
No. 59.014 Coal Mine Health and Safety Loans (E, F)
No. 59.017 Meat and Poultry Inspection Loans (E, F)
No. 59.018 Occupational Safety Health Loans (E, F)
No. 59.001 Displaced Business Loans (E, F)
No. 59.003 Economic Opportunity Loans for Small Businesses (E, F)
No. 59.010 Product Disaster Loans (E)
No. 59.020 Base Closing Economic Injury Loans (E, F)
No. 52.021 Handicapped Assistance Loans (E, F)
No. 59.022 Emergency Energy Shortage Economic Injury Loans (E, F)
No. 59.023 Strategic Arms Economic Injury Loans (E, F)
No. 59.024 Water Pollution Control Loans (E, F)
No. 59.025 Air Pollution Control Loans (E, F)

Dated: March 24, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-8465 Filed 3-30-78; 8:45 am]

[8025-01]

NATIONAL ADVISORY COUNCIL ANNUAL MEETING

Public Meeting

The Small Business Administration National Advisory Council will meet at 8:30 a.m., on Thursday, May 11, 1978, at the Sheraton National Motor Hotel, Columbia Pike and Washington Boule-

vard, Arlington, Va., to discuss such business as may be presented by members, the staff of the Small Business Administration, and others attending. Registration for this meeting will begin at 3 p.m., Wednesday, May 10, 1978. The meeting will adjourn at 12 noon, on Saturday, May 13, 1978. For further information call or write K. Drew, Deputy Advocate for Advisory Councils, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6892.

Dated: March 24, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-8462 Filed 3-30-78; 8:45 am]

[8025-01]

REGION I ADVISORY COUNCIL EXECUTIVE BOARD MEETING

Public Meeting

The Small Business Administration Region I Advisory Council Executive Board Meeting will hold a public meeting at 1 p.m., Friday, April 21, 1978, in the Conference Room, 60 Batterymarch Street, 10th Floor, Boston, Mass., to discuss such matters as may be presented by members, the staff of the Small Business Administration or others attending.

For further information, write or call John J. McNally, 60 Batterymarch Street, Boston, Mass. 02110, 617-223-4495.

Dated: March 24, 1978.

K. DREW,
Deputy Advocate for Advisory Councils.

[FR Doc. 78-8463 Filed 3-30-78; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. RSSI-78-3, Notice No. 1]

RETROFIT TIMETABLE FOR 112 and 114 UNINSULATED PRESSURE TANK CARS

Notice of Safety Inquiry

Pursuant to section 211.61 of its Rules of Practice (41 FR 54181; 49 CFR 211.61), the Federal Railroad Administration (FRA) is initiating a special safety inquiry concerning the feasibility of accelerating the retrofit schedule for 112 and 114 uninsulated pressure tank cars prescribed in 49 CFR 179.105-3.

On September 15, 1977, the Materials Transportation Bureau (MTB) published in the FEDERAL REGISTER (42 FR 46306) a final rule concerning specifications for tank cars which included the following timetable:

1. Existing specification 112 and 114 tank cars used to transport flammable gases are required to have both thermal and tank head protection and are to be retrofitted over a four-year period ending on December 31, 1981.

2. Existing specification 112 and 114 tank cars used to transport anhydrous ammonia are required to have tank head protection (such as a head shield) installed and are to be retrofitted with this protection over a four-year period ending on December 31, 1981.

3. All specification 112 and 114 tank cars are to be equipped with special couplers designed to resist coupler vertical disengagements. These couplers are to be retrofitted on all cars by July 1, 1979.

The recent major accidents at Pensacola, Florida, on November 9, 1977 and at Waverly, Tennessee, on February 22, 1978, in combination with an incident of apparent vandalism near Youngstown, Florida, on February 26, 1978, have again focused attention on measures to improve the safety of rail transportation of hazardous materials. In particular, attention has been directed toward the possibility of accelerating the retrofit timetable for 112 and 114 tank cars.

On March 15, 1978, the House of Representatives' Transportation and Commerce Subcommittee of the Committee on Interstate and Foreign Commerce conducted hearings on railroad safety matters which had come to national attention as a result of the incidents which had occurred at Pensacola, Waverly, and Youngstown. At this hearing, Mr. James B. King, Chairman of the National Transportation Safety Board (NTSB) stated that the NTSB believed that with a strong, sustained effort the special couplers and head shields could be installed on all 112 and 114 tank cars by late in December 1978.

On March 20, 1978, a second hearing was conducted jointly by the Subcommittee on Federal Spending Practices and Open Government and the Subcommittee on Civil Service and General Services of the Senate Committee on Governmental Affairs. At this hearing Mr. Phillip A. Hogue, NTSB member, reiterated the NTSB's position regarding the acceleration of the retrofit schedule. After reviewing the testimony, the subcommittees requested that the FRA consider revising the retrofit schedule.

While the retrofit timetable is part of the hazardous materials regulations issued by the MTB, it is the result of joint efforts of both the FRA and the MTB. In accordance with internal Departmental procedures, the FRA develops the substantive requirements of these regulations that pertain to the rail transportation of hazardous materials and the MTB performs a review function and issues the regulations. The revision of the retrofit schedule is basically a technical matter. The FRA will review the information it receives as a result of this inquiry and make an appropriate recommendation to the MTB.

The purpose of this special inquiry is to obtain sufficient information to enable the FRA to determine whether the existing tank car retrofit schedule can be accelerated. The substance of the regulation is not at issue; the FRA is concerned exclusively with the retrofit timetable. The FRA has requested that the Association of American Railroads, the NTSB, tank car builders, coupler manufacturers, shippers, and other interested parties actively participate in this inquiry by providing knowledgeable witnesses and pertinent manufacturing and maintenance data.

The public inquiry will begin at 10:00 a.m. on Friday, April 7, 1978 in Room 3201 of the Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590. Additional information concerning this inquiry may be obtained from Rolf Mowatt-Larssen 202-426-0924, Edward F. Conway, Jr. 202-426-8836, or Lawrence I. Wagner 202-426-8836.

AUTHORITY: Section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437), § 1.49(n) of the Regulations of the Office of the Secretary, 49 CFR 1.49(n).

Issued in Washington, D.C., on March 28, 1978.

JOHN M. SULLIVAN,
Administrator.

[FR Doc. 78-8629 Filed 3-30-78; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

PUBLIC INSPECTION OF WRITTEN DETERMINATIONS

Notice of Intention To Disclose

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Intention to Disclose.

SUMMARY: This document provides notice that the Service intends to make open to public inspection certain written determinations. This notice also explains how any person may determine whether any of the described written determinations pertain to that person, and explains the procedures that person may follow if there is disagreement regarding the proposed deletions.

DATES: Persons wanting to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice are requested to contact

the Service by April 17, 1978. Requests for additional deletions must be submitted by May 6, 1978. A petition in the United States Tax Court must be filed by June 14, 1978. Except for the disputed portion of any document that is the subject of an action brought in the United States Tax Court, the written determinations described in this notice will be make open to public inspection on July 24, 1978.

ADDRESS: Any questions or correspondence regarding this notice should be sent to: Internal Revenue Service, Attention: T:FP:R, Ben Franklin Station, Post Office Box 7604, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT:

George E. Freeland of the Rulings Disclosure Branch, Tax Forms and Publications Division, Office of the Assistant Commissioner, Technical; 202-566-4378 or 202-566-6272.

SUPPLEMENTARY INFORMATION: Section 6110(h) of the Internal Revenue Code of 1954 provides that certain written determinations (letter rulings and technical advice memoranda) issued in response to requests submitted before November 1, 1976, shall be open to public inspection. Accordingly, the Service is preparing to open to public inspection the written determinations issued after December 31, 1953, (except those issued in response to requests submitted after October 31, 1976) classified as reference and that originated in the Corporation Tax Division, Office of the Assistant Commissioner (Technical), or predecessor divisions, and that involve issues falling within the jurisdiction of that Division.

A written determination classified as reference is one the Commissioner has determined to have significant reference value.

Issues falling within the jurisdiction of the Corporation Tax Division are those involving:

(a) Income taxes and earnings and profits of corporate taxpayers;

(b) The taxable status of exchanges and distributions in connection with corporate organizations, reorganizations, and liquidations;

The Division also has jurisdiction over issues involving both corporate and noncorporate taxpayers with respect to certain other matters, including:

(c) Depreciation, depletion, valuation, and other engineering issues;

(d) The Income of States, Municipalities, etc.;

(e) Amortization of pollution control devices;

(f) Allocation of income and deductions among related taxpayers;

(g) Inventories;

(h) Research and experimental expenditures;

(i) Sales of low income housing projects;

(j) Cooperatives and their patrons, including exemption of farmers' cooperatives under section 521 of the Code;

(k) Shipowners' protection and indemnity associations under section 526 of the Code;

(l) Regulated investment companies and their shareholders;

(m) Controlled foreign corporations and their U.S. shareholders;

(n) Foreign tax matters that involve determinations of sources of income;

(o) Nonresident alien individuals and partnerships or alien residents of Puerto Rico, and withholding of tax on nonresident aliens and foreign corporations;

(p) Compensation of employees of foreign governments or international organizations;

(q) Income affected by treaty, and other matters involving the interpretation or application of tax treaties, except estate and gift tax treaties;

(r) Foreign tax credit;

(s) Earned income from sources without the United States and income from possessions;

(t) Lease v. sale matters and other financing arrangements;

(u) Certain investment credit matters;

(v) Small business investment stock company matters;

(w) Mitigation of effect of renegotiation of government contracts;

(x) Change in, or adoption of, accounting periods and methods;

(y) Prior to October 1, 1973, matters involving the Interest Equalization Tax.

The Division is composed of three branches: Corporation Tax Branch (T:C:C); Engineering and Valuation Branch (T:C:E); and Reorganization Branch (T:C:R). All reference written determinations issued during the prescribed time periods discussed in this notice and originating in these branches or predecessor branches are intended to be within the scope of this notice.

Deletions

Section 6110(c) of the Code requires the Internal Revenue Service to delete certain information from the documents described in this notice. The Service intends to delete names, addresses, and taxpayer identifying details, trade secrets, and the other information described in section 6110(c), before making the written determination open to public inspection.

Persons to whom the written determinations described in this notice pertain (or successors in interest, executors, or authorized representatives of these persons) may contact the Internal Revenue Service to find out whether their particular written determinations are among those to be made open to public inspection pursuant to this notice. These persons may request a copy of their written determinations with the proposed deletions indicated. Such requests should be submitted by April 17, 1978. Such requests must indicate the specific name of the party to which the written determination pertains, for example, a corporation acting on behalf of one or more subsidiaries must indicate the name of such subsidiary or subsidiaries. If such a person disagrees with the proposed deletions, that person may indicate any additional information that person believes should be deleted. Any request for additional deletions must be submitted by May 6, 1978, and must include a statement indicating which of the exemptions provided in section 6110(c) of the Code is applicable to each additional deletion requested. If the Service feels it cannot make any or all of the additional deletions requested, the Service will so advise the requester. The requester will then have the right to file a petition in the United States Tax Court. This petition must be filed by June 14, 1978.

Additional Disclosure

After the deleted copy of a written determination is made open to public inspection in the National Office Reading Room, any person may request the Service to make additional portions of the written determination open to public inspection. If the Service receives a request that involves disclosure of names, addresses, or taxpayer identifying numbers, the Service will deny the request. If the request involves disclosure of anything other than names, addresses, or taxpayer identifying numbers, the Service will contact the person to whom the written determination pertains before further action is taken.

Background File Documents

After the deleted copy of a written determination is made open to public inspection, any person may request copies of related background file documents. A general written determination is any written determination other than one the Commissioner determines to have significant reference value. Notice will be provided to the person to whom the written determination pertains if a request for related background file documents is received. The notice and any other notice or correspondence relating to public inspection of written determinations will be mailed to the latest address in the Service's written determination file, unless a later address is provided to the Service in connection with these matters.

The written determinations described in this notice will be made open to public inspection by being

placed in the National Office Reading Room, Room 1564, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, D.C. on July 24, 1978. However, the disputed portion of any document that is the subject of an action brought in the United States Tax Court shall not be made available until after a court determination regarding such portion is made.

JEROME KURTZ,
Commissioner of Internal Revenue.

[FR Doc. 78-8565 Filed 3-30-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

Notice Instituting a Proceeding; Petition for Declaratory Order; Definition of For-Hire Transportation of Passengers

[No. 36786]

AMERICAN BUS ASSOCIATION

AGENCY: Interstate Commerce Commission.

ACTION: Notice of institution of a declaratory order proceeding.

SUMMARY: Petitioner, The American Bus Association, seeks an order which would declare that transportation of passengers by bus shall be deemed to be for-hire transportation unless such transportation is performed without compensation and is within the scope, and in furtherance of, a primary enterprise (other than transportation) of the person performing it. Petitioner also asks the Commission to reverse its informal opinion set forth in the Chairman's letter to the U.S. General Accounting Office, dated May 31, 1977 (attached as an appendix to this notice), wherein the Commission advised "that a Federally funded entity which performs transportation for certain disadvantaged persons, for which no fare is charged, is not engaged in for-hire transportation, since the necessary element of compensation is absent." In support of its request petitioner contends that the informal ruling is inconsistent with Commission decisions that common or contract carriage arises even when someone other than the individual passenger arranges and pays for the transportation. By order served concurrently with this publication, a proceeding is being instituted for handling under the modified procedure to determine whether the definitions of common and contract carriage of passengers by motor vehicle set forth in section 203(a) (14) and (15) of the Interstate Commerce Act require that the element of compensation be received from the passengers themselves, and whether the primary business test used to distinguish private and for-hire motor transportation of property might also be adapted to motor transportation of passengers.

DATES: The filing and service of pleadings is to be as follows: (a) opening statement of facts and arguments by petitioner and any parties supporting petitioner on or before May 1, 1978; (b) 30 days after that date (May 31, 1978), statement of facts and argument by any party in opposition; and (c) 20 days thereafter (June 20, 1978), replies by petitioner and any supporting parties. In their statement of facts, parties shall describe in detail concrete factual situations illustrating the various arguments presented and providing examples of the various circumstances which should be distinguished.

ADDRESSES: Statements and replies should be sent to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Washington, D.C. 20423, 202-275-7693.

Issued in Washington, D.C., March 20, 1978.

By the Commission, Chairman O'Neal, Commissioner Gresham, and Commissioner Clapp voted to issue an order clarifying the intent of the prior GAO letter.

H. G. HOMME, Jr.,
Acting Secretary.

[No. 36786]

AMERICAN BUS ASSOCIATION

PETITION FOR DECLARATORY ORDER; DEFINITION OF FOR-HIRE TRANSPORTATION OF PASSENGERS

Order

The American Bus Association filed, on December 19, 1977, a petition for a declaratory order.

Petitioner seeks an order which would declare that transportation of passengers by bus shall be deemed to be for-hire transportation unless such transportation is performed without compensation and is within the scope, and in furtherance of, a primary enterprise (other than transportation) of the person performing it. Petitioner also asks the Commission to reverse its informal opinion set forth in the Chairman's letter to the U.S. General Accounting Office, dated May 31, 1977, wherein the Commission advised "that a Federally funded entity which performs transportation for certain disadvantaged persons, for which no fare is charged, is not engaged in for-hire transportation, since the necessary element of compensation is absent."

In support of its request petitioner contends that the informal ruling that compensation must come from the passenger is inconsistent with decisions of the Commission including, among others, *Whitfield Bus Lines, Inc., Contract Carrier Applic.*, 112 MCC 638, 646 (1970), by which the Commission found that common or contract carriage arises even when someone other than the individual passenger arranges and pays for the transportation. The clarification proposed by petitioner is adaptation of the primary business test used by the Commission for many years to distinguish between private and for-hire transportation of property by motor vehicle.

It is ordered:

1. Pursuant to section 5(e) of the Administrative Procedure Act, 5 U.S.C. 554(e), and in the exercise of the Commission's sound discretion thereunder, a declaratory order proceeding is hereby instituted, to be docketed as set forth above.

2. This proceeding is instituted to consider the formulation of appropriate guidelines for distinguishing between private and for-hire motor transportation of passengers. This consideration shall include, but not be limited to, (1) the source of compensation as it relates to this question, and (2) the possibility of application of the primary business test to the transportation of passengers.

3. Since this matter appears to be susceptible of handling under the modified procedure, pursuant to rules 43 to 52 of the Commission's general rules of practice, 49 CFR 1100.43-52, the filing and service of pleadings shall be as follows: (a) opening statement of facts and argument by petitioner and any parties supporting petitioner on or before 30 days from the date of service of this order; (b) 30 days after that date, statement of facts and argument by any party in oposition: and (c) 20 days thereafter, replies by petitioner and any supporting parties. In their statements of facts, parties shall describe in detail concrete factual situations illustrating the various arguments presented and providing examples of the various circumstances which should be distinguished.

4. That notice of this order shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by forwarding appropriate notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

Decided March 20, 1978.

By the Commission, Chairman O'Neal, Commissioner Gresham, and Commissioner Clapp voted to issue an order clarifying the intent of the prior GAO letter.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-8553 Filed 3-30-78; 8:45 am]

[7035-01]

[Notice No. 623]

ASSIGNMENT OF HEARINGS

MARCH 28, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as

promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

No. MC 64932 (Sub-No. 573), Rogers Cartage Co., now assigned April 4, 1978, at Chicago, IL, is canceled and application dismissed.

No. 36817, paper articles, between points in official territory, and No. 36817 (Sub-No. 1), sanitary paper and related articles, east, midwest and south, now being assigned prehearing conference on April 11, 1978, at the Offices of the Interstate Commerce Commision, Washington, DC.

MC 121656 (Sub-No. 4), Springfield Express, Inc., is now assigned for hearing May 1, 1978 (1 week) at Central City, KY, at a location to be later designated.

I & S No. 9179, cancellation of intermediate routing, Michigan Northern Railway now being assigned for continued hearing on April 3, 1978, at the Offices of the Interstate Commerce Commission, Washington, DC.

MC 124211 (Sub-No. 308), Hilt Truck Line, Inc., now assigned April 10, 1978 at Omaha, NE, is postponed indefinitely.

MC 143769, Kannapolis Transit Co., Inc., is now assigned for hearing June 26, 1978 (1 week) at Concord, NC, at a location to be later designated.

No. MC 108313 (Sub-No. 14), Caledonia Lines, Inc., now assigned April 12, 1978, at Washington, DC, is postponed indefinitely.

AB 16, San Diego & Arizona Eastern Railway Co. abandonment in San Diego and Imperial Counties, CA, is assigned for hearing April 4, 1978 at San Diego, CA, and will be held at San Diego Gas & Electric Co. Building, 101 Ash Street.

No. MC 117565 (Sub-No. 97), Motor Service Co., Inc., now assigned April 10, 1978, at Columbus, OH, is canceled and transferred to modified procedure.

MC 13027 (Sub-No. 26), Short Way Lines, Inc., is now assigned for hearing June 26, 1978 (1 week) at Toledo, OH, at a hearing room to be later designated.

No. MC 136285 (Sub-No. 26), Southern Intermodal Logistics, Inc., now assigned April 26, 1978, at Atlanta, GA, is postponed to June 28, 1978 (3 days), at Atlanta, GA, in a hearing room to be later designated.

MC 143459 (Sub-No. 1), Arrow Pocono Lines, Inc., now assigned April 3, 1978 at New York, NY, will be held in Room F-2220, Federal Building, 26 Federal Plaza, and will continue April 6, 1978 at the Tamiment Resort and Country Club, Tamiment, PA.

No. AB 57 (Sub-No. 7), Soo Line Railroad Co. abandonment in Baraga and Houghton Counties, MI, now being assigned for continued hearing on May 8, 1978 (8 days), at Houghton, MI, in a hearing room to be later designated.

MC 113651 (Sub-No. 244), Indiana Refrigerated Lines, Inc., now being assigned for May 22, 1978 (1 week), at New York, NY, in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-8550 Filed 3-30-78; 8:45 am]

[7035-01]

[Notice No. 624]

ASSIGNMENT OF HEARINGS

MARCH 27, 1978.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the official docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

CORRECTION [1]

MC-F 13434, Central Transfer Co.—Purchase (Portion)—Robert Emanuel and Margaret Emanuel, d.b.a. Emanuel's Express; and MC 1403 (Sub-No. 4), Central Transfer Co., are now assigned for hearing May 8, 1978 (1 week), at Philadelphia, Pa., at a location to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-8551 Filed 3-30-78; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 28, 1978.

These applications for long- and short-haul or aggregate-of-intermediates relief have been filed with the ICC.

Protests are due at the ICC within 15 days from the date of publication of this notice.

LONG AND SHORT HAUL

FSA No. 43528, Southwestern Freight Bureau, Agent's No. B-730, rates on alcohol and related articles, from Grosse Isle, LA, and Crosby, TX, to stations in AL, IL, IA, MN, NC, ND, and TN, in Sup. 86 to its tariff 210-M, ICC 5245, to become effective April 28, 1978. Grounds for relief—Market competition.

AGGREGATE OF INTERMEDIATES

FSA No. 43529, Southwestern Freight Bureau, Agent's No. B-731, rates on ethylene glycol, from Grosse Isle, LA, and Crosby, TX, to Clinton, IA, in Sup. 86 to its tariff 210-M, ICC 5245, to become effective April 28, 1978. Grounds for relief—Maintenance of depressed rates published to meet market competition without use of such rates as factors in constructing combination rates.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-8552 Filed 3-30-78; 8:45 am]

[1] This corrects title for MC 1403 (Sub-No. 4), which was previously published incorrectly.

[7035-01]

[Docket No. AB-43 (Sub-No. 46)]

ILLINOIS CENTRAL GULF RAILROAD CO.

Abandonment Near Washta in Cherokee County, IA

Notice is hereby given pursuant to section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by an certificate and order dated February 16, 1978, a finding, which is administratively final, was made by the Commission, Review Board No. 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 ICC 76 (1977) and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Co. of its line of railroad known as the Onawa District, extending from railroad milepost 0 at Onawa Junction, IA, to milepost 14.67 near Washta, IA, in Cherokee County, IA, a distance of 14.67 miles. A certificate of public convenience and necessity permitting abandonment was issued to the Illinois Central Gulf Railroad Co. Since no investigation was instituted, the requirement of section 1121.38(a) of the regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing exhibit I (section 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than April 17, 1978. The offer, as filed, shall contain information required pursuant to section 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective May 15, 1978.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-8554 Filed 3-30-78; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Commodity Futures Trading Commission	1
Consumer Product Safety Commission	2
Equal Employment Opportunity Commission	3
Federal Election Commission	4
Federal Energy Regulatory Commission	5, 6
Federal Reserve System (Board of Governors)	7, 8
Harry S Truman Scholarship Foundation	9
National Transportation Safety Board	10
Nuclear Regulatory Commission	11, 12
Occupational Safety and Health Review Commission	13

[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:30 a.m., April 5, 1978.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Federal Register document on Options Suspension.
Regulation 51.51 and Guideline II.

Portions closed to the public:

Enforcement Matters: Offer of settlement; subpoena enforcement; registrations.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-698-78 Filed 3-29-78; 3:22 pm]

[6355-01]

2

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND LOCATION: April 3, and April 5, 1978, 10 a.m. and April 6, 1978, 2 p.m. (if needed).

LOCATION: 3rd Floor Hearing Room, 1111 18th St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

MID-YEAR REVIEW

Following Mid-Year Review briefings on March 13, 14, and 15, 1978, and preliminary meetings on March 24 and March 27, 1978, the Commission will continue to consider the decision-making process on the following general matters:

Adjustments to the fiscal year 1978 Operating Plan.
Guidance to staff on the fiscal year 1979 Operating Plan.
Guidance to staff on the Zero-Based Budgeting exercise for fiscal years 1980-82.
Priority-setting for the next 18 months.
General guidance to staff in allocating resources within specific activities.

The April 6 meeting is tentative, and will be held only if needed.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202-634-7700.

[S-689-78 Filed 3-29-78; 8:55 am]

[6570-06]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, April 4, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Parts will be open to the public and part will be closed.

MATTERS TO BE CONSIDERED:

Parts open to the public:

1. Developments concerning hearings on Work-Scheduling as it relates to Religious Discrimination.
2. Developments concerning hearing and meeting on Proposed Uniform Guidelines on Employee Selection Procedures.
3. Report on Training Programs.

Part closed to the public:

Litigation Authorization; General Counsel Recommendations: Matters closed to the public under Sec. 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977).

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

Issued March 28, 1978.

[S-691-78 Filed 3-29-78; 11:20 am]

[6715-01]

4

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Monday, April 3, 1978 at 2:15 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting is open to the public.

MATTERS TO BE CONSIDERED: This meeting is convened at the request of 1976 Presidential Candidate Governor George Wallace, who asks to appear to appeal Federal Election Commission request for repayment of Federal matching funds to the U.S. Treasury.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, Press Officer, telephone, 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-695-78 Filed 3-29-78; 2:56 pm]

[6740-02]

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 12436, March 24, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., March 28, 1978.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

ER-5.—ER77-531, Illinois Power Co.
ER-6.—ER77-578, Kansas Gas & Electric Co.

M-4.—RM78- , Notice of proposed rulemaking on emergency purchases of natural gas.
RP-9.—RP71-107 and RP72-127, Northern Natural Gas Co.
RP-10.—RP73-112, RP74-92 and RP75-88, Algonquin Gas Transmission Co.
CP-3.—CP78-249, Columbia Gas Transmission Corp., Northern Natural Gas Co., and Panhandle Eastern Pipe Line Co.

KENNETH F. PLUMB,
Secretary.

[S-688-78 Filed 3-29-78; 8:55 am]

[6740-02]

6

MARCH 29, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., April 5, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the office of public information room 1000.

GAS AGENDA—84TH MEETING, APRIL 5, 1978, REGULAR MEETING

I. PIPELINE RATE MATTERS

A. Pipeline rates

RP-1.—Docket Nos. RP72-127 and R&D75-1, Northern Natural Gas Co.
RP-2.—Docket No. RP75-80, Alabama-Tennessee Natural Gas Co.
RP-3.—Docket Nos. RP73-107 and RP74-90, Consolidated Gas Supply Corp.
RP-4.—Docket No. RP71-77 (remand), RP73-107, RP74-90 and RP75-91, (depreciation) Consolidated Gas Supply Corp.
RP-5.—Docket Nos. RP76-136 and RP77-26, Transcontinental Gas Pipe Line Corp.
RP-6.—Docket Nos. RP73-3 (PGA76-2), RP73-69 and RP72-99, (EPGA76-3), Transcontinental Gas Pipe Line Corp.

II. PRODUCER MATTERS

A. Special relief

CI-1.—Docket No. RI77-120, American Petrofina Co. of Texas.
CI-2.—Reserved.
CI-3.—Reserved

B. Producer rates

CI-4.—Cities Service Co., Rate Schedule Nos. 219, 398, 335, 353, 373 and 374.

III. PIPELINE CERTIFICATE MATTERS

A. Pipeline certificates

CP-1.—Docket No. CP76-500, Cities Service Gas Co.
CP-2.—Docket No. CP77-604, El Paso Natural Gas Co. Docket No. CP77-658, Transwestern Pipeline Co.
CP-3.—Docket No. CP77-501, Arkansas Louisiana Gas Co.

GAS AGENDA—84TH MEETING, APRIL 5, 1978, REGULAR MEETING

CAG-1.—Docket No. CP77-226, Natural Gas Pipeline Co. of America and United Gas Pipe Line Co. Docket No. CP77-239, Sea Robin Pipeline Co.
CAG-2.—Docket No. RP73-8 (PGA No. 78-4), North Penn Gas Co.
CAG-3.—Docket No. RP72-110 (PGA No. 78-6), Algonouin Gas Transmission Co.
CAG-4.—Docket No. RP72-110 (PGA Nos. 78-4A and 78-5B), Algonouin Gas Transmission Co.
CAG-5.—Docket No. RP72-157 (PGA No. 78-7), Consolidated Gas Supply Corp.
CAG-6.—Docket No. RP74-100 (PGA No. 78-3), National Fuel Gas Supply Corp.
CAG-7.—Docket Nos. CI66-738, et al., Union Oil Co. of California, et al.
CAG-8.—Docket No. CI75-666, Midlands Gas Corp.
CAG-9.—(A) Docket No. CP75-158, Consolidated Gas Supply Corp. (B) Docket No. CP78-143, Consolidated Gas Supply Corp.
CAG-10.—Docket No. CP77-612, Texas Gas Transmission Corp.
CAG-11.—Docket No. CP78-129, Texas Eastern Transmission Corp. Docket No. CP78-141, Consolidated Gas Supply Corp. Docket No. CP78-158, Columbia Gas Transmission Corp.
CAG-12.—Docket No. CP78-35, United Gas Pipe Line Co. Docket No. CP78-160, Transcontinental Gas Pipe Line Corp.
CAG-13.—Docket No. CP77-387, Tennesse Gas Pipeline Co., a division of Tenneco Inc.
CAG-14.—Docket No. CP77-528, Texas Gas Transmission Corp.
CAG-15.—Docket No. CP78-28, Cities Service Gas Co.
CAG-16.—Docket No. CP78-41, Columbia Gas Transmission Corp. and Equitable Gas Co.
CAG-17.—Docket No. CP78-133, Colorado Interstate Gas Co.
CAG-18.—Docket No. CP78-18, El Paso Natural Gas Co.
CAG-19.—(A) *Cascade Natural Gas Corp.* v. *FERC*, D.C. Cir. No. 78-1173. (B) *Transcontinental Gas Pipe Line Corp.* v. *FERC*, 5th Cir. No. 78-1426. (C) *Arizona Electric Power Cooperative, Inc.* v. *FERC, D.C. Cir. No. 78-1198.*

MISCELLANEOUS AGENDA—84TH MEETING, APRIL 5, 1978 REGULAR MEETING

M-1.—Notification to the FERC, pursuant to section 404(a) of the DOE Organization Act, of the Secretary of Energy's proposed final rule amending 10 CFR Part 212, Subpart D—Producers of Crude oil

MISCELLANEOUS AGENDA—84TH MEETING, APRIL 5, 1978, REGULAR MEETING

CAM-1.—Crown Zellerbach Corp.

POWER AGENDA—84TH MEETING, APRIL 5, 1978, REGULAR MEETING

I. ELECTRIC RATE MATTERS

ER-1.—Docket No. ER78-242, Dayton Power & Light Co.
ER-2.—Docket No. ER78-236, Northern Indiana Public Service Co.
ER-3.—Docket No. ER76-709, Cincinnati Gas & Electric Co.
ER-4.—Docket No. E-8570(Fuel Clause), Southern California Edison Co.

II. LICENSED PROJECT MATTERS

P-1.—Project No. 349, Alabama Power Co.
P-2.—Project No. 485, Georgia Power Co.
P-3.—Project No. 2146, Alabama Power Co.
P-4.—Project No. 2782, City of Parowan, Utah.
P-5.—Project No. 2784, Pacific Gas & Electric Co.
P-6.—Project No. 553, City of Seattle, Wash.

POWER AGENDA—84TH MEETING, APRIL 5, 1978, REGULAR MEETING

CAP-1.—Docket No. E-9408, American Electric Power Service Corp.
CAP-2.—Docket No. E-7738, Boston Edison Co.
CAP-3.—Docket No. ER78-103, Indiana Michigan Electric Co.
CAP-4.—Project No. 5, the Montana Power Co.

KENNETH F. PLUMB,
Secretary.

[S-696-78 Filed 3-29-78; 2:56 pm]

[6210-01]

7

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, April 5, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed report to the Comptroller of the Currency regarding the competitive factors involved in the proposed merger of Concord National Bank, Concord, N.H., with the Pittsfield National Bank, Pittsfield, N.H.
2. Proposed statement to be presented to the House Committee on Banking, Finance and Urban Affairs regarding H.R. 7485, a bill authorizing national banks to underwrite and deal in certain securities issued by State and local governments.
3. Proposed amendment to Regulation Y (Bank Holding Companies) that would institute procedures for the establishment of a foreign office by a domestic nonbanking subsidiary of a bank holding company.

DISCUSSION AGENDA

1. Proposals concerning the Federal Reserve's participation in electronic funds transfer: (a) provision of interregional automatic clearing house services by the Federal Reserve System; (b) request by Bankwire II, a data communications firm owned by an association of com-

mercial banks, for the Federal Reserve System to provide settlement facilities through reserve account balances. (Proposed earlier for public comment; Docket No. R-0138).
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

MARCH 29, 1978.

[S-690-78 Filed 3-29-78; 9:15 am]

[6210-01]

8

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, April 5, 1978.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: This notice supersedes the notice forwarded earlier to the FEDERAL REGISTER.

SUMMARY AGENDA

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed report to the Comptroller of the Currency regarding the competitive factors involved in the proposed merger of Concord National Bank, Concord, N.H., with the Pittsfield National Bank, Pittsfield, N.H.
2. Proposed statement to be presented to the House Committee on Banking, Finance and Urban Affairs regarding H.R. 7485, a bill authorizing national banks to underwrite and deal in certain securities issued by State and local governments.
3. Proposed amendment to Regulation Y (Bank Holding Companies) that would institute procedures for the establishment of a foreign office by a domestic nonbanking subsidiary of a bank holding company.
4. Proposal to defer final action on possible amendments to Regulation Z (Truth in Lending) to simplify the required disclosures in closed end credit transactions by eliminating several detailed disclosures. The items considered for revision were itemization of finance charge; itemization of downpayment; and rebate of unearned finance charges upon prepayment. (Proposed earlier for public comment; Docket No. R-0098.)

DISCUSSION AGENDA

1. Proposals concerning the Federal Reserve's participation in electronic funds transfer: (a) provision of interregional automatic clearing house services by the Federal Reserve System; (b) request by Bankwire II, a data communications firm owned by an association of commercial banks, for the Federal Reserve System to provide settlement facilities through reserve account balances. (Proposed earlier for public comment: Docket No. R-0138.)
2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: March 29, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-694-78 Filed 3-29-78; 1:33 pm]

[6115-02]

9

HARRY S TRUMAN SCHOLARSHIP FOUNDATION.

TIME AND DATE: 10 a.m., Monday, April 10, 1978.

PLACE: Board Room, 712 Jackson Place NW., Washington, D.C. 20006.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Call meeting to order. Check quorum.
2. Adoption of proposed agenda.
3. Approval of minutes of January 23, 1978 meeting.
4. Report of Chairman.
5. Report of Executive Secretary.
6. Approval of Utah Scholar Brad Holm's personal plan for graduate work.
7. Discussion of administrative plan for the Foundation.
8. Discussion of awards ceremony.
9. New business.

Portions closed to the public:

1. Selection of Truman Scholars for 1978-79.

CONTACT PERSON FOR MORE INFORMATION:

Dr. Robert E. Cleary, Executive Secretary, telephone, 202-395-4831.

ROBERT E. CLEARY,
Executive Secretary.

[S-693-78 Filed 3-29-78; 1:33 pm]

[4910-58]

10

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 12180, March 23, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Thursday, March 30, 1978, 9:30 a.m. [NM-78-16].

CHANGE IN THE MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: Open.

1. *Discussion.*—Proposed Special Study "Human Error" in Air Carrier Accidents and Incidents.
2. *Recommendation.*—To the Federal Aviation Administration re Human Factors studies involving helicopter crew station and cyclic grip designs.
3. *Discussion.*—Proposed Criteria and Procedures for Implementing Joint NTSB-Coast Guard Accident Investigation Procedures.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-686-78 Filed 3-29-78; 8:55 am]

[7590-01]

11

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Monday, April 3, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

2:00 P.M.

1. Briefing by R. Hanfling (DOE) on proposed licensing legislation (approximately 1 hour—Public meeting).
2. Discussion of plan for research to improve the safety of light water nuclear power plants (approximately 1 hour—Public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

MARCH 27, 1978.

[S-692-78 Filed 3-29-78; 11:20 am]

[7590-01]

12

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: April 4, 1978.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

TUESDAY, APRIL 4—9:30 A.M.

1. Discussion of NRDC request for hearing in Tarapur export license (approximately 1 hour—Public meeting).
2. Affirmation items: (Approximately 15 minutes—Public meeting).
   a. Houston L&P re So. Texas Antitrust (may require brief discussion).
   b. Amendments to Parts 2 and 50, antitrust information required in certain cases.
   c. Miscellaneous amendments to 10 CFR Part 2.
   d. Response to letter from Environmentalists, Inc., requesting suspension of S-3 rulemaking.
   e. Proposed revision of 10 CFR 2.802 Petition for Rulemaking.
   f. Approval under section 145b for employment of Paul R. Verkuil as consultant for and access to secret NSI other than restricted data.
   g. Petition for Rulemaking RPRM 50-19: Parts 1 and 2, underground siting and heavy vacuum containments.
   h. Amendments to table S-3; response to NECNP petition.
   i. Adoption to rule change to Part 20, petition by State of Alaska on containers.
   j. Assessment of environmental impacts of uranium mills in agreement States.
3. Discussion of proposed licensing legislation (approximately 1 hour—Closed—Tentative).

NOTE.—The Commission is expected to vote to close the above item.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

MARCH 28, 1978.

[S-697-78 Filed 3-29-78; 2:58 pm]

[7600-01]

13

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 2 p.m., April 6, 1978.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners take at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson, 202-634-7970.

Dated: March 28, 1978.

[S-687-78 Filed 3-29-78; 8:55 am]

federal register

FRIDAY, MARCH 31, 1978
PART II



DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

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 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 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 amd 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 prevaling 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.

Florida:	
FL77-1049	Apr. 29, 1977.

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 decisions being superseded.

Nebraska:	
NE77-4281(NE78-4024); NE77-4282(NE78-4026).	Sept. 30, 1977.
Oklahoma:	
OK77-4275(OK78-4023)	Do.
Puerto Rico:	
PR77-3096(PR78-3019)	July 8, 1977.
Texas:	
TX77-4236, TX77-4237, TX77-4238, TX77-4239, TX77-4240, TX77-4241, TX77-4242, TX77-4243, TX77-4244, TX77-4245, TX77-4246, TX77-4247, TX77-4248, TX77-4249, TX77-4250, TX77-4251 (TX78-4025).	Sept. 30, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

General wage determination decision No. AL75-1046, Colbert, Franklin, Lauderdale, Lawrence, Marion and Winston Counties, Ala., is cancelled. Agencies with residential building construction projects pending in these counties should utilize the project determination procedure by submitting form SF-308. See regulations part 1 (29 CFR), section 1.5. Contracts for which bids have been opened shall not be affected by this notice, and consistent with 29 CFR 1.7(b)(2), the incorporation of decision No. AL75-1046 in contract specifications the opening of bids for which is within ten (10) days of this notice need not be affected.

Signed at Washington, D.C., this 24th day of March, 1978.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

MODIFICATIONS P. 1

Decision # FL77-1049 - Mod. 5.
(42 FR 22060 - April 29, 1977)
Leon County, Florida

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Delete:					
Linemen					
Change:					
BOILERMAKERS	9.95	1.05	1.05		.02
CARPENTERS:					
Carpenters; Soft Floor Layers	7.10	.25			.03
ELECTRICIANS	8.75	.50	3%		0.5%
ELEVATOR CONSTRUCTORS:					
Mechanics	9.875	.745	.56	6%	.025
Helpers	6.85	.745	.56	6%	.025
Probationary Helpers	4.89				
GLAZIERS	5.95	.35	.40		.06
LATHERS	6.95				.05
PILEDRIVERMEN	9.72	.25			.03
PLUMBERS:					
Plumbers; Pipefitters; Steamfitters	9.82	.30	.25		.05
ROOFERS:					
Roofers	8.20	.40	.20		.02
Kettlemen	5.70	.40	.20		.02
SPRINKLER FITTERS	10.16	.65	.95		.10
Add:					
SHEET METAL WORKERS	8.00	.85	.55		.07

SUPERSEDEAS DECISION

STATE: Nebraska COUNTY: Lancaster
DECISION NO.: NE78-4024 DATE: Date of Publication
Supersedes Decision No.: NE77-4281 dated September 30, 1977 in 42 FR 53087
DESCRIPTION OF WORK: Building Construction (does not include 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.
ASBESTOS WORKERS	$12.62	.40	.51		.03
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS, Stonemasons	9.575		.60		
CARPENTERS:					
Carpenters	8.575	.65	.40		
Piledrivermen	8.825	.65	.40		
CEMENT MASONS:					
Cement masons	8.85	.45	.30		
Swing stage	9.10	.45	.30		
ELECTRICIANS:					
Electricians Zone Definition					
Electricians from the main Post Office in Lincoln, Nebraska:					
Zone A 0 - 15 miles	11.60	.52	3%+.30		.04
Zone B 15 - 30 miles	11.90	.52	3%+.30		.04
Zone C 30 - 75 miles	12.20	.52	3%+.30		.04
Zone D 75 miles & over	12.60	.52	3%+.30		.04
ELEVATOR CONSTRUCTORS	11.56	.745	.56	4%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.745	.56	4%+a	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

FOOTNOTES:
a - Employer contributes 6% of the basic hourly rate for 6 months to 5 years' service and 8% of the basic hourly rate for over 5 years service as Vacation Pay Credit, Also 7 paid holidays.

GLAZIERS	11.16	.55	.50		.01
IRONWORKERS	9.70	.55	.45	1.00	.05
LABORERS:					
Common laborers	7.015	.55	.30		
Machine and air tool operators;					
Mason tenders	7.165	.55	.30		
Plasterers tenders	7.25	.55	.30		
LATHERS	8.35	.50	.40		
MARBLE MASONS	8.10				
PAINTERS:					
Brush	8.50	.45	.30		
Spray, steel, swing stage	9.00	.45	.30		
Paperhangers, taper	8.50	.45	.30		
PLASTERERS	9.755				
PLUMBERS: Pipefitters	11.72	.68	.70		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition	9.05		.10		
Slate and tile	9.45		.10		
SHEET METAL WORKERS	10.68	.50	.33		.03
SOFT FLOOR LAYERS	10.35			C	.05

FOOTNOTES:

c - Eight paid Holidays, A thru H; also employees with one year's continous service with the same employer, but less than 4 years shall receive 1 week's paid vacation; after 4 years continous service with the same employer shall receive 2 week paid vacation.

PAID HOLIDAYS:

A-New Years Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Christmas Eve; H-Day after Thanksgiving.

SPRINKLER FITTERS	11.65	.65	.95		.08
TERRAZZO WORKERS & TILE SETTERS	8.10		.25		
TRUCK DRIVERS:					
Single axle	5.825	.25	.25		
Tandem axle	5.95	.25	.25		
Trailers and Lowboys	6.075	.25	.25		
Lumber carriers	6.25	.25	.25		
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					
LINE CONSTRUCTION:					
Linemen	10.27	.45	3%		½%
Cable splicers	11.04	.45	3%		½%
Truck driver	7.42	.45	3%		½%
Equipment operator	9.24	.45	3%		½%
GROUNDMEN:					
(Inexperienced) 1st 6 months	3.42	.45	3%		½%
(Inexperienced) 2nd 6 months	5.04	.45	3%		½%
Thereafter	6.70	.45	3%		½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Group 1	6.875	.45	.30		
Group 2	7.00	.45	.30		
Group 3	7.75	.45	.30		
Group 4	7.955	.45	.30		
Group 5	7.35	.45	.30		
Group 6	8.275	.45	.30		
Group 7	8.20	.45	.30		
Group 8	8.25	.45	.30		
Group 9	8.35	.45	.30		
Group 10	8.60	.45	.30		

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS'S CLASSIFICATION DEFINITIONS

Group 1 - Firemen oilers; greasers; mechanic's helpers; industrial type tractor without attachments
Group 2 - Pumps - 4 inches and over
Group 3 - Industrial type tractor with attachments
Group 4 - Forklift or similar type equipment
Group 5 - Compressors - 300 cu. ft. or over, or a serier of compressors equalling 300 cu. ft. or over
Group 6 - Economobile
Group 7 - Single drum trucks or boom hoists; winch trucks; concrete pumps
Group 8 - One drum hoists; air tugger; mixer with capacity of 1 yard or more; Blade graders; bulldozers; front end loaders; hydraulic backhoe on industrial type tractor
Group 9 - Rubber tired earth moving equipment; hydrocrane
Group 10 - Two drum hoists; mechanics; cranes; piledrivers; shovels; draglines; clamshells; orange peel; backhoe; all shovel type equipment; all derricks and cranes

SUPERSEDEAS DECISION

STATE: Nebraska — COUNTIES: Douglas, Sarpy, Otoe
DECISION NUMBER: NE78-4026 — DATE: Date of Publication
Superesedes Decision No. NE77-4282 dated September 30, 1977 in 42 FR 53087
DESCRIPTION OF WORK: Building Construction including 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.
ASBESTOS WORKERS	$12.62	.40	.51		.03
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS, Stonemasons	10.73	.50	.40		.05
CARPENTERS:					
Carpenters	10.36	.57	.50		.05
Millwrights	10.61	.57	.50		.05
Piledrivermen	10.485	.57	.50		.05
CEMENT MASONS	10.37	.57	.55		
DRYWALL:					
Tapers and Finishers	10.34	.55		.50	.04
ELECTRICIANS - Douglas & Sarpy Cos.	12.38	.68	3%+.65		.06
Residential	8.45	.68	3%+.65		.06
ELECTRICIANS - Otoe County	11.90	.52	3%+.30		.04
ELEVATOR CONSTRUCTORS	11.56	.745	.56	4%+a	.02
ELEVATOR CONSTRUCTORS HELPERS	70%JR	.745	.56	4%+a	.02
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	50%JR				
GLAZIERS	11.16	.55	.50		.01
IRONWORKERS	9.65	.50	.55	1.00	.05
LABORERS:					
Common Laborers	7.57	.57	.40	.30	
Buggymobile Oprs., Mortar Mixers, Mason Tenders	7.715	.57	.40	.30	
Pipelayers	7.85	.57	.40	.30	
Plasterers Tenders	7.885	.57	.40	.30	
LATHERS	8.95	.57	.50	1.00	
MARBLE SETTERS, Tile and Terrazzo Workers	9.45		.25		
MARBLE, Tile and Terrazzo Workers Helpers'	8.11				

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Also 7 paid holidays

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:	$ 9.90		.45		.02
Brush			.45		.02
Structural Steel and Paperhangers	10.25		.45		.02
Spray, Swing Stage, hazardous and Sandblasting	10.50		.45		.02
PLASTERERS	10.53	.57	.50		
PLUMBERS	11.74	.70	.85		.10
ROOFERS:					
Composition - Douglas & Sarpy Cos.	9.68	.15	.20		.01
Otoe County	9.05		.10		
Slate; Tile - Douglas & Sarpy Cos.	9.98	.15	.20		.01
Otoe County	9.45		.10		
SHEET METAL WORKERS	11.84	.50			.07
Residential	8.76	.50			.07
SOFT FLOOR LAYERS	10.50			b	.05
SPRINKLER FITTERS	11.65	.65	.95		.08
STEAMFITTERS	11.99	.60	.75		.15
LINE CONSTRUCTION:					
Linemen	10.27	.45	3%		½%
Cable splicers	11.04	.45	3%		½%
Truck Driver	7.42	.45	3%		½%
Equipment Operators	9.24	.45	3%		½%
Groundmen:					
(Inexperienced) 1st 6 months	3.42	.45	3%		½%
(Inexperienced) 2nd 6 months	5.04	.45	3%		½%
Thereafter	6.70	.45	3%		½%
POWER EQUIPMENT OPERATORS:					
Group 1	8.24	.57	.50		
Group 2	8.34	.57	.50		
Group 3	8.63	.57	.50		
Group 4	10.10	.57	.50		
Group 5	10.20	.57	.50		
Group 6	10.45	.57	.50		
Group 7	8.26	.57	.50		

FOOTNOTES:
b. Eight paid Holidays, A thru H; also employees with one years' continuous service with the same employer, but less than 4 years shall receive 1 week's paid vacation; after 4 year's continuous service with the same employer shall receive 2 weeks paid vacation.

DECISION NO. NE78-4026 Page 3

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Oilers

Group 2 - Oiler drivers (motor truck crane)

Group 3 - Conveyors; Heaters; tractors, 35 HP or under; air compressors; pump and welding machine operator

Group 4 - Bulldozers; forklifts; concrete pumps; tractors over 35 HP; one drum hoists; straddle trucks; spread oiler

Group 5 - Blades; end loaders; self propelled scrapers

Group 6 - Two drum hoists; trenching machines; pile drivers; dredges; heavy duty mechanics; shovels; draglines; clamshells; orange peels; cranes; derricks; backhoes; winch trucks and side booms or cat booms; locomotives; firemen used on highpressure boilers in construction work; economoble; electric hammers and extractors

Group 7 - Greasers, Mechanics helpers

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Single axle	8.645	.57	.48		
Tandem axle	8.72	.57	.48		
Lowboy, trailer	8.845	.57	.48		
Lumber carriers	9.02	.57	.48		
WELDERS; Receive rate prescribed for craft performing operation to which welding is incidental.					

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Comanche
DECISION NO: OK78-4023 Date: Date of Publication
Supersedes Decision No. OK77-4275 dated September 30, 1977 in 42 in FR 53097
Description of Work: Building Construction (but does not include 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.
ASBESTOS WORKERS	$11.05	.45	1.00		.02
BOILERMAKERS	10.55	.80	1.00		.02
BRICKLAYERS-Stonemasons	9.60	.50	.30		.10
CARPENTERS:					
Carpenters	8.20	.45	.25		.04
Millwrights-Piledrivermen	8.70	.45	.25		.04
Power saw operator	8.325	.45	.25		.04
CEMENT MASONS	8.10				
ELECTRICIANS	10.25	.40	3%		1/4%
ELEVATOR CONSTRUCTORS	10.11	.545	.35		.02
ELEVATOR CONSTRUCTORS HELPER	70%JR	.545	.35		.02
ELEVATOR CONSTRUCTORS HELPER (Probationary)	50%JR				
IRONWORKERS	10.10	.45	.60		.12
LABORERS:					
Group I	5.95	.25	.40		
Group II	6.20	.25	.40		
Group III	6.70	.25	.40		

LABORERS CLASSIFICATION DEFINITIONS

GROUP I - All digging & dirt work, firing of salamanders & smudge pots; loading & unloading of materials & equipment ; loading & unloading of materials to & from hoist or cages for stock piling only; wheeling and placing of concrete; handling of lumber, steel, cement & distribution of materials; all cleaning, including cleaning of windows; wrecking and razing of building and all structures, cleaning and clearing of debris; loading & unloading of materials, hoist or cages, except when the man is directly tenders; and common laborers.

GROUP II - All machine tool operators that come under the jurisdiction of the laborers; all sewer and drain tile layers and handling at the ditch, excluding distribution; operators of water pumps up to 4 inches and slip form jacks; men erecting scaffolds and directly tending lathers, mason, cement masons & plasterers, motar mixers, hod carriers and dry mixers; high work over 30 feet from the ground or floors; cement finisher helper; work on swinging scaffold; all kettle and pot men, tank cleaning, all pipe doping, treating and wrapping, including all men working with dope; mortar and plaster mixing machine, pumpcrete machines, and gunite mixing machines, including placing of concrete; handling creosoted or treated materials, liquid acids, or like materials when injurious to health, eye and skin or clothes; all newly developed mechanical equipment which replaces wheel barrows or buggies previously used by laborers; all scale men on batch plants; all laborers screening sand, running sand drier and feeding operating sandblaster, except nozzle; signal men & cutting torch operators in connection with laborers work; concrete grader

GROUP III - Wagon drill operator and powdermen or blaster

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Linemen	9.85		3%		1/2%
Cable Splicers	10.44		3%		1/2%
Hole digger operator	8.94		3%		1/2%
Heavy equipment operators (or Pole cat equivalent)	8.94		3%		1/2%
Line truck driver (winch op)	8.09		3%		1/2%
Jack hammerman	7.37		3%		1/2%
Powdermen	8.94		3%		1/2%
Groundmen	6.57		3%		1/2%
Truck driver (flat bed, ton and half and under)	7.02		3%		1/2%
MARBLE SETTERS	10.05		.30		
PAINTERS:					
Brush and Roller	8.15		.25	.70	.05
Brush & roller (structural Steel)	8.40		.25	.70	.05
Spray	8.80		.25	.70	.05
Swing stage, bosun chair work	8.40		.25	.70	.05
Taping & bedding	8.55		.25	.70	.05
Sandblasting	8.50		.25	.70	.05
PLASTERERS	8.85				
PLUMBERS & PIPEFITTERS	10.97	.60	.85		.10
POWER EQUIPMENT OPERATORS:					
GROUP I	10.75	.45	.50		.12
GROUP II	10.50	.45	.50		.12
GROUP III	10.25	.45	.50		.12
GROUP IV	10.00	.45	.50		.12
GROUP V	9.75	.45	.50		.12
GROUP VI	9.50	.45	.50		.12
GROUP VII	9.25	.45	.50		.12
GROUP VIII	8.85	.45	.50		.12
GROUP IX	8.50	.45	.50		.12
GROUP X	8.50	.45	.50		.12
GROUP XI	8.25	.45	.50		.12

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I -
All crane type equipment with 250' of boom or over (including jib)

GROUP II
All crane type equipment with 200' of boom or over (including jib)

GROUP III
All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V
Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

DECISION NO. OK78-4023

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VI
Motor patrol (blade), fork lift (35' & over), dozer (engine H.P. 65 or over) fordson tractor or like equipment, with hoe or loader equipment of ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

GROUP VII
Locomotive engineer, boring maxhine, tug boat, mixer, 18 cu, ft. and over sand barge, dredging machine tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec. winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator crushing plants, oiler distributor, pulvimixer, farmen, tractor with or without attachiments batch plant operator (portable), conveyor-operator duel continuous or belt bulk handling, screed operator. concret pump. for grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII
Greaser, tilt top trailer operator

GROUP IX
Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2) fuelman, conveyor operator-single -continuous belt bulk handling

GROUP X
Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI
Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	9.15	.60	.25		.04
SHEET METAL WORKERS	9.56	.40	.40		.05
SOFT FLOOR LAYERS:					
Resilient floor layers and carpet layers	9.10	.50		.25	.03
SPRINKLER FITTERS	11.15	.65	.95		.08
TERRAZZO WORKERS:					
Terrazzo workers	10.05		.30		
Terrazzo workers Finishers	6.98				
Terrazzo workers floor machine op.	7.08				
Terrazzo base machine operator	7.28				

DECISION NO. OK78-4023

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE LAYERS	10.05		.30		
TILE & MARBLE Finishers (EXPERIENCED)	6.65				
TRUICK DRIVERS:					
Group I	6.92				
Group II	6.92				
Group III	6.62				

TRUCK DRIVERS CLASSIFICATION DEFINITION

Group I - Truck drivers for heavy equipment such as lowboys, heavy winch, and floats

Group II - Heavy earth moving equipment such as dump trucks and Euclids

Group III - Truck drivers and swampers such as dump trucks, flat beds, stake bodies, and 3/4 and 1/2 ton pock-up trucks

WELDERS - recieved rate prescribed for craft performing operation to which welding is incidential.

FOOTNOTES:

A. 1st 6 mos. - None; 6mos. to 5 yrs. - 6% over 5 yrs. - 8% of basic hourly rate.

B. 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

SUPERSEDEAS DECISION

STATE: PUERTO RICO COUNTY: ISLAND WIDE

DECISION NO.: PR78-3019 DATE: DATE OF PUBLICATION

Supersedes Decision No. PR77-3096 dated July 8, 1977 in 42 FR 35601

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	$ 3.00				
Carpenters	3.115				
Cement Masons	3.00				
Electricians	2.87				
Ironworkers, Reinforcing	2.50				
Laborers, Unskilled	2.50				
Painters	2.50				
Plasterers	2.80				
Plumbers	3.01				
Tile and Terrazzo Workers	3.00				
Truck Drivers	2.50				
Power Equipment Operators:					
Bulldozer	3.93				
Crane	4.10				
Digger and Transcavator	3.32				
Mechanic	3.465				
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

STATE: Texas
DECISION NO.: TX78-4025
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decisions No. TX77-4236 thru TX77-4251, dated September 30, 1977, in 42 FR 53118 thru 53146.
DESCRIPTION OF WORK: See "Area Covered by Various Zones"

	ZONE 1 Basic Hourly Rates	ZONE 2 Basic Hourly Rates	ZONE 3 Basic Hourly Rates	ZONE 4 Basic Hourly Rates	ZONE 5 Basic Hourly Rates
Air Tool Man	$ -	$ 3.00	$ 3.00	$ -	$2.75
Asphalt Heaterman	3.95	3.75	4.00	3.50	3.35
Asphalt Raker	4.00	4.00	3.85	3.30	3.50
Asphalt Shoveler	-	3.00	3.00	2.65	2.65
Batching Plant Scaleman	5.35	4.35	4.00	3.80	3.25
Batterboard Setter	-	3.00	3.65	2.65	3.25
Carpenter	5.50	5.50	4.40	5.00	4.20
Carpenter Helper	4.10	4.25	3.40	3.60	3.40
Concrete Finisher (Paving)	4.75	4.45	4.50	4.00	4.00
Concrete Finisher Helper (Paving)	3.50	3.35	3.25	3.00	3.00
Concrete Finisher (Structures)	4.85	4.45	4.25	3.90	4.05
Concrete Finisher Helper (Structures)	4.00	3.65	3.30	3.00	3.40
Concrete Rubber	-	-	-	3.10	3.50
Electrician	-	6.75	6.60	6.75	6.60
Electrician Helper	-	3.80	-	5.25	4.05
Fireman	-	-	-	-	-
Form Builder (Structures)	4.75	3.75	4.00	3.70	4.00
Form Builder Helper (Structures)	4.00	-	3.50	3.50	3.50
Form Liner (Paving and Curb)	4.00	-	-	2.85	4.00
Form Setter (Paving and Curb)	4.00	4.70	4.85	3.65	4.50
Form Setter Helper (Paving and Curb)	3.50	4.00	4.00	3.50	3.75
Form Setter (Structures)	5.50	5.50	5.50	3.90	4.10
Form Setter Helper (Structures)	4.50	4.20	3.55	3.50	3.30
Laborer, Common	3.00	3.00	3.00	2.65	2.65
Laborer, Utility Man	3.70	3.70	3.55	3.00	3.15
Manhole Builder, Brick	4.00	-	3.00	-	4.05
Mechanic	5.50	4.40	4.60	4.50	5.00
Mechanic Helper	4.15	4.00	3.75	3.35	3.65
Oiler	4.30	4.40	3.85	3.40	3.75
Serviceman	4.15	3.75	3.85	3.65	3.00
Painter (Structures)	5.00	-	6.00	5.00	4.90
Painter Helper (Structures)	-	-	3.50	4.00	3.00
Piledrivermen	-	-	-	3.40	4.75
Pipelayer	4.25	3.85	3.60	3.75	3.75
Pipelayer Helper	4.00	3.50	3.50	2.75	3.00
Pneumatic Mortarman	-	-	-	-	2.65
Powderman	4.90	4.90	4.25	4.50	4.00
Powderman Helper	-	-	3.50	3.45	2.65
Reinforcing Steel Setter (Paving)	4.35	-	-	3.50	3.85
Reinforcing Steel Setter (Structures)	4.80	4.85	4.25	3.60	4.35
Reinforcing Steel Setter Helper	3.25	-	3.75	3.10	3.50
Steel Worker (Structural)	-	-	3.75	3.50	4.25
Steel Worker Helper (Structural)	-	-	-	-	3.40
Sign Erector	3.50	-	4.15	4.30	3.35
Sign Erector Helper	-	-	3.25	3.25	-
Spreader Box Man	4.35	4.10	4.00	3.70	3.45
Swamper	3.60	4.00	-	3.70	3.25
Power Equipment Operators:					
Asphalt Distributor	5.45	4.20	4.00	3.60	4.00
Asphalt Paving Machine	5.15	4.20	3.50	3.35	4.00
Broom or Sweeper Operator	3.55	3.50	3.70	3.30	3.25
Bulldozer, 150 HP and Less	4.45	4.00	4.25	4.00	4.00
Bulldozer, over 150 HP	4.80	4.70	4.45	4.25	4.45
Concrete Paving Curing Machine	4.75	-	-	4.25	4.00
Concrete Paving Finishing Machine	4.80	4.35	-	4.65	-
Concrete Paving Form Grader	3.75	-	-	-	-
Concrete Paving Gang Vibrator	-	-	-	-	4.60
Concrete Paving Grinder	-	-	-	-	-
Concrete Paving Joint Machine	-	-	-	-	-
Concrete Paving Joint Sealer	-	-	-	-	-
Concrete Paving Longitudinal Float	-	-	-	-	-
Concrete Paving Mixer	4.80	-	-	-	3.25
Concrete Paving Saw	4.30	4.00	4.50	-	-
Concrete Paving Spreader	-	-	-	-	4.35
Paving Sub Grader	-	-	-	-	-
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.85	4.75	4.40	4.20	4.10
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.50	5.50	5.00	4.80	4.50
Crusher or Screening Plant Op.	5.00	4.55	4.25	3.80	3.75
Elevating Grader	-	4.00	4.10	-	3.50
Form Loader	-	-	-	-	3.25
Foundation Drill Operator (Crawler Mounted)	5.35	5.85	4.60	-	6.35
Foundation Drill Operator (Truck Mounted)	6.25	6.35	5.70	-	6.00
Foundation Drill Operator Helper	4.00	4.00	-	-	3.75
Front End Loader (2½ CY and Less)	4.00	4.00	3.90	3.90	3.70
Front End Loader (Over 2½ CY)	4.90	4.70	4.50	4.35	4.00
Hoist (Double Drum and Less)	-	-	-	3.10	-
Mixer (Over 16 CF)	4.65	-	-	-	4.50
Mixer (16 CF and Less)	"	"	"	"	"

	ZONE 1 Basic Hourly Rates	ZONE 2 Basic Hourly Rates	ZONE 3 Basic Hourly Rates	ZONE 4 Basic Hourly Rates	ZONE 5 Basic Hourly Rates
Power Equipment Operators (Cont'd)					
Motor Grader Operator, Fine Grade	$5.50	$5.50	$5.10	$4.85	$5.00
Motor Grader Operator	5.00	5.00	4.25	4.25	4.25
Pump Crete	-	-	-	-	-
Roller, Steel Wheel (Plant-Mix Pavements)	4.35	3.50	3.50	3.10	3.45
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.00	3.75	3.40	3.25	3.00
Roller, Pneumatic (Self-Propelled)	3.80	3.40	3.35	3.20	3.10
Scrapers (17 CY and Less)	4.20	4.00	3.90	4.00	3.65
Scrapers (Over 17 CY)	4.90	4.55	4.00	4.00	4.40
Self-Propelled Hammer	-	-	3.50	-	3.00
Side Boom	4.00	3.25	3.50	-	-
Tractor (Crawler Type) 150 HP and Less	3.80	3.35	3.35	3.00	3.00
Tractor (Crawler Type) over 150 HP	4.35	4.25	4.00	3.75	4.00
Tractor (Pneumatic) 80 HP and Less	3.75	3.35	3.75	3.15	3.25
Tractor (Pneumatic) over 80 HP	4.20	4.00	4.00	3.25	3.55
Traveling Mixer	4.35	3.25	3.85	4.15	3.50
Trenching Machine, Light	4.00	3.00	4.05	3.50	3.45
Trenching Machine, Heavy	4.00	-	-	4.25	4.50
Wagon Drill, Boring Machine or Post Hole Driller Operator	4.25	4.50	3.75	3.75	3.75
Truck Drivers:					
Single Axle; Light	3.00	3.45	3.40	3.40	3.00
Single Axle, Heavy	3.75	3.50	3.55	-	3.00
Tandem Axle or Semitrailer	3.55	-	3.50	-	3.00
Lowboy-Float	3.55	3.60	3.85	3.80	3.35
Transit-Mix	3.50	-	-	-	-
Winch	-	-	3.50	-	3.25
Vibrator Man (Hand Type)	3.05	-	-	-	-
Weighman (Truck Scales)	3.60	3.25	3.50	2.85	-
Welder	5.50	5.05	4.35	4.15	4.30
Welder Helper	-	3.25	-	-	3.75

	ZONE 6 Basic Hourly Rates	ZONE 7 Basic Hourly Rates	ZONE 8 Basic Hourly Rates	ZONE 9 Basic Hourly Rates	ZONE 10 Basic Hourly Rates
Air Tool Man	$ 2.75	$ 2.80	$ 3.30	$ 3.25	$3.40
Asphalt Heaterman	3.25	3.50	3.25	3.75	3.50
Asphalt Raker	3.55	3.70	3.75	4.00	4.25
Asphalt Shoveler	3.50	3.20	-	4.25	3.35
Batching Plant Scaleman	3.40	3.80	3.75	4.75	4.20
Batterboard Setter	-	3.80	-	-	-
Carpenter	4.00	4.50	4.80	4.55	4.75
Carpenter Helper	2.75	3.25	3.50	3.70	4.10
Concrete Finisher (Paving)	3.35	4.50	4.50	5.00	5.00
Concrete Finisher Helper (Paving)	2.75	2.80	-	3.50	4.00
Concrete Finisher (Structures)	4.20	4.50	4.00	4.50	5.00
Concrete Finisher Helper (Structures)	2.85	3.55	3.65	3.60	4.00
Concrete Rubber	-	3.10	2.75	3.10	3.50
Electrician	7.50	6.55	7.50	7.00	7.00
Electrician Helper	-	3.15	2.75	4.00	5.00
Fireman	-	-	-	-	-
Form Builder (Structures)	4.40	4.00	4.00	4.00	4.75
Form Builder Helper (Structures)	3.25	3.75	3.75	3.25	3.85
Form Liner (Paving and Curb)	3.00	3.50	4.50	-	5.00
Form Setter (Paving and Curb)	3.70	4.10	4.50	4.20	4.50
Form Setter Helper (Paving and Curb)	2.85	3.00	3.75	3.75	4.00
Form Setter (Structures)	4.40	4.35	4.85	4.35	5.00
Form Setter Helper (Structures)	3.00	3.30	3.70	3.55	3.50
Laborer, Common	2.75	2.80	2.65	3.10	3.00
Laborer, Utility Man	3.40	3.40	3.00	3.30	3.65
Manhole Builder, Brick	3.85	3.75	-	-	-
Mechanic	4.10	5.00	5.00	4.50	4.85
Mechanic Helper	3.60	3.75	3.75	4.00	4.35
Oiler	3.75	3.50	3.25	3.25	4.00
Serviceman	3.25	3.80	3.55	3.50	4.00
Painter (Structures)	-	5.00	4.25	3.50	-
Painter Helper (Structures)	-	3.50	-	-	-
Piledrivermen	3.95	3.75	-	4.00	4.50
Pipelayer	3.25	3.50	3.75	4.00	4.45
Pipelayer Helper	2.85	3.25	3.00	3.10	3.50
Pneumatic Mortarman	-	-	-	-	-
Powderman	3.75	-	4.40	4.35	4.55
Powderman Helper	-	-	3.75	-	-
Reinforcing Steel Setter (Paving)	3.80	-	-	-	4.00
Reinforcing Steel Setter (Structures)	3.75	3.80	4.30	5.10	4.25
Reinforcing Steel Setter Helper	3.25	3.00	3.75	3.10	3.00

	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Steel Worker (Structural)	$ -	$ -	$ 4.50	$ -	$4.15
Steel Worker Helper (Structural)	-	-	3.70	-	3.75
Sign Erector	5.00	-	3.50	4.65	4.50
Sign Erector Helper	3.50	-	2.95	3.10	3.90
Spreader Box Man	3.55	3.60	3.40	4.10	4.00
Swamper	-	-	-	4.00	-
Power Equipment Operators:					
Asphalt Distributor	3.40	3.90	4.00	4.00	4.00
Asphalt Paving Machine	4.00	4.40	4.00	4.00	4.50
Broom or Sweeper Operator	3.35	3.50	3.15	3.90	3.60
Bulldozer, 150 HP and Less	4.00	3.75	4.00	4.00	4.25
Bulldozer, over 150 HP	4.25	4.50	4.40	4.50	4.75
Concrete Paving Curing Machine	-	3.50	4.00	3.70	4.50
Concrete Paving Finishing Machine	-	3.00	-	-	4.95
Concrete Paving Form Grader	-	3.50	-	-	-
Concrete Paving Gang Vibrator	-	3.50	-	-	-
Concrete Paving Grinder	-	3.50	-	-	-
Concrete Paving Joint Machine	-	-	-	-	-
Concrete Paving Joint Sealer	-	-	-	-	-
Concrete Paving Longitudinal Float	-	-	-	-	4.50
Concrete Paving Mixer	-	-	-	-	4.00
Concrete Paving Saw	3.50	-	-	4.75	4.00
Concrete Paving Spreader	-	-	-	-	4.50
Paving Sub Grader	-	3.50	-	-	4.00
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.90	4.00	4.00	4.50	4.70
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.00	4.50	4.75	5.00	5.00
Crusher or Screening Plant Op.	3.50	3.50	-	4.15	-
Elevating Grader	-	4.00	-	-	-
Form Loader	-	-	-	-	3.25
Foundation Drill Operator (Crawler Mounted)	-	-	5.75	-	-
Foundation Drill Operator (Truck Mounted)	5.50	-	5.50	5.35	6.00
Foundation Drill Operator Helper	3.75	-	4.00	3.80	3.50
Front End Loader (2½ CY and Less)	3.80	3.85	3.50	4.00	4.15
Front End Loader (Over 2½ CY)	4.00	4.35	4.00	4.40	4.50
Hoist (Double Drum and Less)	-	-	-	-	-
Mixer (Over 16 CF)	-	4.25	-	-	3.75

	ZONE 6	ZONE 7	ZONE 8	ZONE 9	ZONE 10
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Power Equipment Operators (Cont'd):					
Mixer (16 CF and Less)	$3.50	$ -	$ -	$ -	$3.75
Motor Grader Operator, Fine Grade	4.50	5.25	5.00	5.00	5.00
Motor Grader Operator	4.05	4.50	4.50	4.50	4.35
Pump Crete	-	-	-	-	-
Roller, Steel Wheel (Plant-Mix Pavements)	3.50	3.50	3.65	3.70	3.90
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.10	3.00	3.00	3.60	3.50
Roller, Pneumatic (Self-Propelled)	3.30	3.25	3.00	3.50	3.85
Scrapers (17 CY and Less)	3.50	3.75	3.75	4.00	4.25
Scrapers (Over 17 CY)	4.00	4.50	4.75	4.25	4.50
Self-Propelled Hammer	3.15	-	-	-	4.25
Side Boom	-	-	-	-	-
Tractor (Crawler Typer) 150 HP and Less	3.00	3.60	3.00	3.25	3.85
Tractor (Crawler Type) over 150 HP	4.20	4.25	3.50	3.75	4.65
Tractor (Pneumatic) 80 HP and Less	3.00	3.00	3.25	3.10	3.50
Tractor (Pneumatic) over 80 HP	3.55	3.45	3.25	4.00	3.60
Traveling Mixer	3.50	3.50	-	4.25	4.15
Trenching Machine, Light	3.00	3.25	3.25	4.00	-
Trenching Machine, Heavy	-	-	4.50	4.45	-
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.75	3.75	4.00	4.00	3.80
Truck Drivers:					
Single Axle, Light	3.00	3.30	3.00	3.45	3.45
Single Axle, Heavy	-	-	3.15	-	3.95
Tandem Axle or Semitrailer	-	3.60	3.50	3.55	3.50
Lowboy-Float	-	3.50	-	3.90	4.85
Transit-Mix	-	-	-	-	-
Winch	3.50	-	-	-	-
Vibrator Man (Hand Type)	-	2.80	3.00	-	-
Weighman (Truck Scales)	-	-	-	3.10	3.00
Welder	3.85	3.90	5.00	4.50	5.00
Welder Helper	-	3.50	-	3.25	-

	ZONE 11 Basic Hourly Rates	ZONE 12 Basic Hourly Rates	ZONE 13 Basic Hourly Rates	ZONE 14 Basic Hourly Rates	ZONE 15 Basic Hourly Rates
Air Tool Man	$ 3.75	$ -	$ 3.05	$ 2.75	$3.75
Asphalt Heaterman	3.75	3.75	4.00	-	3.75
Asphalt Raker	4.75	3.75	4.00	3.65	4.25
Asphalt Shoveler	3.25	3.00	3.05	-	4.00
Batching Plant Scaleman	4.00	4.25	3.05	2.85	5.35
Batterboard Setter	3.25	-	-	-	4.15
Carpenter	4.80	4.90	4.45	5.10	5.65
Carpenter Helper	3.80	4.25	4.00	3.60	4.20
Concrete Finisher (Paving)	5.00	4.75	4.70	4.50	5.55
Concrete Finisher Helper (Paving)	4.00	4.00	3.65	4.00	4.00
Concrete Finisher (Structures)	4.50	4.60	4.75	4.90	5.45
Concrete Finisher Helper (Structures)	3.75	4.00	3.90	4.25	4.00
Concrete Rubber	3.25	3.10	-	-	4.25
Electrician	6.40	5.75	5.00	7.00	8.70
Electrician Helper	4.60	-	-	5.50	3.65
Fireman	-	-	3.05	3.00	-
Form Builder (Structures)	4.75	4.00	5.00	4.75	5.50
Form Builder Helper (Structures)	4.00	3.40	4.00	4.25	4.15
Form Liner (Paving and Curb)	4.75	3.25	3.75	-	5.50
Form Setter (Paving and Curb)	4.75	3.75	5.00	4.85	5.05
Form Setter Helper (Paving and Curb)	3.50	3.25	4.00	3.50	4.00
Form Setter (Structures)	4.50	4.50	5.15	5.50	5.00
Form Setter Helper (Structures)	3.65	3.75	3.75	3.50	3.95
Laborer, Common	3.00	3.00	3.05	2.75	3.65
Laborer, Utility Man	3.45	3.55	3.45	3.65	3.90
Manhole Builder, Brick	4.50	-	-	-	5.50
Mechanic	5.00	5.00	4.75	5.50	6.15
Mechanic Helper	3.90	4.00	4.00	3.80	4.00
Oiler	4.50	3.75	4.35	4.00	4.70
Serviceman	3.50	3.50	4.15	3.05	4.90
Painter (Structures)	5.50	5.50	-	-	6.50
Painter Helper (Structures	4.50	-	-	-	3.65
Piledrivermen	-	5.25	-	-	6.40
Pipelayer	3.80	4.00	3.85	3.50	5.00
Pipelayer Helper	3.00	3.00	-	2.75	4.25
Pneumatic Mortarman	-	-	-	-	-
Powderman	4.50	4.25	-	3.40	-
Powderman Helper	-	3.25	-	-	-
Reinforcing Steel Setter (Paving)	4.00	3.75	-	4.00	4.60
Reinforcing Steel Setter (Structures)	4.60	5.00	4.00	3.85	4.95

	ZONE 11 Basic Hourly Rates	ZONE 12 Basic Hourly Rates	ZONE 13 Basic Hourly Rates	ZONE 14 Basic Hourly Rates	ZONE 15 Basic Hourly Rates
Reinforcing Steel Setter Helper	$4.00	$3.50	$4.00	$ -	$3.65
Steel Worker (Structural)	4.10	5.00	-	-	5.10
Steel Worker Helper (Structural)	3.50	-	-	-	4.00
Sign Erector	4.00	-	-	-	3.85
Sign Erector Helper	3.25	-	-	-	-
Spreader Box Man	4.10	3.90	4.50	4.10	4.00
Swamper	4.00	3.30	-	-	-
Power Equipment Operators:					
Asphalt Distributor	4.30	3.75	4.60	4.25	5.10
Asphalt Paving Machine	4.55	4.00	4.50	4.10	5.00
Broom or Sweeper Operator	3.50	3.75	3.60	4.20	4.25
Bulldozer, 150 HP and Less	4.00	4.25	4.45	3.75	4.50
Bulldozer, over 150 HP	4.75	4.50	5.00	5.00	5.50
Concrete Paving Curing Machine	4.25	5.00	-	-	5.50
Concrete Paving Finishing Machine	5.00	4.50	-	-	4.75
Concrete Paving Form Grader	4.00	-	-	-	4.25
Concrete Paving Gang Vibrator	-	-	-	-	-
Concrete Paving Grinder	-	-	-	-	-
Concrete Paving Joint Machine	-	-	-	-	5.50
Concrete Paving Joint Sealer	4.00	-	-	-	5.50
Concrete Paving Longitudinal Float	4.50	-	-	-	4.75
Concrete Paving Mixer	5.25	4.50	-	-	-
Concrete Paving Saw	3.75	4.40	-	-	5.50
Concrete Paving Spreader	-	4.00	-	-	5.50
Paving Sub Grader	5.25	4.00	-	-	5.50
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.50	4.75	4.50	4.30	5.50
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.20	5.25	5.00	5.50	6.00
Crusher or Screening Plant Op.	4.50	3.50	4.00	3.75	3.65
Elevating Grader	-	4.25	-	-	-
Form Loader	3.25	3.75	-	-	3.80
Foundation Drill Op. (Crawler Mounted)	-	5.75	3.50	-	6.00
Foundation Drill Op. (Truck Mounted)	4.55	5.75	5.75	5.00	4.75
Foundation Drill Op., Helper	4.25	4.25	-	4.25	3.75
Front End Loader (2½ CY and Less)	4.00	4.00	4.10	3.80	4.00
Front End Loader (Over 2½ CY)	4.75	4.50	4.85	4.50	5.45
Hoist (Double Drum and Less)	-	-	-	-	3.65
Mixer (Over 16 CF)	-	4.50	3.65	-	5.00

	ZONE 11	ZONE 12	ZONE 13	ZONE 14	ZONE 15
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Power Equipment Operators (Cont'd):					
Mixer (16 CF and Less)	$3.75	$ -	$ -	$ -	$4.00
Motor Grader Operator, Fine Grade	5.00	5.00	5.00	5.20	6.00
Motor Grader Operator	4.55	4.50	4.65	4.00	5.50
Pump Crete	-	-	-	-	5.00
Roller, Steel Wheel (Plant-Mix Pavements)	4.65	4.50	4.25	3.80	4.80
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.05	3.50	4.00	3.75	4.35
Roller, Pneumatic (Self-Propelled)	4.00	3.65	4.50	3.40	4.25
Scrapers (17 CY and Less)	4.25	4.00	4.00	4.00	4.05
Scrapers (Over 17 CY)	4.75	4.65	5.00	4.50	5.00
Self-Propelled Hammer	-	-	-	-	-
Side Boom	-	-	3.35	-	-
Tractor (Crawler Type) 150 HP and Less	3.75	3.25	4.00	-	4.00
Tractor (Crawler Type) over 150 HP	4.85	4.50	4.80	4.00	4.75
Tractor (Pneumatic) 80 HP and Less	3.75	3.50	3.05	3.65	3.65
Tractor (Pneumatic) over 80 HP	4.75	4.50	4.25	-	5.00
Traveling Mixer	4.00	4.00	3.50	3.65	4.30
Trenching Machine, Light	3.75	-	-	-	5.10
Trenching Machine, Heavy	3.85	-	-	-	5.75
Wagon Drill, Boring Machine or Post Hole Driller Op.	3.35	4.50	-	3.75	3.65
Truck Drivers:					
Single Axle, Light	3.50	3.45	3.50	3.50	4.00
Single Axle, Heavy	3.50	3.95	3.50	-	4.50
Tandem Axle or Semitrailer	3.50	3.45	3.90	-	4.00
Lowboy-Float	4.10	-	5.00	-	4.50
Tranxit-Mix	4.00	-	-	-	5.00
Winch	3.60	-	-	-	-
Vibrator Man (Hand Type)	3.50	3.00	-	-	-
Weighman (Truck Scales)	3.00	3.00	-	2.95	3.65
Welder	4.50	4.50	4.50	3.60	5.50
Welder Helper	3.50	-	-	-	4.40

	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Air Tool Man	$ -				
Asphalt Heaterman	4.00				
Asphalt Raker	4.60				
Asphalt Shoveler	-				
Batching Plant Scaleman	4.85				
Batterboard Setter	-				
Carpenter	5.55				
Carpenter Helper	4.50				
Concrete Finisher (Paving)	6.00				
Concrete Finisher Helper (Paving)	4.00				
Concrete Finisher (Structures)	5.65				
Concrete Finisher Helper (Structures)	4.55				
Concrete Rubber	-				
Electrician	7.00				
Electrician Helper	-				
Fireman	-				
Form Builer (Structures)	4.50				
Form Builder Helper (Structures)	4.00				
Form Liner (Paving Curb)	4.50				
Form Setter (Paving and Curb)	5.50				
Form Setter Helper (Paving and Curb)	-				
Form Setter (Structures)	5.25				
Form Setter Helper (Structures)	4.00				
Laborer, Common	3.70				
Laborer, Utility Man	4.35				
Manhole Builder, Brick	-				
Mechanic	6.50				
Mechanic Helper	4.00				
Oiler	4.25				
Serviceman	4.00				
Painter (Structures)	6.00				
Painter Helper (Structures)	3.70				
Piledrivermen	4.60				
Pipelayer	5.20				
Pipelayer Helper	3.70				
Pneumatic Mortarman	-				
Powderman	-				
Powderman Helper	-				
Reinforcing Steel Setter (Paving)	4.50				
Reinforcing Steel Setter (Structures)	5.00				
Reinforcing Steel Setter Helper	4.00				

	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Steel Worker (Structural)	$ -				
Steel Worker Helper (Structural)	-				
Sign Erector	-				
Sign Erector Helper	-				
Spreader Box Man	4.90				
Swamper	-				
Power Equipment Operators:					
Asphalt Distributor	5.00				
Asphalt Paving Machine	5.00				
Broom or Sweeper Operator	3.70				
Bulldozer, 150 HP and Less	5.00				
Bulldozer, over 150 HP	5.50				
Concrete Paving Curing Machine	4.50				
Concrete Paving Finishing Machine	5.15				
Concrete Paving Form Grader	4.50				
Concrete Paving Gang Vibrator	-				
Concrete Paving Grinder	-				
Concrete Paving Joint Machine	4.50				
Concrete Paving Joint Sealer	-				
Concrete Paving Longitudinal Float	4.50				
Concrete Paving Mixer	-				
Concrete Paving Saw	4.25				
Concrete Paving Spreader	5.00				
Paving Sub Grader	-				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	5.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & Over)	6.00				
Crusher or Screening Plant Op.	-				
Elevating Grader	-				
Form Loader	-				
Foundation Drill Op. (Crawler Mounted)	-				
Foundation Drill Op. (Truck Mounted)	-				
Foundation Drill Op. Helper	-				
Front End Loader (2½ CY and Less)	5.00				
Front End Loader (Over 2½ CY)	5.45				
Hoist (Double Drum and Less)	-				
Mixer (Over 16 CF)	-				
Mixer (16 CF and Less)	-				
Motor Grader Operator, Fine Grade	6.00				

	ZONE 16				
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
Power Equipment Operators (Cont'd):					
Motor Grader Operator	$ 5.00				
Pump Crete	-				
Roller, Steel Wheel (Plant-Mix Pavements)	4.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.25				
Roller, Pneumatic (Self-Propelled)	4.50				
Scrapers (17 CY and Less)	4.85				
Scrapers (Over 17 CY)	5.00				
Self-Propelled Hammer	-				
Side Boom	-				
Tractor (Crawler Type) 150 HP and Less	3.75				
Tractor (Crawler Type over 150 HP	4.50				
Tractor (Pneumatic) 80 HP and less	3.70				
Tractor (Pneumatic) over 80 HP	4.50				
Traveling Mixer	4.50				
Trenching Machine, Light	-				
Trenching Machine, Heavy	-				
Wagon Drill, Boring Machine or Post Hole Driller Operator	-				
Truck Drivers:					
Single Axle, Light	3.70				
Single Axle, Heavy	4.00				
Tandem Axle or Semitrailer	4.00				
Lowboy-Float	6.25				
Transit-Mix	-				
Winch	-				
Vibrator Man (Hand Type)	-				
Weighman (Truck Scales)	-				
Welder	6.50				
Welder Helper	-				

AREA COVERED BY VARIOUS ZONES

ZONE 1 - Archer, Armstrong, Baylor, Briscoe, Carson, Castro, Childress, Clay, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchison, Lipscomb, Montague, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita & Wilbarger Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 2 - Bailey, Borden, Cochran, Cottle, Crosby, Dawson, Dickens, Fisher, Floyd, Foard, Gaines, Garza, Hale, Haskell, Hockley, Jones, Kent, King, Knox, Lamb, Lubbock, Lynn, Motley, Scurry, Shackelford, Stephens, Stonewall, Terry, Throckmorton, Yoakum & Young Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 3 - Andrews, Brown, Callahan, Coke, Coleman, Comanche, Concho, Crane, Crockett, Eastland, Ector, Erath, Glasscock, Howard, Irion, Kimble, Loving, Martin, McCulloch, Menard, Midland, Mills, Mitchell, Nolan, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Taylor, Tom Green, Upton, Ward & Winkler Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 4 - Brewster, Culberson, El Paso*, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves & Terrell Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

*Not to be used for Utilities Incidental to General Building Construction in El Paso County

ZONE 5 - Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Guadalupe, Kendall, Kerr, Kinney, LaSalle, Maverick, McMullen, Medina, Real, Uvalde, Val Verde, Wilson & Zavala Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 6 - Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Kenedy, Starr, Webb, Willacy & Zapata Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction, (does not include building structures in rest area projects), Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 7 - Aransas, Bee, Calhoun, DeWitt, Goliad, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Nueces, Refugio, San Patricio & Victoria Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects), Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 8 - Austin, Bastrop, Blanco, Burnet, Caldwell, Colorado, Fayette, Gillespie, Gonzales, Hays, Lee, Llano, Mason, Travis & Williamson Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects), and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 9 - Bell*, Bosque, Coryell*, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan & Navarro Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

*Not to be used for Paving & Utilities Incidental to General Building Construction in Bell & Coryell Counties

ZONE 10 - Cooke, Denton, Hood, Jack, Johnson, Palo Pinto, Parker, Sommervell, Tarrant* & Wise Counties

DESCRIPTION OF WORK: Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

*Not to be used for Utilities Incidental to General Building Construction in Tarrant County

ZONE 11 - Collin, Dallas, Ellis, Grayson & Rockwall Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels, dams & work performed on the site of water or sewage treatment facilities) and Highway Construction, (does not include building structures in rest area projects) and Paving & Utilities Inciddental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 12 - Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Rains, Red River, Rusk, Smith, Titus, Upshur, Van Zandt & Wood Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 13 - Anderson, Angelina, Cherokee, Henderson, Houston, Jasper, Nacogdoches, Newton, Panola, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity & Tyler Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 14 - Brazos, Burleson, Grimes, Leon, Madison, Milam, Robertson, Walker & Washington Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

ZONE 15 - Brazoria, Fort Bend, Galveston*, Harris, Matagorda, Montgomery, Waller & Wharton Counties

DESCRIPTION OF WORK: Highway Construction (does not include building structures in rest area projects) and Paving & Utilities Incidantal to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

*Not to be used for Paving & Utilities Incidental to General Building Construction on Galveston Island

ZONE 16 - Chambers, Hardin, Jefferson*, Liberty & Orange* Counties

DESCRIPTION OF WORK: Heavy (excluding tunnels & dams) and Highway Construction (does not include building structures in rest area projects) Incidental Shore Work and Paving and Utilities Incidental to General Building Construction. This wage determination does not apply to an y residential construction (single family homes and garden type apartments up to and including 4 stories).

*Not to be used for Heavy Construction, Incidental Shore Work and Paving & Utilities Incidental to General Building Construction in Jefferson & Orange Counties

[FR Doc. 78-8244 Filed 3-30-78; 8:45 am]

federal register

FRIDAY, MARCH 31, 1978
PART III



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

■

U.S.—EMBO Workshop to Assess Risks for Recombinant DNA Experiments Involving the Genomes of Animal, Plant, and Insect Viruses

[4110-08]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

U.S.—EMBO WORKSHOP TO ASSESS RISKS FOR RECOMBINANT DNA EXPERIMENTS INVOLVING THE GENOMES OF ANIMAL, PLANT, AND INSECT VIRUSES

Report

On September 27, 1977, proposed revised Guidelines for Research Involving Recombinant DNA Molecules were published in the FEDERAL REGISTER (42 FR 49596 et seq.) for public comment and consideration. The proposed revised Guidelines and comments received were considered by the Advisory Committee to the Director, National Institutes of Health (NIH), at its meeting on December 15-16, 1977.

In response to discussion concerning viruses at the Director's Advisory Committee meeting, a joint U.S.—EMBO Workshop to Assess Risks for Recombinant DNA Experiments Involving the Genomes of Animal, Plant, and Insect Viruses was held in Ascot, England, on January 26-28, 1978. The workshop was attended by 27 scientists from the United States, the United Kingdom, West Germany, Finland, France, Sweden, and Switzerland. The participants were invited because of their scientific expertise and not as representatives of any government or of any policymaking group.

The primary purpose of the meeting was to conduct a scientific and technical analysis of possible risks associated with cloning eukaryotic viral DNA segments in *E. coli* K-12 host-vector systems and with the use of eukaryotic viruses as cloning vectors in animal, plant, and insect systems. In addition, there were general discussions of the possible importance of recombinant DNA technology for the solution of problems in basic and applied virology and of the classification of viruses with respect to the hazard that laboratory research with them might pose to the laboratory worker or to the community.

To provide further opportunity for public comment and consideration, the Workshop report is presented below. This report will be considered by the Recombinant DNA Molecule Program Advisory Committee at its meeting on April 27-28, 1978. On the basis of comments received and review by the Recombinant Advisory Committee, the Director, NIH, will subsequently issue revised Guidelines for Research Involving Recombinant DNA Molecules accompanied by a decision document explaining the modifications.

Please address any comments on this report to the Director, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014. All comments should be received by April 15, 1978. Additional copies of this notice are available from:

Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014.

Dated: March 22, 1978.

DONALD S. FREDERICKSON,
Director,
National Institutes of Health.

REPORT OF U.S.-EMBO WORKSHOP TO ASSESS RISKS FOR RECOMBINANT DNA EXPERIMENTS INVOLVING THE GENOMES OF ANIMAL, PLANT, AND INSECT VIRUSES

This is the report of a joint U.S.-EMBO Workshop held in Ascot, England, January 27-29, 1978, which was convened to discuss the possible risks of recombinant DNA experiments involving the DNA's of animal, plant, and insect viruses. The 27 scientists in attendance (see attached roster) had expertise in clinical infectious disease; public health, medical and diagnostic virology; the biology of virus infection; biochemical virology; and plant, insect, and veterinary viruses. Five of the participants are actively engaged in recombinant DNA experimentation. A consensus statement of the discussions in the areas of pathogenesis and epidemiology of viral diseases, potential benefits of recombinant DNA experiments involving eukaryotic viral DNA, viral hazard classifications, and cloning in prokaryotic and eukaryotic systems is presented below. The group's conclusions, with respect to possible risks of recombinant DNA experiments involving viruses are based on the best available scientific data derived from publications, knowledge of current activities in the field of virology, and first-hand experience in the virology laboratory.

INTRODUCTION

Viral disease is a complex process that involves a series of critical steps; these include entry of the virus particle into the host, infection of specific cells at the portal of entry, replication of the virus in the infected cells, and usually, the spread of the progeny virus particles within the infected host to other susceptible cells. Depending upon the nature of the particular viral agent, the deleterious effects for the host, if any, may result from cytolytic activity, cellular transformation, chronic cellular dysfunction, or the provocation of an injurious immunological response. Viruses contain 5 to 150 or more genes and their coordinated functioning is required for viral growth and, consequently, for survival of the virus in nature. Even though we do not generally understand the precise role of each viral gene product, it seems clear that viral infection and disease production requires proper functioning of most, if not all, viral genes and, in general, is not a consequence of any single viral gene product. In the case of oncogenic papovaviruses, transforming retroviruses and possibly adenoviruses, individual viral genes are thought to be responsible for the transforming properties of the virus.

Recombinant DNA experiments have already yielded new information about the structure and control of expression of genes in higher organisms that could not have been obtained by conventional techniques. DNA cloning provides unparalleled opportunities to explore the basic biology of animal and plant viruses. Virologists will be able to probe more deeply into the control of viral gene expression and discover phenomena of general cell biological significance; techniques will be more readily available to elucidate the sequence of viral nucleic acids, to shed light on the role of viral gene products in pathogenicity, and eventually, to understand the molecular biology of animal and plant viruses to the extent that some bacteriophages are now understood. It seems apparent that this new information will lead to a deeper understanding of viral diseases and to new ways of combating them. In the immediate future the ability to obtain useful amounts of pure viral genomes and subgenomic fragments that cannot be obtained by other means will provide scientists and physicians with invaluable and inexpensive diagnostic protein and nucleic acid reagents. In the more distant future it should be possible to use gene cloning techneques to obtain large amount of viral proteins; one practical benefit from such developments might well be effective and safe vaccines for control of diseases caused by hepatitis viruses, herpesviruses and influenza viruses, and many other viruses, both known and, as yet, unknown.

In addition to being able to clone viral genes in bacteria we are now able to envisage using certain animal viruses as vectors for the propagation of foreign genes in animal cells; a similar system for exploiting a plant virus, cauliflower mosaic virus, to clone foreign genes in plant cells may shortly become available. The chief importance of animal and plant virus vectors is that they can be used to carry genes into cells in which they may be fully expressed as well as propagated. By using specifically designed viral vectors it may eventually prove possible to deliver a specific gene to specific target cells; such techniques have obvious medical, economic, and agricultural applications but their realization will depend upon a great deal of basic research.

Viral Classification Systems and Recombinant DNA Experimentation

The group extensively discussed the current safety procedures for holding and handling in the laboratory certain animal viruses, in particular those likely to be used in cloning experiments in the foreseeable future, either as vectors or as the sources of the nucleic acids to be cloned. Inevitably the recommended safety measures for using animal (and plant) viruses in research vary from country to country. In the context of recombinant DNA research, which involves a novel set of circumstances, none of the available classifications of viruses according to the risks they pose is entirely satisfactory. A list of animal viruses was therefore prepared and the viruses were ranked according to their known hazard on the basis of: (a) the severity of human disease that they can cause, particularly in persons exposed in the laboratory; (b) their potential for infecting laboratory workers; (c) the risk that a laboratory infection might result in spread to the community; and (d) the impact such spread might have on the community or environment (Table 1). In this list four bacteria and one rickettsial agent with different pathogenic potentials have also been included as a frame of reference for the 22 viruses identified. Because of time constraints, many animal viruses, particularly those of agricultural and veterinary importance, were not included in the table. Although not comprehensive, the list contains most of those animal viruses that have been previously mentioned in the context of recombinant DNA experiments.

This list can also serve the very useful function of a reference scale, familiar to both microbiologists and clinicians, for expressing the degree of concern that a given conjectural hazard may engender, by comparison to a known biohazard.

Cloning Viral DNA's in E. Coli K12

The cloning of viral DNA's and cDNA's in *E. coli*K12 using EK1 and EK2 plasmid and lambda phage vectors was discussed in light of the conclusions of the Falmouth meeting that *E. coli* K12 is not pathogenic and does not efficiently colonize the vertebrate digestive tract (Gorbach, 1978). Not for want of trying, the participants were unable to envisage a sequence of events which could occur with significant probability that would allow *E. coli* carrying either whole DNA genomes of certain viruses or sub-genomic fragments of virtually any virus to lead to disease. The question was also raised as to whether or not, in the extremely remote possibility that all of the biological and physical containment barriers broke down, intestinal bacteria carrying cloned whole viral genomes might bypass the natural barriers to infection by the virus particle. As summarized in the following section, the group concluded that the probability that K12 organisms carrying viral DNA inserts could represent a significant hazard to the community was so small as to be of no practical consequence.

Risk Assessment Analysis for Cloning Viral DNA in E. Coli K12[1]

The following is a summary of the workshop discussions dealing with possible mechanisms of risk resulting from the cloning of genetic material of eukaryotic viruses (i.e., viruses of animals, plants, or lower eukaryotes) in *E. coli* vector systems.

We started with the extremely unlikely "worst case" assumption that a recombinant molecule containing eukaryotic viral genome sequences has in some way become established in wild type *E. coli* and has thereby become disseminated throughout the bowel flora of vertebrates. Given this hypothetical set of conditions, what consequences could be envisaged? For the purposes of analysis the discussions focused on two issues: first, the mechanisms by which the viral nucleic acid might gain access to cells of the host; and second, the nature of the inserted viral sequences.

Access of the viral genome to cells of the vertebrate host might conceivably result from virus particles formed within the bacterium or from release of viral nucleic acid into the proximity of, or into, host cells; this could occur either in the intestine or at the site of extraintestinal *E. coli* infection.

Production of infectious virus particles by bacteria carrying the recombinant DNA molecules was considered to be virtually impossible, regardless of the completeness of the viral genome or the nature of the eukaryotic virus from which it was derived. The basis for this high degree of assurance is in large part our great understanding of the molecular biology of virus replication. The nature of regulation of gene expression in prokaryotes is clearly different from that in eukaryotes as particularly exemplified by the absence in prokaryotes of RNA splicing mechanisms (Berget et al., 1977; Aloni et al., 1977; Lavi and Groner, 1977; Mellon and Duesberg, 1977; Chow et al., 1977; Klessig, 1977; Dunn and Hassell, 1977), RNA capping (Moore, 1966; Stavis and August, 1970; Blattner and Dahlberg, 1972; Maizels, 1973; Wei and Moss, 1975; Furuichi et al., 1975a; Keith and Fraenkel-Conrat, 1975; Abraham et al., 1975; Furuichi et al., 1975b; Dubin and Taylor, 1975; Perry and Scherrer, 1975; Moss and Koczot, 1976) and differences in messenger RNA biogenesis, polyadenylation (Kates and Beeson, 1970; Darnell et al., 1971; Mendecki et al., 1972; Philipson et al., 1971; Weinberg et al., 1972; Ehrenfeld and Summers, 1972; Pridgen and Kingsbury, 1972), and ribosomal binding sites (Shine and Dalgarno, 1974; Steitz and Jakes, 1975; Hagenbuchle et al., 1978). The expression of animal viral mRNA in *E. coli* translation systems is not accurate; in one well studied system, poliovirus, internal initiation signals are read which result in premature chain termination (Rekosh et al., 1970). Thus neither the synthesis of proper mRNA nor its translation into viral protein is likely to occur in *E. coli*.

Virus replication requires the regulated and coordinated function of multiple enzyme systems derived from both the host and the viral genomes; it seems most unlikely that any prokaryote contains the complement of enzymes required for the synthesis of an infectious animal virus. Animal viruses have evolved to be adapted to replication in eukaryotic cells; except for the instances where they have co-evolved to replicate in insect vectors, animal and plant viruses show a high degree of specificity for cells of a particular class or species of host cell or even a particular differentiated cell type. Further, there is no verified example of the replication of a virus of eukaryotes in bacteria, or conversely, the replication of a bacterial virus in any eukaryote. Consequently, since it was not considered possible for recombinant DNA containing a viral chromosome to produce intact virus particles in *E. coli*, the group felt secure in focusing on models involving host cell exposure to viral nucleic acid rather than viral particles.

In a model in which recombinant DNA-containing organisms are confined to the lumen of the intestine, the possibility of viral RNA or DNA gaining access to mucosal cells is extremely remote. First, the large amounts of nucleases in the intestinal contents would rapidly destroy the recombinant molecules (Maturin and Curtiss, 1977). Second, the efficiency of infection of cells by viral nucleic acid molecules, even in the presence of chemical potentiators, is extremely low, both in vitro and in vivo (Ellem and Colter, 1961; Amstey and Parkman, 1966; McCutchan and Pagano, 1968; Graham and van der Eb, 1973; Israel et al., 1978a). Third, since animal experiments indicate that polyoma viral DNA cannot initiate infection when administered by the oral or nasal routes (Israel et al., 1978a), it is likely that nucleic acids cannot infect across mucous membranes.

Consequently, the only model to which serious attention must be directed is one in which the hypothetical bacterium carrying the viral re-

[1]This portion of the report was prepared subsequent to the U.S.-EMBO Workshop by Drs. Martin and Rowe.

combinant DNA gains access to the body tissues. Two cases can be considered. With minor transgressions of the intestinal mucosa that allow brief penetration of organisms into the intestinal wall, lymphatics, or the portal circulation, the bacteria would be ingested by phagocytes. In phagocytes, bacteria are lysed and their nucleic acid is released in the nuclease-rich lysosomes; the effectiveness of the lysosomal enzymes virtually guarantees that no nucleic acid could survive to cause infection (Bensch et al., 1964; Carrara and Bernardi [1968]; Arsenis et al., 1970).

The second case, extraintestinal infection such as urinary tract or surgical wound infection, deserves serious consideration, but it must be pointed out that this would occur in only a fraction of individuals. In this context the consequences of the infection would be a function of the nature of the viral DNA inserted in the recombinant DNA molecule. We considered the following classes of DNA inserts: (1) subgenomic segments of nononcogenic viruses; (2) transforming segments of oncogenic viruses; (3) cDNA prepared from the genome of segmented RNA viruses; (4) cDNA copies containing the complete viral genome of non-segmented RNA viruses; and (5) complete DNA viral genomes. The workshop participants reached the conclusion that viral inserts should be thought in terms of three classes of risk: those for which there was no risk of a harmful outcome, and those for which a possibility of harm, however remote, could be envisioned. The latter were then divided into those scenarios which may well in reality be impossible, and those which are felt to be possible.

Those inserts for which the group could not construct any realistic harmful scenario were: (1) subgenomic segments of non-transforming RNA or DNA viruses; (2) cDNA copies from RNA viruses with segmented viral genomes and (3) cDNA's of the complete genome of negative strand RNA viruses.

(1) Subgenomic segments (meaning small portions of the viral genome lacking genes needed for replication of the virus) of non-transforming viruses are considered to be harmless because of the absence of any known example of an individual viral encoded protein which can act exogenously on cells. With the exception of some glycoproteins when added to cell cultures in high concentrations (Scheid and Choppin, 1974; McSharry and Choppin, 1978), viral proteins do not induce cell damage from without.

(2) Reverse transcripts of RNA viruses with segmented genomes cannot be envisaged as carrying any risk of producing infectious virus even when the cDNA is made from unfractionated nucleic acid preparations. It would be virtually impossible to ligate together a complete DNA copy, and if this ever did occur, we cannot envisage any way that the proper length RNA genome segments could be transcribed therefrom.

(3) Cloning of reverse transcripts of negative strand RNA viruses is viewed as being free of risk. With these viruses, the process of viral mRNA and genomic RNA synthesis is complex, and the Workshop participants could not envisage a set of circumstances in which RNA segments, transcribed from a DNA template, could eventuate in the synthesis of progeny virus. This is based on the fact that the nucleic acid of negative strand RNA viruses (either the plus or minus strand) has never been shown to be infectious for cells (Kingsbury, 1966; Baltimore et al., 1970; Wagner, 1975) presumably because of their unique molecular biology. Infection by negative strand viruses requires the activity of the virion associated transcriptase (Baltimore et al., 1970; Cormack et al., 1971; Szilagyi and Pringle, 1972); this enzyme catalyzes the synthesis of multiple (segmented) functional plus strand mRNA molecules from the input minus strand (Bratt and Robinson, 1967; Huang et al., 1970; Mudd and Summers, 1970; East and Kingsbury, 1971; Weiss and Bratt, 1976; Freeman et al., 1977). A polypeptide specified by one of these mRNAs then modifies the virion transcriptase to function as a replicase mediating the synthesis of a complete unsegmented plus strand of RNA, the template for synthesis of progeny minus strand RNA molecules. The minus strand has no messenger function (Huang et al., 1970; Grubman and Summers, 1973; Kingsbury, 1973; Morrison et al., 1974). Thus, to initiate the infectious process both a full length RNA transcript (to serve as template) and the segmented plus strand transcripts, capped for function as mRNA, would be required. This would necessitate either the transcription of both DNA strands by cellular RNA polymerase or the synthesis of a full length transcript as well as properly terminated, segmented transcripts from the minus strand DNA. These are obviously extremely unlikely events.

There were two classes in which it was considered that a risk scenario might be constructed but which might indeed be impossible; these involve the cloning of the transforming segments of DNA viruses or of transforming retroviruses, and the cloning of complete reverse transcripts of plus-strand RNA viruses. The model involving subgenomic, transforming segments postulates release of recombinant DNA molecules by lysis of *E. coli* in the tissues, and integration of the transforming gene segment into the DNA of host cells. While this eventuality cannot be ruled out, it was considered to have a very low probability in view of the inefficiency of transforming cells with viral nucleic acid (Aaronson and Martin, 1970; Graham et al., 1974; Abrahams et al., 1975) and the fact that integration of transforming DNA would occur in only a few cells in any one individual and, in the presence of competent immunosurveillance, would be most unlikely to result in a tumor (Habel, 1961; Sjogren, 1964; Sjogren et al., 1967; Costa et al., 1977). Transplantation studies with primary tumors and transformed tissue culture cells indicate that large numbers of cells are required to initiate tumor growth; in general, only after adaptation effected by long passage in animals do small numbers of cells produce tumors (Sjogren, 1964; Klein, 1975). In this regard, it should be noted that there is overwhelming evidence that humans are highly effective in averting tumorigenesis by DNA viruses. Man, and many other vertebrates as well, are infected repeatedly with DNA viruses (e.g. papovaviruses and adenoviruses) that contain the transforming regions discussed above (Huebner et al., 1954; Hilleman, 1957; Shah et al., 1973; Padgett and Walker, 1973; Brown et al., 1975; Shah and Nathanson, 1976). Some of these viruses are even known to induce tumors in laboratory rodents, yet, despite intensive search, none of these has been reproducibly associated with the etiology of any malignancy in humans (Mackey et al., 1976; Fiori and DiMayorca, 1976; Wold et al., 1978; Israel et al., 1978b).

The risk scenario whereby a cDNA transcript of a positive strand RNA virus leads to infection of the host was considered to have a finite but low probability. In this model, extraintestinal infection by the bacterium carrying the recombinant DNA results in the recombinant DNA molecule, or plus strand RNA transcripts thereof, entering into host cells with resultant productive viral infection. Neither carries a risk if the cDNA Insert is not a complete copy of the RNA genome. Unless a deliberate attempt is made to select full-length cDNA molecules for ligation to prokaryotic DNA vectors, the vast majority of recombinant DNA molecules will contain only a segment of viral specific DNA and, as a consequence, the likelihood of cloning the whole genome will be low.

The major block to synthesis of infectious RNA from the recombinant DNA molecule either in the prokaryotic or eukaryotic cell would be the inaccurate initiation of transcription. There is no reason to believe that the 5' terminus of the viral genome would generate a binding site for either prokaryotic or eukaryotic RNA polymerases following reverse transcription into DNA. Rather, RNA synthesis would be initiated either:

(1) Internally, by a random initiation process which would yield noninfectious molecules;

(2) Upstream, either at a prokaryotic promoter or at a random initiation site, in the eukaryotic cell which would generate a leader sequence lacking the appropriate recognition signals for binding to eukaryotic ribosomes (Shine and Dalgarno, 1974; Steitz and Jakes, 1975; Hagenbuchle et al., 1978). To produce infectious RNA from such a primary transcript, a site-specific cleavage would have to occur;

(3) At the 5' terminus by random initiation, but this undoubtedly would be an extremely rare event.

Any full-length plus strand transcripts synthesized in *E. coli* would have to escape degradation by extracellular ribonucleases following their release from bacteria and then initiate an infection in a sensitive cell, which, under the best conditions in the laboratory, is an extremely inefficient process (Ellen and Colter, 1961).

Further studies of this type of viral DNA insert would clearly be desirable.

The cloning of the complete genome of DNA viruses (including proviral forms of retroviruses) provides a scenario felt to carry a finite probability of risk, but this too is considered extremely low. Since viral DNA molecules are generally infectious, any situation in which the complete viral genome, without deletion or substitution, is excised from the recombinant molecule could conceivably lead to infection. In particular, circular DNA genomes, cleaved with a single cut restriction enzyme and ligated to a prokaryotic vector, provide such a condition; however, for accurate excision one must postulate the unlikely eventuality of the recombinant molecule being brought in contact with the same restriction enzyme used during the insertion of the DNA segment into the vector. Complete viral genomes could also be generated from a recombinant molecule in the case of oligomers of viral DNA inserts; a complete copy of the viral DNA could then be generated by intramolecular recombination. Full length linear DNA molecules inserted into a vector by oligo dA—oligo dT tailing or by addition of other linker molecules would be unlikely to excise accurately terminating genomes.

Given that it is conceptually possible to generate infectious molecules from recombinant DNA containing the complete genome of DNA viruses, it is important to assess the factors that would result in such infectious DNA causing disease. The probability that the excised molecules would infect host cells is of course relatively low in view of the inefficiency of infection by naked DNA (Ito, 1960; Burnett and Harrington, 1968; McCutchan and Pagano, 1968; Mayne et al., 1971; Graham and van der Eb, 1973; Sol and van der Noordaa, 1977). Another important factor in such a scenario is the susceptibility of neighboring cells to the virions produced by a cell infected with the infectious DNA. If the surrounding cells were not sensitive to the virus itself, the initially infected cell, producing virions, could not spread this infection to other cells or tissues; in the absence of virus spread there would be no risk other than the possible transformation of a small number of cells, in the case of oncogenic viruses, as discussed above. Only if the host was sensitive to the virus would spread occur; this would not be different from infection with the virus itself and would not generally represent a unique biohazard. Further study of this type of viral DNA insert would be extremely useful.

RECAPITULATION

It should be noted that these model scenarios were not constructed from an anthroipocentric viewpoint, but apply generally to any model in which vertebrates are colonized by the *E. coli* carrying the recombinant molecule.

To recapitulate, even assuming a worst case situation, this analysis leads us to conclude that cloning the subgenomic segments of nononcogenic viruses, the complete genome of negative strand RNA viruses, and any part of the genome of segmented viruses carries no risk of generating a biohazard. Second, it is possible to construct conceivable but extremely unlikely sets of circumstances resulting in a biohazard from the cloning of the transforming segment of oncogenic viruses. And third, it is possible to envisage feasible biohazard scenarios from cloning of the complete genome of DNA viruses or the entire genome of plus strand RNA viruses but even these carry little possibility of risk. When this analysis is combined with the immense unlikelihood of generating this worst case scenario in the first place, given good laboratory practice and the safety inherent in use of approved *E. coli* K12 host vector systems (Gorbach, 1978), the group felt strongly justified in concluding from available scientific information that viral genomes or fragments thereof, cloned in *E. coli* K12 using approved plasmid or phage vectors pose no more risk than work with the infectious virus or its nucleic acid and in most, if not all cases, clearly present less risk. In fact, the Workshop participants agreed that cloning of viral DNA in *E. coli* K12 may provide a unique opportunity to study with greatly reduced risks the biology of extremely pathogenic and virulent viruses.

The group also agreed that the cloning of cDNA copies of viroids in *E. coli* K12 should be postponed until more information is available about their molecular and cellular biology.

RECOMMENDATION

Based on these considerations the participants of the U.S.-EMBO Workshop concluded that the use of P2 (NIH Guidelines) or CI (Williams Report) containment measures, in conjunction with an EK1 host-vector system should provide adequate containment for cloning any viral genome or fragment thereof and recommended this as the minimum containment levels for recombinant DNA experiments involving eukaryotic viral DNA inserts. However, if the virus itself must be handled at higher levels of physical containment it seems prudent at the present time to use the more stringent containment conditions. It was emphasized that containment practices must include adequate training and the use of high quality microbiological technique.

EXPERIMENTS WITH EUKARYOTIC HOST-VECTORS

1. VERTEBRATE HOST-VECTOR SYSTEMS IN WHICH VIRAL DNA VECTORS ARE USED TO PROPAGATE OTHER DNA SEGMENTS

The Workshop participants endorsed the portion of the NIH guidelines that describes the features required for an animal virus to be used as a cloning vector (i.e. the first portion of section III.B.3.a. of the draft version, Revised NIH Guidelines for Recombinant DNA Research). The following is our recommended version of this section:

"Because this work will be done almost exclusively in tissue culture cells, which have no capacity for propagation outside the laboratory, the primary focus for containment is the vector; it should be pointed out that the risk of laboratory acquired infection as a consequence of tissue culture manipulations is very low. Given good microbiological practices, the most likely mode of escape of recombinant DNAs from a physically contained laboratory is carriage by an infected human; thus the vector with an inserted DNA segment should have little or no ability to replicate or spread in hmans. Further, a recombinant virus should not inadvertently pose a threat to any species.

For use as a vector in a vertebrate host cell system, an animal viral DNA molecule ideally should display the following properties:

(a) It should not consist of the whole genome of any agent that is infectious for humans or that replicates to a significant extent in human cells in tissue culture.

(b) It should be derived from a virus whose epidemiological behavior and biological properties are well understood.

(c) Its functional anatomy should be known—that is, there should be a clear idea of the location within the

molecule of: (i) The sites at which DNA synthesis originates and terminates. (ii) The sites that are cleaved by restriction endonucleases. (iii) the template regions for the major gene products.

(d) It should be defective when carrying an inserted DNA segment; that is, propagation of the recombinant DNA as a virus must be dependent upon the presence of a complementing helper genome. In almost all cases this condition would be achieved automatically by the manipulations used to construct and propagate the recombinants. In addition, the amount of DNA encapsidated in the particles of most animal viruses is defined within fairly close limits. The insertion of sizeable foreign DNA sequences, therefore, generally demands a compensatory deletion of viral sequences. It may be possible to introduce very short insertions (50–100 base pairs) without rendering the viral vector defective. In such a situation, the requirement that the viral vector be defective is not necessary.

If possible the helper virus genome should:

(i) Be integrated into the genome of a stable line of host cells (a situation that would effectively limit the growth of the vector recombinant to such cell lines) or

(ii) Consist of a defective genome, or an appropriate conditional lethal mutant virus, making vector and helper dependent upon each other for propagation.

However, neither of these stipulations is a requirement."

The group discussed at length the possibility that use of eukaryotic vectors under these conditions could pose a threat to the community or environment, but could not envisage a plausible set of circumstances whereby a risk to the community could develop. Given the extent of the genetic deletion required to satisfy the conditions stated above and in table 2, and the constraints that encapsidation places on the size of an inserted gene segment, the workshop participants saw no way that the experiments could generate a competent virus containing new genetic information sufficient to code for a functional gene product. The group tried to conceive of ways by which a recombinational event between the defective recombinant genome and the helper genome or the genome of an indigenous virus in an exposed laboratory worker might generate nondefective viral recombinants, but as mentioned, was unable to identify any.

The possibility that a defective recombinant genome might be maintained in nature through complementation by a helper virus was considered too unlikely to be a cause for concern, given the absence of any precedent in animal virology. The group considered the adeno-associated viruses, which are defective parvoviruses maintained in nature, to be a unique case in that they are known to integrate into host cells and to have at least 33 different potential helpers (human adenoviruses) available.

Having considered the use of the genomes of different DNA animal viruses to propagate DNA sequences from different sources, the group proposed the following recommendations:

TABLE 2

Viral vector DNA	Precaution level depending on source of foreign DNA		
	Prokaryotic	Eukaryotic	Viral
Polyoma virus—all or part	L or M	L	CbC
SV40—unconditionally defective by deletion of all or part of the sequences of any of the genes.	L or M	M	CbC
Adenoviruses 2 and 5—incapacitated by deletion of at least two capsid genes.	L or M	L	CbC
Murine adenovirus strain FL—all or part+	L or M	L	CbC
Herpes simplex virus—incapacitated by a large deletion	CbC	CbC	CbC

L corresponds to a containment level approximately equivalent to P2.

M corresponds to a containment level approximately equivalent to P3.

Prokaryotic sequences that are known not to contain toxigenic genes may be cloned in L conditions: otherwise M conditions should be used.

+Before this viral DNA can be used as a vector, further information is required about its host-range, particularly its interactions with cultured primate cells.

CbC These experiments should be assessed by the appropriate committees on a "Case by Case" (CbC) basis.

The group recommended that further work on the biological properties of recombinants formed between the genomes of two animal viruses should be carried out as a matter of some importance. The workshop participants discussed the possibility that new viral agents might be created with novel biological properties (e.g. host range, tissue tropism, pathogenicity) not found in either parent. Several model experiments were proposed to test this possibility. The group recommended that research in this area proceed cautiously with each case being considered on its individual merits and even if the model experiments suggest little cause for concern, continued careful surveillance of new recombinants should be maintained.

2. VERTEBRATE HOST-VECTOR SYSTEMS IN WHICH RECOMBINANT DNA'S ARE USED TO TRANSFORM CELLS

In these types of experiments viral DNAs carrying a foreign DNA segment will be used to transform cells in culture and in the process, integrate the recombinant DNA into the host cell chromosome. Some transformation systems are nonpermissive for progeny virus production and pose no possibility of producing laboratory infections. Other transformation systems are semi-permissive and, in addition to the appearance of transformed cells, allow the production of low titers of infectious virus.

When recombinant DNAs are used to transform cells which do not yield significant quantities of infectious virus (e.g., SV40 in murine cells, polyoma virus in rat or hamster cells, adenovirus 2 and 5 in rat cells) L conditions are generally sufficient; for viruses which do not infect humans, there need be no requirement that the vector be disabled. M conditions should be used if the system is semi-permissive (i.e., virus is produced, in low titer) and the virus is capable of infecting humans (e.g., SV40 in human cell cultures). It was agreed that the DNA to be cloned must not be derived from another animal virus.

The use of viral genes as selective markers offers exciting and important possibilities for experiments involving cloning in eukaryotic cells. Possibly the best of such markers would be the herpes simplex virus thymidine kinase gene. We recommend that special emphasis be given to cloning in prokaryotic systems a small fragment (<KB) of herpes viral DNA which contains the sequences of this gene. Once available, the purified segment could be ligated to any chosen piece of DNA and cells transformed by the recombinant could easily be selected by virtue of the presence of thymidine kinase.

3. BACULOVIRUSES AS VECTORS

The group discussed the use of baculoviruses (large DNA-containing insect viruses) for cloning genes in invertebrate cells and concluded that our knowledge of the molecular and cellular biology of these viruses is too limited to allow any general recommendations. Proposals to use these viruses should be considered case by case. The group also recommended, however, that because of the potential exploitation of these viruses as biological pesticides (two have already been licensed for this purpose) and as vectors in recombinant DNA experimentation,

high priority should be given to studies of their basic virology, genetics, and molecular biology.

4. CAULIFLOWER MOSAIC VIRUS AS A VECTOR FOR CLONING GENES IN PLANT CELLS

The only known plant viruses which could serve as vectors for cloning genes in plants and plant cell protoplasts are Cauliflower Mosaic Virus (CaMV) and its close relatives, which have relaxed circular double stranded DNA genomes with a molecular weight of 5×10^6. The genomes of these viruses are not known to integrate into host chromosomes, or to pick up cellular genes. CaMV is spread in nature by aphids, in which it survives for a few hours. Spontaneous mutants of CaMV that are not transmitted by aphids arise frequently; these mutants fail to make a transmission factor essential for aphid transmission.

The viruses in the CaMV group have narrow host ranges and are relatively difficult to transmit mechanically to plants. For this reason, they are most unlikely to be accidentally transmitted from spillage of purified preparations of the virus.

The workshop participants recommended that for use as a vector with intact plants, a strain should be selected which is not transmitted by aphids. The ability to produce local lesions in an appropriate host would be an advantage in maintaining the integrity of the strain. The plants should be grown in either a greenhouse or plant growth cabinet which is insect-proof. Soil, plant pots and unwanted infected plant materials should be removed from the greenhouse or cabinet in sealed insect proof containers and sterilized. It is not necessary to sterilize run-off water from the infected plants as this is not a plausible route for secondary infections. Infected plant materials to be used for further research, which have to be removed from the greenhouse or cabinet, should be maintained under insect proof conditions. These measures provide an entirely adequate degree of containment and are similar to those required in many countries for licensed handling of "exotic" plant viruses.

CaMV or its DNA may also be useful as a vector to introduce genes into plant protoplasts. The fragility of plant protoplasts combined with the properties of CaMV mentioned above provides adequate safety. Since the group envisaged no risks to the environment from use of the CaMV-protoplast system, no special containment was recommended.

TABLE 1.—*Risk of illness in laboratory workers and of spread of viruses to the environment*

Agent	Genome	Severity of disease in adult humans	Risk of laboratory infection	Transmission into community or environment	Community or environmental impact
Lassa fever virus	RNA—negative strand, segmented.	4+	H	L to H	H.
Variola virus	DNA—linear, double stranded.	4+	H[1]	L to H	H.
Yersinia pestis (Plague bacterium)*.		4+	H	L to H	L to H.
Yellow fever virus (wild type).	RNA—positive strand	3+	H[2]	Dependent on presence of vector (H).	
Rickertsia prowazeki (typhus agent)*.		3+	H	L	0.
Hepatitis B virus	DNA—circular, partially single stranded.	3+	L to H	L	0 to L.
Vibrio comma (cholera bacterium)*.		2+ to 3+	L	L	0 to L.
Influenza virus (novel epidemic strain).	RNA—negative strand, segmented.	1+ to 2+	L	H	H.
Epstein-Barr virus	DNA—linear, double stranded.	2+	L	L	0.
Polio virus (wild)	RNA—positive strand	0 to 3+	L	L	0 to L.
Coxsackie viruses	do	0 to 2+	L	L	0 to L.
Herpes simplex virus	DNA—linear, double stranded.	1+	L	L	0.
*Shigella sonnei**		1+	L	L	0.
Vesicular stomatitis virus	DNA—negative strand	1+ to 2+	H	L	([2])
Adenovirus 2 or 5	DNA—linear, double stranded.	0 to 1+	0 to L	L	0.
Adeno-SV40 hybrid viruses (nondefective).	do	do	do	L	0.
Vaccinia virus	do	1+	L	L	0.
Human Papilloma virus	DNA—circular, double stranded.	1+	L	L	L to 0.
Influenza virus (PRB)	DNA—negative strand, segmented.	0	0	0	0.
Bacteroides sp.*		0 to 1+	0	L	0.
Adeno-associated virus	DNA—linear, single stranded.	0	L	L	0.
BK virus	DNA—circular, double stranded.	0	L	0	0.
Simian virus 40 (SV40)	do	0	L to H(?)	0 to L(?)	0.
Sindbis virus (Lab. adapted)	DNA—negative strand	0 to 1+	0	Dependent on presence of vector (0-L)	
Semliki Forest Virus	do	do	0	Do.	
Reoviruses	DNA—double stranded, segmented.	0	0 to 1+	0	0.
Rous sarcoma virus	RNA (Retrovirus)	0	0	0	0.
Murine leukemia sarcoma viruses.	do	0	0	0	0.
Feline leukemia viruses	do	0	0	0	0.
Polyoma virus	DNA—circular, double stranted.	0	0	0	0.

*Non-viral agents.
H=High probability; L=Low probability.
[1]If not vaccinated.
[2]L for human; H for certain animals.

BIBLIOGRAPHY

Aaronson, S. A. and Martin, M. A. (1970) Transformation of human cells with different forms of SV40 DNA. Virology *42*, 848–856.

Abraham, G., Rhodes, D. P., and Banerjee, A. K. (1975) The 5' terminal structure of the methylated mRNA synthesized in vitro by vesicular stomatitis virus. Cell *5*, 51–58.

Abrahams, P. J., Mulder, C., van de Voorde, A., Warnaar, S. O., and van der Eb., A. J. (1975) Transformation of primary rat kidney cells by fragments of Simian virus 40 DNA. J. Virology *16*, 818–823.

Aloni, Y., Dhar, R., Laub, O., Horowitz, M., and Khoury, G. (1977) Novel mechanism for RNA maturation: The leader sequences of simian virus 40 mRNA are not transcribed adjacent to the coding sequences. Proc. Natl. Acad. Sci. USA *74*, 3686–3690.

Amstey, M. S. and Parkman, P. D. (1966) Enhancement of polio-RNA infectivity by dimethylsulfoxide. Proc. Soc. Exp. Biol. Med, *123*, 438–442.

Arsenis, C., Gordon, J. S. and Touster, O. (1970) Degradation of nucleic acids by lysosomal extracts of rat liver and Ehrlich ascites tumor cells. J. Biol. Chem. *245*, 205–211.

Baltimore, D., Huang, A. S., and Stampfer, M. (1970) Ribonucleic acid synthesis of vesicular stomatitis virus, II. An RNA polymerase in the virion. Proc. Nat. Acad. Sci. USA *66*, 572–576.

Bensch, K., Gordon, G., and Miller, L. (1964) The fate of DNA-containing particles phagocytized by mammalian cells. J. Cell Biol. *21*, 105–114.

Berget, S. M., Moore, C., and Sharp, P. A. (1977) Spliced segments at the 5' terminus of adenovirus 2 late mRNA. Proc. Natl. Acad. Sci. USA *74*, 3171–3175.

Blattner, F. R. and Dahlberg, J. E. (1972) RNA synthesis startpoints in bacterio-

phage φ: Are the promoter and operator transcribed? Nature N.B. *237*, 227-232.

Bratt, M. A. and Robinson, W. S. (1967) Ribonucleic acid synthesis in cells infected with Newcastle disease virus. J. Mol. Biol. *23*, 1-21.

Brown, P., Tsai, T., and Gajdusek, C. (1975) Seroepidemiology of human papovaviruses. Am J. Epidem. *102*, 331-340.

Burnett, J. P. and Harrington, J. A. (1968) Simian adenovirus SA7 DNA: Chemical, physical and biological studies. Proc. Nat. Acad. Sci. USA *60*, 1023-1029.

Carrara, M. and Bernardi, G. (1968) Studies on acid deoxyribonuclease V. The oligonucleotides obtained from deoxyribonucleic acid and their 3'-phosphate termini. Biochemistry *7*, 1121-1131.

Chow, L. T., Gelinas, R. E. Broker, T. R., and Roberts, R. J. (1977) An amazing sequence arrangement at the 5' ends of Adenovirus 2 Messenger RNA. Cell *12*, 1-8.

Cormack, D. V., Holloway, A. F., Wong, P. K. Y., and Cairns, J. E. (1971) Temperature-sensitive mutants of vesicular stomatitis virus. II. Evidence of defective polymerase, Virology *45*, 824-826.

Costa, J., Howley, P. M., Legallais, F., Yee, C., Young, N. and Rabson, A. S. (1977) Oncogenicity of a nude mouse cell line transformed by a human papovavirus. J. Nat. Cancer Inst. *58*, 1147-1149.

Darnell, J. E., Wall, R. and Tushinski, R. J. (1971) An adenylic acid-rich sequence in messenger RNA of HeLa cells and its possible relationship to reiterated sites in DNA. Proc. Nat. Acad. Sci. USA *68*, 1321-1325.

Dubin, D. T. and Taylor, R. H. (1975) The methylation state of poly A-containing messenger RNA from cultured hamster cells. Nucl. Acids Res. *2*, 1653-1668.

Dunn, A. R. and Hassell, J. A. (1977) A novel method to map transcripts: Evidence for homology between an adenovirus mRNA and discrete multiple regions of the viral genome. Cell *12*, 23-36.

East, J. L. and Kingsbury, D. W. (1971) Mumps virus replication in chick embryo lung cells: Properties of ribonucleic acids in virions and infected cells. J. Virol. *8*, 161-173.

Ehrenfeld, E. and Summers, D. F. (1972) Adenylate-rich sequences in vesicular stomatitis virus messanger ribonucleic acid. J. Virol. *10*, 683-688.

Ellem, K. A. O. and Colter, J. S. (1961) The interaction of infectious ribonucleic acids with mammalian cells. III. Comparison of infection and RNA uptake in the Hela cell-polio RNA and L cell-mengo RNA systems. Virology *15*, 113-126.

Fiori, M. and DiMayorca, G. (1976) Occurrence of BK virus DNA in DNA obtained from certain human tumors. Proc. Nat. Acad. Sci. USA *73*, 4662-4666.

Freeman, G. J., Rose, J. K., Clinton, G. M., and Huang, A. S. (1977) RNA synthesis of vesicular stomatitis virus. VII. Complete separation of the mRNAs of vesicular stomatitis virus by duplex formation. J. Virol. *21*, 1094-1104.

Furuichi, Y., Muthukrishnan, S. and Shatkin, A. J. (1975a) 5'-Terminal $m^7G(5')ppp(5')G^mp$ *in vivo*: Identification in Reovirus genome RNA. Proc. Nat. Acad. Sci. USA *72*, 742-745.

Furuichi, Y., Morgan, M., Shatkin, A. J., Jelinek. W., Salditt-Georgieff, M. and Darnell, J.E. (1975b) Methylated, blocked 5' termini in HeLa cell mRNA. Proc. Nat. Acad. Sci. USA *72*, 1904-1908.

Gorbach, S. L. (1978) Assessment of Risk of Recombinant DNA Research with *E. coli* K12. Proceedings of a Workshop held in Falmouth, Mass., June 19-20, 1977. J. Inf. Dis., (In press.)

Graham, F. L. and van der Eb, A. J. (1973) A new technique for the assay of infectivity of human adenovirus 5 DNA. Virology *52*, 456-457.

Graham, F. L., Abraham, P. J., Mulder, C., Heijneker, H. L., Warnaar, S. O., deVries, F. A. J. and van der Eb. A. J. (1974) Studies on in vitro transformation by DNA and DNA fragments of human adenoviruses and simian virus 40. Cold Spring Harbor Symp. Quant. Biol. *39*, PT. 1:637-650.

Grubman, M.J. and Summers, D.F. (1973) *In vitro* protein synthesizing activity of vesicular stomatitis virus-infected cell extracts. J. Virol. *12*, 265-274.

Habel, K. (1961) Resistance of polyoma virus immune animals to transplanted polyoma tumors. Proc. Soc. Exp. Biol. Med. *106*, 7172-725.

Hagenbuchle, O., Santer, M., Mans, R. and Steitz, J. A. (1978) Conservation of the primary structure at the 3' end of the 18S rRNA from eukaryotic cells. Submitted to Cell.

Hilleman, M. R. (1957) Epidemiology of adenovirus respiratory infections in military recruit populations. Ann. N.Y. Acad. Sci. *67*, 262-272.

Huang, A. S., Baltimore, D. and Stampfer, M. (1970) Ribonucleic acid synthesis of vesicular stomatitis virus III. Multiple complementary messenger RNA molecules. Virology *42*, 946-957.

Huebner, R. J., Rowe, W. P., Ward, T. G., Parrott, R. H., and Bell, J. A. (1954) Adenoidal-pharyngeal-conjunctival agents. A newly recognized group of common viruses of the respiratory system. New Engl. J. Med. *251*, 1077-1086.

Israel, M. A., Chan, H., Hourihan, S., Rowe, W. P. and Martin, M. A. (1978a) Biological activity of polyoma DNA in animals. (In preparation.)

Israel, M. A., Takemoto, K. K., Martin, M. A., Solomon, D., Howley, P. M., Aaronson, S. A., and Khoury, G. (1978b) Evaluation of normal and neoplastic human tissue for BK virus. (In preparation.)

Ito, Y. (1960) A tumor-producing factor extracted by phenol from papillomatous tissue (Shope) of cottontail rabbits. Virology *12*, 596-601.

Kates, J. and Beeson, J. (1970) Ribonucleic acid synthesis in vaccinia virus. II. Synthesis of polyribonucleic acid. J. Mol. Biol. *50*, 19-33.

Keith, J. and Fraenkel-Conrat, H. (1975) Identification of the 5' end of Rous sarcoma virus RNA. Proc. Nat. Acad. Sci. USA *72*, 3347-3350.

Kingsbury, D. W. (1966) Newcastle disease virus RNA. I. Isolation and preliminary characterization of RNA from virus particles. J. Mol. Biol. *18*, 195-203.

Kingsbury, D. W. (1973) Cell free translation of paramyxovirus messenger RNA. J. Virol. *12*, 1020-1027.

Klein, G. (1975) Immunological surveillance against neoplasia. The Harvey Lectures, *Series 69*, 71-102.

Klessig, D. F. (1977) Two adenovirus mRNAs have a common 5' terminal leader sequence encoded at least 10 kb upstream from their main coding regions. Cell *12*, 9-22.

Lavi, S. and Gronere, Y. (1977) 5'-Terminal sequences and coding region of late simian virus 40 mRNAs are derived from noncontiguous segments of the viral genome. Proc. Nat. Acad. Sci. USA *74*, 5323-5327.

Mackey, J. K., Rigden, P. M. and Green, M. (1976) Do highly oncogenic group A human adenoviruses cause human cancer? Analysis of human tumors for adenovirus 12 transforming DNA sequences. Proc. Nat. Acad. Sci. USA *73*, 4657-4661.

Maizels, N. M. (1973) The nucleotide sequence of the lactose messenger rigonucleic acid transcribed from the UV5 promoter mutant of *Escherichia coli*. Proc. Nat. Acad. Sci. USA *70*, 3585-3589.

Maturin, L. and Curtiss, R. (1977) Degradation of DNA by nucleases in intestinal tract of rats. Science *196*, 216-218.

Mayne, N., Burnett, J. P. and Butler, L. K. (1971) Tumour induction by simian adenovirus SA7 DNA fragments. Nature N.B. *323*, 182-183.

McSharry, J. J. and Choppin, P. W. (1978) Biological properties of VSV glycoprotein. I. Effects of the isolated glycoprotein on host macromolecular synthesis. Virology *84*, 172-182.

McCutchan, J. H. and Pagano, J. S. (1968) Enhancement of the infectivity of simian virus 40 deoxyribonucleic acid with diethylaminoethyl-dextran. J. Nat. Cancer Inst. *41*, 351-357.

Mellon, P. and Duesberg, P. (1977) Subgenomic cellular Rous sarcoma virus RNAs contain oligonucleotides from the 3' half and 5' terminus of virion RNA. Nature *270*, 631-634.

Mendecki, J., Lee, S. Y. and Brawerman, G. (1972) Characteristics of the polyadenylic acid segment associated with messenger ribonucleic acid in mouse sarcoma 180 ascites cells. Biochemistry *11*, 792-798.

Moore, P. B. (1966) Methylation of messenger RNA in *Escherichia* J. Mol. Biol. *18*, 38-47.

Morrison, T., Stampfer, M., Baltimore, D. and Lodish, H. F. (1974) Translation of vesicular stomatitis messenger RNA by extracts from mammalian and plant cells. J. Virol. *13*, 62-72.

Moss, B. and Koczot, F. (1976) Sequence of methylated nucleotides at the 5'-terminus of adenovirus-specific RNA. J. Virol. *17*, 285-392.

Mudd, J. A. and Summers, D. F. (1970) Polysomal ribonucleic acid of vesicular stomatitis virus-infected HeLa cells. Virology *42*, 958-968.

Padgett, B. L. and Walker, D. L. (1973) Prevalence of antibodies in human sera against JC virus, an isolate from a case of progressive multifocal leukoencephalopathy. J. Inf. Dis. *127*, 467-470.

Perry, R. P. and Scherrer, K. (1975) The methylated constituents of globin mRNA. FEBS Letter *57*, 73-78.

Philipson, L., Wall, R., Glickman, G. and Darnell, J. E. (1971) Addition of polyadenylate sequences to virus-specific RNA during adenovirus replication. Proc. Nat. Acad. Sci. USA *68*, 2806-2809.

Pridgen, C. and Kingsbury, D. W. (1972) Adenylate-rich sequences in Sendai virus transcripts from infected cells. J. Virol. *10*, 314-317.

Rekosh, D. M., Lodish, H. F., and Baltimore, D. (1970) Protein synthesis in *Escherichia coli* extracts programmed by poliovirus RNA. J. Mol. Biol. *54*, 327-340.

Scheid, A. and Choppin, P. W. (1974) Identification of biological activities of paramyxovirus glycoproteins. Activation of

cell fusion, hemolysis, and infectivity by proteolytic cleavage of an inactive precursor protein of Sendai virus. Virology, *57*, 475-490.

Shah, K., Daniel, R. and Warszawski, R. (1973) High prevalence of antibodies to BK virus, an SV40-related papovavirus, in residents of Maryland. J. Inf. Dis. *128*, 784-787.

Shah, K. and Nathanson, N. (1976) Human exposure to SV40: Review and comment. Am. J. Epidem. *103*, 1-12.

Shine, J. and Dalgarno, L. (1974) The 3'-terminal sequence of *Escherichia coli* 16S ribosomal RNA: Complementarity to nonsense triplets and ribosome binding sites. Proc. Nat. Acad. Sci. USA *71*, 1342-1346.

Sjogren, H. O. (1964) Studies on specific transplantation resistance to polyoma-virus-induced tumors. III. Transplantation resistance to genetically compatible polyoma tumors induced by polyoma homografts. J. Nat. Cancer Inst. *32*, 645-659.

Sjogren, H. O., Minowada, J. and Ankerst, J. (1967) Specific transplantation antigens of mouse sarcomas induced by adenovirus type 12. J. Exp. Med. *125*, 689-701.

Sol, C. J. A. and van der Noordaa, J. (1977) Oncogenicity of SV40 DNA in the Syrian hamster. J. Gen. Virol. *37*, 635-638.

Stavis, R. and August, J. T. (1970) The biochemistry of RNA bacteriophage replication. Ann. Rev. of Biochem. *39*, 527-560.

Steitz, J. A. and Jakes, K. (1975) How ribosomes select initiator regions in mRNA: Base pair formation between the 3' terminus of 16S rRNA and the mRNA during initiation of protein synthesis in *Escherichia coli*. Proc. Nat. Acad. Sci. USA *72*, 4734-4738.

Szilagyi, J. F. and Pringle, C. R. (1972) Effect of temperature-sensitive mutations on the virion associated RNA transcriptase of vesicular stomatitis virus. J. Mol. Biol. *71*, 281-291.

Wagner, R. W. (1975) Reproduction of Rhabdoviruses. Comprehensive Virology, vol. 4, Fraenkel-Conrat, H. and Wagner, R. R. eds, p. 2.

Wei, C. M. and Moss, B. (1975) Methylated nucleotides block 5'-terminus of vaccinia virus messenger RNA. Proc. Nat. Acad. Sci. USA *72*, 318-322.

Weinberg, R. A., Ben-Ishai, Z. and Newbold, J. E. (1972) Poly A associated with SV40 messenger RNA. Nature New Biol. *238*, 111-113.

Weiss, S. R. and Bratt, M. A. (1976) Comparative electrophoresis of the 18-22S RNAs of Newcastle Disease Virus. J. Virol. *18*, 316-323.

Wold, W. S. M., Mackey, J. K., Brackmann, K. H., Takemori, N., Rigden, P., and Green, M. (1978) Analysis of human tumors and human malignant cell lines for BK virus-specific DNA sequences. Proc. Nat. Acad. Sci. USA *75*, 454-458.

COMMITTEE MEMBERS: U.S.

Dr. Bruce W. Calnek, Chairman, Department of Avian and Aquatic Animal Medicine, New York State College of Veterinary Medicine, Cornell University, Ithaca, N.Y. 14853.

Dr. Purnell W. Choppin, Rockefeller University, 1230 York Avenue, New York, N.Y. 10021.

Dr. Walter R. Dowdle, Director, Virology Division, Bureau of Laboratories, Center for Disease Control, Atlanta, Ga. 30333.

Dr. Bernard N. Fields, Professor of Microbiology and Molecular Genetics, Harvard Medical School, Boston, Mass. 02115.

Dr. Harold S. Ginsberg, Chairman, Department of Microbiology, College of Physicians and Surgeons, Columbia University, (on Sabbatical at Rockefeller University), 1230 York Avenue, New York, N.Y. 10021.

Dr. Robert Haselkorn, Chairman, Department of Biophysics and Theoretical Biology, University of Chicago, Chicago, Ill. 60637.

Dr. Edwin H. Lennette, Chief, Biomedical Laboratories, California State Department of Health, 2151 Berkeley Way, Berkeley, Calif. 94707.

Dr. Malcolm A. Martin, Head, Physical Biochemistry Section, Laboratory of Biology of Viruses, NIAID, National Institutes of Health, Bethesda, Md. 20014.

Dr. Thomas C. Merigan, Professor, Department of Medicine, School of Medicine, Division of Infectious Diseases, Stanford University, Stanford, Calif. 94305.

Dr. Wallace P. Rowe, Chief, Laboratory of Viral Diseases, NIAID, National Institutes of Health, Bethesda, Md. 20014.

Dr. Joe Sambrook, Cold Spring Harbor Laboratory, P.O. Box 100, Cold Spring Harbor, N.Y. 11724.

Dr. Max Summers, Professor, Entomology Department, Texas, A. & M. University, College Station, Tex. 77843.

Dr. Robert R. Wagner, Chairman, Department of Microbiology, University of Virginia School of Medicine, Charlottesville, Va. 22901.

NIAID STAFF

Dr. Richard M. Krause, Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Bethesda, Md. 20014

COMMITTEE MEMBERS: EUROPEAN

Dr. John B. Brooksby, The Animal Virus Research Institute, Pirbright, Woking, Surrey GU 24 ONF, England.

Dr. Mike Fried, Imperial Cancer Research Fund Laboratories, Lincoln's Inn Fields, London, WC2A 3PX, England.

Professor Harald zur Hausen, Institut fur Virologie, Zentrum fur Hygiene, Hermann-Herder-Str. 11, 78 Freiburg, Federal Republic of Germany.

Professor Leon Hirth, Institut de Botanique, 15, rue Rene Descartes, 67 Strasbourg, France.

Dr. Roger Hull, John Innes Institute, Colney Lane, Norwich, England.

Dr. Leevi Kaariaien, Department of Virology, University of Helsinki, Haartmaninkatu 3, Helsinki 29, Finland.

Dr. Helio G. Pereira, The Animal Virus Research Institute, Pirbright, Woking, Surrey GU 24 ONF, England.

Professor Lennart Philipson, University of Uppsala, Biomedical Center, Department of Microbiology, Box 581, 751 23 Uppsala, Sweden.

Dr. Heinz L. Sanger, Arbeitsgruppe Pflanzenvirologie, Justus-Liebig-Universitat, Frankfurter Str. 107, 63 Giessen, Federal Republic of Germany.

Dr. John Tooze, European Molecular Biology Organization, Postfach 1022.40, 69 Heidelberg, Federal Republic of Germany.

Dr. David A. J. Tyrrell, Clinical Research Center, Watford Road, Harrow, Middlesex, England.

Dr. Robin Weiss, Imperial Cancer Research Fund Laboratories, P.O. Box 123, Lincoln's Inn Fields, London WC2A 3PX, England.

Professor Charles Weissmann, Institut fur Molekularbiologie I, Universitat Zurich, Honggerberg, 8049 Zurich, Switzerland.

[FR Doc. 78-8362 Filed 3-30-78; 8:45 am]

federal register

FRIDAY, MARCH 31, 1978
PART IV



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

■

FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

All Market Areas

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

[24 CFR Part 888]

[Docket No. R-78-517]

FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION

All Market Areas

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the section 8 Fair Market Rents applicable to new construction and substantial rehabilitation for all market areas, in compliance with statutory requirements that section 8 Fair Market Rents be established by the Secretary and published in the FEDERAL REGISTER at least annually. The proposed Fair Market Rents are intended to reflect the changes which have occurred in the general levels of market rents for recently completed or newly constructed dwelling units within each market area since their last annual or special (interim) revision.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410; 202-755-7603. This is not a toll-free number.

DATE: April 14, 1978. Comments should be filed by this deadline with the Rules Docket Clerk at the above address.

FOR FURTHER INFORMATION CONTACT:

Henry F. P. Cassagne, Chief Appraiser, Office of Technical Support, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410; 202-472-4810. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: These Fair Market Rents are based primarily on the levels of rentals paid for recently completed or newly constructed dwelling units of modest design within each market area as determined by HUD Field Office staff. They are estimates of the rentals that prospective tenants who have incomes above 80 percent of the median income would be willing and able to pay for recently completed or newly constructed dwelling units of modest design. The last annual revision was published June 30, 1977, effective April 1, 1977.

The proposed rule includes Fair Market Rents for 0, 1, 2, 3, and 4 or more bedroom units in five structure classifications (Detached, Semi-Detached/Row, Walkup, Elevator—2-4 Story, and Elevator—5+ Story).

The revised schedules include two classifications of elevator structures (2-4 Story and 5+ Story). The schedules for some market areas contain elevator Fair Market Rents for 2-4 Story structures but not for 5+ Story structures or vice versa. Previously published schedules contain only one classification of elevator structures. After the revised schedules are published for effect, proposals involving other combinations of structure type and unit size by bedroom count for which Fair Market Rents have not been published for effect cannot be approved until publication of the applicable Fair Market Rents, first for comment and then for effect.

Interested parties are encouraged at all times to submit information and data on Fair Market Rents which will be considered in initiating revisions as needed. It has been determined that because of the immediate need to provide revised Fair Market Rents, a 15 day comment period is reasonable and in the public interest.

NOTE.—A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk at the address set forth above. It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with Executive Order 11821.

It is therefore proposed that Schedule A of part 888 be amended as set forth below.

SCHEDULE A—FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM)

These Fair Market Rents have been trended ahead 2 years to allow time for processing and construction of proposed new construction and substantial rehabilitation rental projects.

NOTE.—The Fair Market Rents for: (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-Bedroom, multiplied by 1.05 rounded to the next higher whole dollar, (2) congregate housing dwelling units are the same as for noncongregate units, and (3) single room occupancy dwelling units are those for 0-Bedroom units of the same type.

(Sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d).)

Issued in Washington, D.C., on March 23, 1978.

MORTON BARUCH,
Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

AREA ... OFFICE HARTFORD, CONN. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
HARTFORD	DETACHED	---	---	484	540	581
	SEMI-DETACHED/ROW	---	395	459	514	554
	WALKUP	335	390	454	510	549
	ELEVATOR-2-4 Sty	350	407	472	---	---
	5 + Sty	361	419	484	---	---
DANBURY	DETACHED	---	---	501	560	602
	SEMI-DETACHED/ROW	---	412	477	532	573
	WALKUP	350	406	472	528	570
	ELEVATOR-2-4 Sty	364	423	490	---	---
	5 + Sty	376	435	501	---	---
NEW HAVEN	DETACHED	---	---	484	540	581
	SEMI-DETACHED/ROW	---	395	459	514	554
	WALKUP	335	390	454	510	549
	ELEVATOR-2-4 Sty	350	407	472	---	---
	5 + Sty	361	419	484	---	---
BRIDGEPORT	DETACHED	---	---	501	560	602
	SEMI-DETACHED/ROW	---	412	477	532	573
	WALKUP	350	406	472	528	570
	ELEVATOR-2-4 Sty	364	423	490	---	---
	5 + Sty	376	435	501	---	---
NEW LONDON	DETACHED	---	---	476	532	574
	SEMI-DETACHED/ROW	---	387	452	505	546
	WALKUP	327	381	446	502	541
	ELEVATOR-2-4 Sty	342	397	464	---	---
	5 + Sty	353	409	476	---	---
NEW MILFORD	DETACHED	---	---	477	528	570
	SEMI-DETACHED/ROW	---	379	451	502	543
	WALKUP	325	375	447	496	536
	ELEVATOR-2-4 Sty	340	390	465	---	---
	5 + Sty	351	401	477	---	---

AREA ... OFFICE HARTFORD, CONN. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WINDHAM	DETACHED	---	---	449	507	548
	SEMI-DETACHED/ROW	---	363	427	481	521
	WALKUP	303	358	421	477	516
	ELEVATOR-2-4 Sty	315	373	438	---	---
	5 + Sty	327	385	449	---	---
STAMFORD	DETACHED	---	---	512	570	611
	SEMI-DETACHED/ROW	---	421	484	543	583
	WALKUP	358	415	480	536	577
	ELEVATOR-2-4 Sty	375	432	500	---	---
	5 + Sty	386	443	512	---	---
RIDGEFIELD	DETACHED	---	---	512	570	611
	SEMI-DETACHED/ROW	---	421	484	543	583
	WALKUP	358	415	480	536	577
	ELEVATOR-2-4 Sty	375	432	500	---	---
	5 + Sty	386	443	512	---	---
NORWICH	DETACHED	---	---	476	532	574
	SEMI-DETACHED/ROW	---	387	452	505	546
	WALKUP	327	381	446	502	541
	ELEVATOR-2-4 Sty	342	397	464	---	---
	5 + Sty	353	409	476	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE BANGOR, ME. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
AUGUSTA	DETACHED	---	346	396	448	509
	SEMI-DETACHED/ROW	291	334	382	431	488
	WALKUP	267	305	351	394	448
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	353	389	474	---	---
BANGOR	DETACHED	---	346	396	448	509
	SEMI-DETACHED/ROW	291	334	382	431	488
	WALKUP	267	305	351	394	448
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	353	389	474	---	---
BRUNSWICK	DETACHED	---	346	396	448	509
	SEMI-DETACHED/ROW	291	334	382	431	488
	WALKUP	267	305	351	394	448
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	353	389	474	---	---
CALAIS	DETACHED	---	346	396	448	509
	SEMI-DETACHED/ROW	291	334	382	431	488
	WALKUP	267	305	351	394	448
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	353	389	474	---	---
LEWISTON	DETACHED	---	346	396	448	509
	SEMI-DETACHED/ROW	291	334	382	431	488
	WALKUP	267	305	351	394	448
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	353	389	474	---	---
PORTLAND	DETACHED	---	346	396	448	509
	SEMI-DETACHED/ROW	291	334	382	431	488
	WALKUP	267	305	351	394	448
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	353	389	474	---	---

INSURING OFFICE BANGOR, ME. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WATERVILLE	DETACHED	---	346	396	448	509
	SEMI-DETACHED/ROW	291	334	382	431	488
	WALKUP	267	305	351	394	448
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	353	389	474	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE BOSTON, MASS. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BOSTON	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	382	447	567	627
	WALKUP	295	372	404	34	500
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	316	396	467	---	---
CAPE COD	DETACHED	---	---	463	496	583
	SEMI-DETACHED/ROW	---	---	367	447	498
	WALKUP	256	323	334	372	410
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	287	364	411	---	---
PITTSFIELD	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	332	415	447	482
	WALKUP	265	308	343	387	446
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	268	323	398	---	---
SPRINGFIELD	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	313	382	439	498
	WALKUP	199	299	334	387	456
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	258	323	398	---	---
WORCESTER	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	340	415	520	578
	WALKUP	297	323	374	474	530
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	299	356	437	---	---
FALL RIVER	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	337	424	467	498
	WALKUP	290	308	374	406	432
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	---	339	420	---	---

AREA OFFICE BOSTON, MASS. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LOWELL	DETACHED	---	---	598	682	722
	SEMI-DETACHED/ROW	---	374	453	520	570
	WALKUP	305	347	396	476	515
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	309	387	459	---	---
SALEM	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	357	429	487	586
	WALKUP	271	339	374	451	530
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	316	396	472	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE MANCHESTER, N.H. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CONCORD	DETACHED	---	346	410	482	532
	SEMI-DETACHED/ROW	269	337	391	449	507
	WALKUP	240	308	357	423	483
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	296	367	463	---	---
DOVER	DETACHED	---	346	410	482	532
	SEMI-DETACHED/ROW	269	337	391	449	507
	WALKUP	240	308	357	423	483
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	296	367	463	---	---
KEENE	DETACHED	---	346	410	482	532
	SEMI-DETACHED/ROW	269	337	391	449	507
	WALKUP	240	308	357	423	483
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	296	367	463	---	---
MANCHESTER	DETACHED	---	346	410	482	532
	SEMI-DETACHED/ROW	269	337	391	449	507
	WALKUP	240	308	357	423	483
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	296	367	463	---	---
NASHUA	DETACHED	---	346	410	482	532
	SEMI-DETACHED/ROW	269	337	391	449	507
	WALKUP	240	308	357	423	483
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	296	367	463	---	---
PORTSMOUTH	DETACHED	---	346	410	482	532
	SEMI-DETACHED/ROW	269	337	391	449	507
	WALKUP	240	308	357	423	483
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	296	367	463	---	---

INSURING OFFICE PROVIDENCE, R.I. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PROVIDENCE	DETACHED	---	---	450	505	540
	SEMI-DETACHED/ROW	---	365	440	500	540
	WALKUP	269	356	431	488	528
	ELEVATOR-2-4 Sty	269	374	495	---	---
	5 + Sty	270	379	499	---	---
NEWPORT	DETACHED	---	---	440	480	510
	SEMI-DETACHED/ROW	---	315	374	443	478
	WALKUP	229	299	356	404	444
	ELEVATOR-2-4 Sty	264	334	382	---	---
	5 + Sty	269	340	390	---	---
WESTERLY	DETACHED	---	---	450	505	541
	SEMI-DETACHED/ROW	---	356	447	505	541
	WALKUP	276	338	437	488	534
	ELEVATOR-2-4 Sty	278	351	442	---	---
	5 + Sty	283	355	450	---	---
PAWTUCKET	DETACHED	---	---	450	505	515
	SEMI-DETACHED/ROW	---	332	395	467	503
	WALKUP	261	315	386	458	498
	ELEVATOR-2-4 Sty	265	354	453	---	---
	5 + Sty	270	359	460	---	---
WOONSOCKET	DETACHED	---	---	445	500	510
	SEMI-DETACHED/ROW	---	313	364	435	475
	WALKUP	253	295	364	400	440
	ELEVATOR-2-4 Sty	263	363	490	---	---
	5 + Sty	268	370	495	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE BURLINGTON, VT. REGION I - BOSTON

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BENNINGTON	DETACHED	---	---	387	450	526
	SEMI-DETACHED/ROW	---	329	377	429	493
	WALKUP	277	320	367	413	464
	ELEVATOR-2-4 Sty	302	338	405	---	---
	5 + Sty	335	376	450	---	---
BRATTLEBORO	DETACHED	---	---	387	450	526
	SEMI-DETACHED/ROW	---	329	377	429	493
	WALKUP	277	320	367	413	464
	ELEVATOR-2-4 Sty	302	338	405	---	---
	5 + Sty	335	376	450	---	---
BURLINGTON	DETACHED	---	---	387	450	526
	SEMI-DETACHED/ROW	---	329	377	429	493
	WALKUP	277	320	367	413	464
	ELEVATOR-2-4 Sty	302	338	405	---	---
	5 + Sty	335	376	450	---	---
MONTPELIER	DETACHED	---	---	387	450	526
	SEMI-DETACHED/ROW	---	329	377	429	493
	WALKUP	277	320	367	413	464
	ELEVATOR-2-4 Sty	302	338	405	---	---
	5 + Sty	335	376	450	---	---
RUTLAND	DETACHED	---	---	387	450	526
	SEMI-DETACHED/ROW	---	329	377	429	493
	WALKUP	277	320	367	413	464
	ELEVATOR-2-4 Sty	302	338	405	---	---
	5 + Sty	335	376	450	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE CAMDEN, N.J. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CAMDEN	DETACHED	---	---	470	570	621
	SEMI-DETACHED/ROW	---	355	422	510	555
	WALKUP	289	325	385	468	510
	ELEVATOR-2-4 Sty	307	344	395	---	---
	5 + Sty	325	364	448	---	---
ATLANTIC CITY	DETACHED	---	---	466	566	617
	SEMI-DETACHED/ROW	---	349	417	505	550
	WALKUP	282	318	379	462	504
	ELEVATOR-2-4 Sty	295	380	496	---	---
	5 + Sty	328	420	550	---	---
BURLINGTON	DETACHED	---	---	468	568	619
	SEMI-DETACHED/ROW	---	353	420	508	553
	WALKUP	287	323	383	466	508
	ELEVATOR-2-4 Sty	307	344	395	---	---
	5 + Sty	325	364	448	---	---
GLOUCESTER	DETACHED	---	---	470	570	621
	SEMI-DETACHED/ROW	---	355	422	510	555
	WALKUP	289	325	385	468	510
	ELEVATOR-2-4 Sty	307	344	395	---	---
	5 + Sty	325	364	448	---	---
TRENTON	DETACHED	---	---	505	605	656
	SEMI-DETACHED/ROW	---	379	457	545	590
	WALKUP	313	349	420	503	545
	ELEVATOR-2-4 Sty	320	372	493	---	---
	5 + Sty	328	411	546	---	---
VINELAND	DETACHED	---	---	435	545	586
	SEMI-DETACHED/ROW	---	320	387	475	520
	WALKUP	254	290	350	433	475
	ELEVATOR-2-4 Sty	277	306	373	---	---
	5 + Sty	309	345	426	---	---

AREA _____ OFFICE NEWARK, N. J. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NEWARK	DETACHED	---	---	595	694	732
	SEMI-DETACHED/ROW	---	402	491	580	632
	WALKUP	348	378	464	550	598
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	437	476	606	---	---
ASBURY PARK	DETACHED	---	427	536	647	660
	SEMI-DETACHED/ROW	346	385	465	552	611
	WALKUP	319	359	437	522	579
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	398	457	565	---	---
NORTH BERGEN	DETACHED	---	---	600	705	738
	SEMI-DETACHED/ROW	---	429	545	622	676
	WALKUP	352	395	509	595	636
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	444	506	665	---	---
FREEHOLD	DETACHED	---	427	564	675	688
	SEMI-DETACHED/ROW	346	385	493	580	639
	WALKUP	319	359	465	550	607
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	398	457	591	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE ALBANY, N.Y. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ALBANY	DETACHED	---	---	429	517	571
	SEMI-DETACHED/ROW	---	317	376	458	508
	WALKUP	249	309	361	424	479
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	294	360	447	---	---
GLEN FALLS	DETACHED	---	---	429	517	571
	SEMI-DETACHED/ROW	---	317	376	458	508
	WALKUP	249	309	361	424	479
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	294	360	447	---	---
MASSENA	DETACHED	---	---	429	517	571
	SEMI-DETACHED/ROW	---	317	376	458	508
	WALKUP	249	309	361	424	479
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	294	360	447	---	---
PLATTSBURGH	DETACHED	---	---	429	517	571
	SEMI-DETACHED/ROW	---	317	376	458	508
	WALKUP	249	309	361	424	479
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	294	360	447	---	---
SYRACUSE	DETACHED	---	---	429	517	571
	SEMI-DETACHED/ROW	---	317	376	458	508
	WALKUP	249	309	361	424	479
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	294	360	447	---	---
POUGHKEEPSIE	DETACHED	---	---	465	520	570
	SEMI-DETACHED/ROW	---	323	402	473	523
	WALKUP	255	303	368	447	497
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	335	387	467	---	---

INSURING OFFICE ALBANY, N. Y. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WATERTOWN	DETACHED	---	---	429	517	571
	SEMI-DETACHED/ROW	---	317	376	458	508
	WALKUP	249	309	361	424	479
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	294	360	447	---	---
SCHENECTADY	DETACHED	---	---	429	517	571
	SEMI-DETACHED/ROW	---	317	376	458	508
	WALKUP	249	309	361	424	479
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	294	360	447	---	---
BINGHAMTON	DETACHED	---	---	429	517	571
	SEMI-DETACHED/ROW	---	317	376	458	508
	WALKUP	249	309	361	424	479
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	294	360	447	---	---
ITHACA	DETACHED	---	---	429	517	571
	SEMI-DETACHED/ROW	---	317	376	458	508
	WALKUP	249	309	361	424	479
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	294	360	447	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE BUFFALO, N. Y. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BUFFALO	DETACHED	---	---	448	505	568
	SEMI-DETACHED/ROW	---	355	392	459	532
	WALKUP	282	314	363	428	453
	ELEVATOR-2-4 Sty	353	374	444	---	---
	5 + Sty	409	433	506	---	---
ELMIRA	DETACHED	---	---	440	510	565
	SEMI-DETACHED/ROW	---	383	422	475	530
	WALKUP	299	329	389	449	510
	ELEVATOR-2-4 Sty	358	401	479	---	---
	5 + Sty	383	425	505	---	---
JAMESTOWN	DETACHED	---	---	448	504	566
	SEMI-DETACHED/ROW	---	375	409	468	535
	WALKUP	308	334	379	435	501
	ELEVATOR-2-4 Sty	370	396	460	---	---
	5 + Sty	390	430	515	---	---
ROCHESTER	DETACHED	---	---	436	487	539
	SEMI-DETACHED/ROW	---	353	401	465	524
	WALKUP	275	301	356	419	471
	ELEVATOR-2-4 Sty	368	393	467	---	---
	5 + Sty	389	426	510	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA ... OFFICE NEW YORK, N. Y. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NEW YORK CITY	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	502	599	697	813
	WALKUP	390	461	555	652	753
	ELEVATOR-2-4 Sty	448	523	623	710	801
	5 + Sty	560	646	779	900	1050
SUFFOLK	DETACHED	---	---	548	674	763
	SEMI-DETACHED/ROW	406	429	507	549	657
	WALKUP	328	397	471	508	568
	ELEVATOR-2-4 Sty	408	501	592	---	---
	5 + Sty	430	512	629	---	---
WESTCHESTER	DETACHED	---	---	636	723	769
	SEMI-DETACHED/ROW	---	450	531	635	709
	WALKUP	350	410	492	600	678
	ELEVATOR-2-4 Sty	374	429	534	625	---
	5 + Sty	427	489	597	716	---
ORANGE	DETACHED	---	---	506	582	628
	SEMI-DETACHED/ROW	---	345	414	488	563
	WALKUP	247	325	388	476	515
	ELEVATOR-2-4 Sty	366	469	555	---	---
	5 + Sty	376	478	564	---	---
ROCKLAND	DETACHED	---	---	648	735	779
	SEMI-DETACHED/ROW	---	420	523	617	662
	WALKUP	328	397	500	595	640
	ELEVATOR-2-4 Sty	350	428	544	---	---
	5 + Sty	385	464	586	---	---
NASSAU	DETACHED	---	---	713	758	874
	SEMI-DETACHED/ROW	---	515	619	714	812
	WALKUP	380	475	580	676	750
	ELEVATOR-2-4 Sty	386	509	602	---	---
	5 + Sty	393	515	644	750	---

AREA . OFFICE NEW YORK, N.Y. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PUTNAM	DETACHED	---	---	636	723	769
	SEMI-DETACHED/ROW	---	450	531	635	709
	WALKUP	350	410	492	600	678
	ELEVATOR-2-4 Sty	374	429	534	625	---
	5 + Sty	427	489	597	716	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE SAN JUAN, P.R. REGION II - NEW YORK

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SAN JUAN	DETACHED	---	---	343	404	439
	SEMI-DETACHED/ROW	---	323	343	404	439
	WALKUP	256	323	343	404	439
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	301	369	391	454	490
PONCE	DETACHED	---	---	362	426	463
	SEMI-DETACHED/ROW	---	340	362	426	463
	WALKUP	273	340	362	426	463
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	316	387	411	477	515
MAYAGUEZ	DETACHED	---	---	354	417	455
	SEMI-DETACHED/ROW	---	334	354	417	455
	WALKUP	265	334	354	417	455
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	310	380	403	468	505
ARECIBO	DETACHED	---	---	354	417	455
	SEMI-DETACHED/ROW	---	334	354	417	455
	WALKUP	265	334	354	417	455
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	310	380	403	468	505
ST. THOMAS	DETACHED	---	---	437	521	553
	SEMI-DETACHED/ROW	---	321	401	482	514
	WALKUP	239	318	387	424	486
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	285	365	436	---	---
ST. CROIX	DETACHED	---	---	395	455	473
	SEMI-DETACHED/ROW	---	261	381	438	456
	WALKUP	228	258	345	359	406
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	---	---	---	---	---

INSURING OFFICE WILMINGTON, DEL. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WILMINGTON	DETACHED	---	---	383	408	505
	SEMI-DETACHED/ROW	---	257	348	395	414
	WALKUP	238	257	321	393	---
	ELEVATOR-2-4 Sty	251	280	351	---	---
	5 + Sty	262	334	438	---	---
DOVER	DETACHED	---	---	352	375	465
	SEMI-DETACHED/ROW	---	254	320	363	381
	WALKUP	197	254	312	361	---
	ELEVATOR-2-4 Sty	231	258	323	---	---
	5 + Sty	241	307	403	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE WASHINGTON, D. C. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WASHINGTON, D. C.	DETACHED	---	---	---	593	663
	SEMI-DETACHED/ROW	---	395	469	511	578
	WALKUP	274	360	434	502	556
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	312	373	498	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE BALTIMORE, MD. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BALTIMORE	DETACHED	---	---	524	615	660
	SEMI-DETACHED/ROW	---	324	357	449	574
	WALKUP	279	309	351	433	540
	ELEVATOR-2-4 Sty	290	330	410	---	---
	5 + Sty	291	344	434	---	---
HAGERSTOWN	DETACHED	---	---	433	499	633
	SEMI-DETACHED/ROW	---	311	328	393	566
	WALKUP	264	296	322	378	528
	ELEVATOR-2-4 Sty	274	316	376	---	---
	5 + Sty	279	326	383	---	---
SALISBURY	DETACHED	---	---	429	494	630
	SEMI-DETACHED/ROW	---	286	326	397	565
	WALKUP	242	272	320	381	534
	ELEVATOR-2-4 Sty	251	290	374	---	---
	5 + Sty	256	299	381	---	---
WALDORF	DETACHED	---	---	524	615	660
	SEMI-DETACHED/ROW	---	324	357	449	574
	WALKUP	279	309	351	433	540
	ELEVATOR-2-4 Sty	290	330	410	---	---
	5 + Sty	291	344	434	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA ___ OFFICE PHILADELPHIA, PA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PHILADELPHIA	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	336	418	460	506
	WALKUP	258	307	385	445	483
	ELEVATOR-2-4 Sty	280	340	405	---	---
	5 + Sty	325	365	423	---	---
ALLENTOWN	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	295	365	438	483
	WALKUP	255	287	360	431	471
	ELEVATOR-2-4 Sty	303	320	375	---	---
	5 + Sty	311	342	420	---	---
BELLEFONTE	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	284	382	430	471
	WALKUP	240	276	351	423	460
	ELEVATOR-2-4 Sty	275	305	390	---	---
	5 + Sty	300	334	425	---	---
HARRISBURG	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	292	366	468	517
	WALKUP	250	287	353	456	505
	ELEVATOR-2-4 Sty	275	320	363	---	---
	5 + Sty	308	345	393	---	---
LANCASTER	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	293	360	428	460
	WALKUP	242	288	349	418	448
	ELEVATOR-2-4 Sty	272	320	404	---	---
	5 + Sty	300	346	438	---	---
YORK	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	293	360	428	460
	WALKUP	242	288	349	418	448
	ELEVATOR-2-4 Sty	272	320	404	---	---
	5 + Sty	300	346	438	---	---

AREA OFFICE PHILADELPHIA, PA REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
POTTSTOWN	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	291	344	430	471
	WALKUP	240	277	321	399	437
	ELEVATOR-2-4 Sty	270	320	363	---	---
	5 + Sty	293	350	410	---	---
READING	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	291	344	430	471
	WALKUP	240	277	321	399	437
	ELEVATOR-2-4 Sty	270	320	363	---	---
	5 + Sty	293	350	410	---	---
SCRANTON	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	324	380	435	491
	WALKUP	250	302	366	430	475
	ELEVATOR-2-4 Sty	275	330	385	---	---
	5 + Sty	320	379	425	---	---
BETHLEHEM	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	295	365	438	483
	WALKUP	255	287	360	431	471
	ELEVATOR-2-4 Sty	303	320	375	---	---
	5 + Sty	311	342	420	---	---
WELLSBORO	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	284	382	430	471
	WALKUP	240	276	351	423	460
	ELEVATOR-2-4 Sty	275	305	390	---	---
	5 + Sty	300	334	425	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE PITTSBURGH, PA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NEW CASTLE	DETACHED	---	325	381	449	540
	SEMI-DETACHED/ROW	---	317	353	416	500
	WALKUP	233	288	330	389	451
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	278	333	400	---	---
PITTSBURGH	DETACHED	---	390	420	491	565
	SEMI-DETACHED/ROW	---	364	400	457	526
	WALKUP	264	328	378	428	496
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	293	354	426	---	---
ERIE	DETACHED	---	364	402	448	525
	SEMI-DETACHED/ROW	---	339	372	404	487
	WALKUP	245	302	350	400	463
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	290	347	419	---	---
SHARON	DETACHED	---	325	381	449	540
	SEMI-DETACHED/ROW	---	317	353	416	500
	WALKUP	233	288	330	389	451
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	278	333	400	---	---
ALTOONA	DETACHED	---	344	396	462	540
	SEMI-DETACHED/ROW	---	344	378	432	505
	WALKUP	245	302	365	412	474
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	275	329	396	---	---
JOHNSTOWN	DETACHED	---	344	396	462	540
	SEMI-DETACHED/ROW	---	344	378	432	505
	WALKUP	245	302	365	412	474
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	275	329	396	---	---

AREA OFFICE RICHMOND, VA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RICHMOND	DETACHED	---	---	329	381	451
	SEMI-DETACHED/ROW	---	274	311	355	396
	WALKUP	210	245	303	355	396
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	218	272	317	---	---
NORFOLK	DETACHED	---	---	327	387	435
	SEMI-DETACHED/ROW	---	262	294	360	397
	WALKUP	217	238	278	350	391
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	239	262	295	---	---
VIRGINIA BEACH	DETACHED	---	---	327	387	435
	SEMI-DETACHED/ROW	---	262	294	360	397
	WALKUP	217	238	278	350	391
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	239	262	295	---	---
PORTSMOUTH	DETACHED	---	---	327	387	435
	SEMI-DETACHED/ROW	---	262	294	360	397
	WALKUP	217	238	278	350	391
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	239	262	295	---	---
SUFFOLK	DETACHED	---	---	327	387	435
	SEMI-DETACHED/ROW	---	262	294	360	397
	WALKUP	217	238	278	350	391
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	239	262	295	---	---
CHESAPEAKE	DETACHED	---	---	327	387	435
	SEMI-DETACHED/ROW	---	262	294	360	397
	WALKUP	217	238	278	350	391
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	239	262	295	---	---

AREA OFFICE RICHMOND, VA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ROANOKE	DETACHED	---	---	309	363	408
	SEMI-DETACHED/ROW	---	239	294	350	390
	WALKUP	188	222	273	345	388
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5+ Sty	198	253	309	---	---
LYNCHBURG	DETACHED	---	---	309	363	408
	SEMI-DETACHED/ROW	---	239	294	350	390
	WALKUP	188	222	273	345	388
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	198	253	309	---	---
DANVILLE	DETACHED	---	---	309	363	408
	SEMI-DETACHED/ROW	---	239	294	350	390
	WALKUP	188	222	273	345	388
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	198	253	309	---	---
NEWPORT NEWS	DETACHED	---	---	316	383	420
	SEMI-DETACHED/ROW	---	252	300	364	400
	WALKUP	201	229	273	347	382
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	222	240	287	---	---
FREDERICKS-BURG	DETACHED	---	---	340	393	448
	SEMI-DETACHED/ROW	---	246	304	360	407
	WALKUP	195	232	293	360	407
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	205	246	309	---	---
HARRISONBURG	DETACHED	---	---	293	319	399
	SEMI-DETACHED/ROW	---	233	274	316	359
	WALKUP	176	212	250	306	359
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	199	231	283	---	---

AREA OFFICE RICHMOND, VA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WARRENTON	DETACHED	---	---	293	319	399
	SEMI-DETACHED/ROW	---	233	274	316	359
	WALKUP	176	212	250	306	359
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	199	231	283	---	---
BRISTOL	DETACHED	---	---	273	345	375
	SEMI-DETACHED/ROW	---	210	264	318	365
	WALKUP	194	207	257	315	362
	ELEVATOR-2-4 Sty	203	239	312	---	---
	5 + Sty	211	271	366	---	---
HAMPTON	DETACHED	---	---	316	383	420
	SEMI-DETACHED/ROW	---	252	300	364	400
	WALKUP	201	229	273	347	382
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	222	240	287	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE CHARLESTON, W. VA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CHARLESTON	DETACHED	---	---	395	434	484
	SEMI-DETACHED/ROW	---	330	373	416	466
	WALKUP	214	273	316	373	420
	ELEVATOR-2-4 Sty	316	366	412	---	---
	5 + Sty	321	371	417	---	---
BECKLEY	DETACHED	---	---	356	391	436
	SEMI-DETACHED/ROW	---	263	335	366	412
	WALKUP	231	263	298	332	365
	ELEVATOR-2-4 Sty	280	332	372	---	---
	5 + Sty	285	337	377	---	---
BLUEFIELD	DETACHED	---	---	356	391	436
	SEMI-DETACHED/ROW	---	263	335	366	412
	WALKUP	231	263	298	332	365
	ELEVATOR-2-4 Sty	280	332	372	---	---
	5 + Sty	285	337	377	---	---
HUNTINGTON	DETACHED	---	---	359	432	469
	SEMI-DETACHED/ROW	---	263	341	408	449
	WALKUP	185	245	322	389	426
	ELEVATOR-2-4 Sty	280	332	397	---	---
	5 + Sty	285	337	402	---	---
PARKERSBURG	DETACHED	---	---	317	366	402
	SEMI-DETACHED/ROW	---	263	299	345	380
	WALKUP	215	246	291	327	361
	ELEVATOR-2-4 Sty	273	327	397	---	---
	5 + Sty	278	332	402	---	---
WHEELING	DETACHED	---	---	319	395	447
	SEMI-DETACHED/ROW	---	257	302	379	432
	WALKUP	216	250	294	368	401
	ELEVATOR-2-4 Sty	276	330	400	---	---
	5 + Sty	281	335	405	---	---

INSURING OFFICE CHARLESTON, W. VA. REGION III - PHILADELPHIA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MARTINSBURG	DETACHED	---	---	368	408	457
	SEMI-DETACHED/ROW	---	307	347	391	437
	WALKUP	235	286	334	368	415
	ELEVATOR-2-4 Sty	313	343	382	---	---
	5 + Sty	318	348	387	---	---
FAIRMONT	DETACHED	---	---	368	408	457
	SEMI-DETACHED/ROW	---	307	347	391	437
	WALKUP	235	286	334	368	415
	ELEVATOR-2-4 Sty	313	343	382	---	---
	5 + Sty	318	348	387	---	---
POINT PLEASANT	DETACHED	---	---	316	364	398
	SEMI-DETACHED/ROW	---	253	298	343	378
	WALKUP	214	245	290	324	359
	ELEVATOR-2-4 Sty	271	324	362	---	---
	5 + Sty	275	329	367	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE BIRMINGHAM, ALA. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BIRMINGHAM	DETACHED	-	-	353	412	449
	SEMI-DETACHED/ROW	-	245	285	360	395
	WALKUP	205	240	280	355	390
	ELEVATOR-2-4 Sty	245	290	340	-	-
	5 + Sty	255	300	355	-	-
DOTHAN	DETACHED	-	-	302	359	390
	SEMI-DETACHED/ROW	-	235	280	345	380
	WALKUP	195	230	275	345	380
	ELEVATOR-2-4 Sty	235	275	330	-	-
	5 + Sty	245	285	345	-	-
FLORENCE	DETACHED	-	-	321	385	421
	SEMI-DETACHED/ROW	-	237	296	350	385
	WALKUP	195	230	275	325	365
	ELEVATOR-2-4 Sty	235	275	330	-	-
	5 + Sty	245	285	345	-	-
HUNTSVILLE	DETACHED	-	-	328	391	430
	SEMI-DETACHED/ROW	-	237	296	345	380
	WALKUP	195	230	275	325	365
	ELEVATOR-2-4 Sty	235	275	330	-	-
	5 + Sty	245	285	345	-	-
MOBILE	DETACHED	-	-	342	396	429
	SEMI-DETACHED/ROW	-	240	285	375	410
	WALKUP	195	235	280	350	385
	ELEVATOR-2-4 Sty	235	280	335	-	-
	5 + Sty	245	290	350	-	-
MONTGOMERY	DETACHED	-	-	335	390	428
	SEMI-DETACHED/ROW	-	240	285	375	410
	WALKUP	195	235	280	350	385
	ELEVATOR-2-4 Sty	235	280	335	-	-
	5 + Sty	245	290	350	-	-

AREA OFFICE BIRMINGHAM, ALA REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
TUSCALOOSA	DETACHED	-	-	336	399	435
	SEMI-DETACHED/ROW	-	235	280	345	380
	WALKUP	195	235	280	345	380
	ELEVATOR-2-4 Sty	235	280	335	-	-
	5 + Sty	245	290	350	-	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE JACKSONVILLE, FLA. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
JACKSONVILLE	DETACHED	---	---	294	363	401
	SEMI-DETACHED/ROW	---	259	294	353	371
	WALKUP	206	237	294	353	371
	ELEVATOR-2-4 Sty	244	297	375	---	---
	5 + Sty	252	307	388	---	---
FORT WALTON BEACH	DETACHED	---	---	280	377	408
	SEMI-DETACHED/ROW	---	238	261	340	363
	WALKUP	199	218	261	340	363
	ELEVATOR-2-4 Sty	245	284	338	---	---
	5 + Sty	253	294	350	---	---
GAINESVILLE	DETACHED	---	---	324	417	449
	SEMI-DETACHED/ROW	---	276	307	381	397
	WALKUP	235	254	307	381	397
	ELEVATOR-2-4 Sty	263	307	374	---	---
	5 + Sty	272	317	387	---	---
PANAMA CITY	DETACHED	---	---	280	362	369
	SEMI-DETACHED/ROW	---	235	261	334	349
	WALKUP	199	218	261	334	349
	ELEVATOR-2-4 Sty	245	283	337	---	---
	5 + Sty	253	293	349	---	---
PENSACOLA	DETACHED	---	---	280	377	408
	SEMI-DETACHED/ROW	---	238	261	340	363
	WALKUP	199	218	261	340	363
	ELEVATOR-2-4 Sty	245	284	338	---	---
	5 + Sty	253	294	350	---	---
TALLAHASSEE	DETACHED	---	---	363	407	413
	SEMI-DETACHED/ROW	---	265	291	363	378
	WALKUP	221	240	288	362	378
	ELEVATOR-2-4 Sty	260	302	365	---	---
	5 + Sty	269	312	377	---	---

INSURING OFFICE CORAL GABLES, FLA. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MIAMI	DETACHED	-	-	424	446	506
	SEMI-DETACHED/ROW	-	316	379	438	486
	WALKUP	251	286	361	432	472
	ELEVATOR-2-4 Sty	258	291	387	-	-
	5 + Sty	310	334	465	-	-
FORT LAUDER-DALE	DETACHED	-	-	472	491	533
	SEMI-DETACHED/ROW	-	303	388	458	500
	WALKUP	257	278	378	427	466
	ELEVATOR-2-4 Sty	263	282	382	-	-
	5 + Sty	304	363	459	-	-
FORT MYERS	DETACHED	-	-	322	396	432
	SEMI-DETACHED/ROW	-	283	322	396	432
	WALKUP	230	276	322	396	432
	ELEVATOR-2-4 Sty	236	282	328	-	-
	5 + Sty	271	308	361	-	-
KEY WEST	DETACHED	-	-	395	427	505
	SEMI-DETACHED/ROW	-	317	395	427	457
	WALKUP	243	317	395	419	444
	ELEVATOR-2-4 Sty	249	317	401	-	-
	5 + Sty	267	352	433	-	-
WEST PALM BEACH	DETACHED	-	-	400	464	494
	SEMI-DETACHED/ROW	-	282	400	464	494
	WALKUP	248	282	353	433	472
	ELEVATOR-2-4 Sty	254	288	359	-	-
	5 + Sty	313	347	418	-	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE TAMPA, FLORIDA REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
TAMPA	DETACHED	-	-	327	384	405
	SEMI-DETACHED/ROW	-	246	281	343	390
	WALKUP	212	231	270	324	343
	ELEVATOR-2-4 Sty	214	233	272	-	-
	5 + Sty	241	263	308	-	-
COCOA	DETACHED	-	-	309	362	394
	SEMI-DETACHED/ROW	-	250	303	359	394
	WALKUP	203	219	264	298	317
	ELEVATOR-2-4 Sty	205	221	266	-	-
	5 + Sty	231	250	300	-	-
DAYTONA BEACH	DETACHED	-	-	323	378	399
	SEMI-DETACHED/ROW	-	265	323	363	397
	WALKUP	214	231	281	316	335
	ELEVATOR-2-4 Sty	216	233	283	-	-
	5 + Sty	243	263	319	-	-
LAKELAND	DETACHED	-	-	321	358	379
	SEMI-DETACHED/ROW	-	275	321	345	377
	WALKUP	226	242	281	326	344
	ELEVATOR-2-4 Sty	228	244	283	-	-
	5 + Sty	254	272	317	-	-
ORLANDO	DETACHED	-	-	312	364	387
	SEMI-DETACHED/ROW	-	253	311	355	387
	WALKUP	186	219	270	321	339
	ELEVATOR-2-4 Sty	188	221	272	-	-
	5 + Sty	213	249	305	-	-
PORT PIERCE	DETACHED	-	-	323	378	399
	SEMI-DETACHED/ROW	-	265	323	363	397
	WALKUP	214	231	281	316	335
	ELEVATOR-2-4 Sty	216	233	283	-	-
	5 + Sty	243	263	319	-	-

INSURING OFFICE TAMPA, FLA. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SARASOTA	DETACHED	-	-	343	399	422
	SEMI-DETACHED/ROW	-	293	341	373	408
	WALKUP	236	253	293	354	374
	ELEVATOR-2-4 Sty	238	255	295	-	-
	5 + Sty	266	286	332	-	-
ST. PETERS-BURG	DETACHED	-	-	331	383	403
	SEMI-DETACHED/ROW	-	264	321	364	398
	WALKUP	197	231	281	349	368
	ELEVATOR-2-4 Sty	199	242	285	-	-
	5 + Sty	226	263	319	-	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE ATLANTA, GA. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ATLANTA	DETACHED	---	---	354	408	447
	SEMI-DETACHED/ROW	---	278	325	389	426
	WALKUP	250	270	320	377	413
	ELEVATOR-2-4 Sty	273	293	343	---	---
	5 + Sty	282	315	378	---	---
ALBANY	DETACHED	---	---	307	394	422
	SEMI-DETACHED/ROW	---	236	291	377	401
	WALKUP	213	230	285	371	396
	ELEVATOR-2-4 Sty	236	253	308	---	---
	5 + Sty	281	300	374	---	---
AUGUSTA	DETACHED	---	---	309	369	414
	SEMI-DETACHED/ROW	---	244	288	353	394
	WALKUP	215	238	279	342	383
	ELEVATOR-2-4 Sty	238	261	302	---	---
	5 + Sty	281	307	365	---	---
BRUNSWICK	DETACHED	---	---	323	377	406
	SEMI-DETACHED/ROW	---	255	302	360	386
	WALKUP	221	244	291	348	375
	ELEVATOR-2-4 Sty	244	267	314	---	---
	5 + Sty	296	325	392	---	---
COLUMBUS	DETACHED	---	---	320	374	412
	SEMI-DETACHED/ROW	---	267	308	360	407
	WALKUP	230	250	297	354	390
	ELEVATOR-2-4 Sty	253	273	320	---	---
	5 + Sty	297	321	385	---	---
MACON	DETACHED	---	---	335	362	409
	SEMI-DETACHED/ROW	---	241	308	358	407
	WALKUP	212	229	304	334	376
	ELEVATOR-2-4 Sty	235	252	327	---	---
	5 + Sty	282	303	397	---	---

AREA OFFICE ATLANTA, GA. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ROME	DETACHED	---	---	303	359	397
	SEMI-DETACHED/ROW	---	238	279	337	378
	WALKUP	207	227	274	331	367
	ELEVATOR-2-4 Sty	230	250	297	---	---
	5 + Sty	278	303	368	---	---
SAVANNAH	DETACHED	---	---	367	424	468
	SEMI-DETACHED/ROW	---	285	354	413	450
	WALKUP	244	274	335	394	436
	ELEVATOR-2-4 Sty	267	297	358	---	---
	5 + Sty	319	355	436	---	---
VALDOSTA	DETACHED	---	---	310	353	404
	SEMI-DETACHED/ROW	---	244	291	348	396
	WALKUP	213	232	285	331	378
	ELEVATOR-2-4 Sty	236	255	308	---	---
	5 + Sty	279	302	372	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE LOUISVILLE, KY REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LOUISVILLE	DETACHED	-	-	341	437	491
	SEMI-DETACHED/ROW	-	277	323	409	458
	WALKUP	237	268	316	379	417
	ELEVATOR-2-4 Sty	249	280	328	-	-
	5 + Sty	308	349	410	-	-
ASHLAND	DETACHED	-	-	361	410	464
	SEMI-DETACHED/ROW	-	292	340	387	435
	WALKUP	239	269	314	354	391
	ELEVATOR-2-4 Sty	255	284	327	-	-
	5 + Sty	316	352	415	-	-
BOWLING GREEN	DETACHED	-	-	345	397	471
	SEMI-DETACHED/ROW	-	275	331	375	444
	WALKUP	216	246	302	365	400
	ELEVATOR-2-4 Sty	227	260	316	-	-
	5 + Sty	280	324	398	-	-
CORBIN	DETACHED	-	-	384	461	516
	SEMI-DETACHED/ROW	-	293	366	435	485
	WALKUP	234	265	338	399	439
	ELEVATOR-2-4 Sty	250	280	352	-	-
	5 + Sty	312	348	439	-	-
COVINGTON	DETACHED	-	-	367	438	504
	SEMI-DETACHED/ROW	-	299	344	402	460
	WALKUP	233	269	314	365	411
	ELEVATOR-2-4 Sty	245	284	327	-	-
	5 + Sty	306	349	411	-	-
HOPKINSVILLE	DETACHED	-	-	355	399	450
	SEMI-DETACHED/ROW	-	294	341	380	428
	WALKUP	236	264	308	350	402
	ELEVATOR-2-4 Sty	252	278	321	-	-
	5 + Sty	293	342	404	-	-

AREA OFFICE LOUISVILLE, KY REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LEXINGTON	DETACHED	-	-	379	431	486
	SEMI-DETACHED/ROW	-	318	363	410	459
	WALKUP	235	265	338	399	432
	ELEVATOR-2-4 Sty	247	276	352	-	-
	5 + Sty	304	345	432	-	-
MIDDLESBORO	DETACHED	-	-	393	458	499
	SEMI-DETACHED/ROW	-	302	374	433	469
	WALKUP	236	265	338	399	439
	ELEVATOR-2-4 Sty	246	280	352	-	-
	5 + Sty	308	347	438	-	-
MURRAY	DETACHED	-	-	363	414	458
	SEMI-DETACHED/ROW	-	304	346	391	438
	WALKUP	241	274	314	354	420
	ELEVATOR-2-4 Sty	255	289	331	-	-
	5 + Sty	312	357	416	-	-
NEWPORT	DETACHED	-	-	376	442	500
	SEMI-DETACHED/ROW	-	303	351	404	457
	WALKUP	233	269	314	363	401
	ELEVATOR-2-4 Sty	249	284	328	-	-
	5 + Sty	311	351	416	-	-
OWENSBORO	DETACHED	-	-	383	423	469
	SEMI-DETACHED/ROW	-	321	366	401	446
	WALKUP	214	238	344	370	404
	ELEVATOR-2-4 Sty	225	252	356	-	-
	5 + Sty	285	313	441	-	-
PADUCAH	DETACHED	-	-	333	413	467
	SEMI-DETACHED/ROW	-	280	318	392	435
	WALKUP	230	259	298	367	400
	ELEVATOR-2-4 Sty	245	273	310	-	-
	5 + Sty	300	330	384	-	-

AREA OFFICE LOUISVILLE, KY. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
FRANKFORT	DETACHED	-	-	379	451	510
	SEMI-DETACHED/ROW	-	287	360	427	479
	WALKUP	235	265	338	399	440
	ELEVATOR-2-4 Sty	251	280	352	-	-
	5 + Sty	302	335	425	-	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE JACKSON, MISS. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
JACKSON	DETACHED	---	---	342	420	466
	SEMI-DETACHED/ROW	---	289	328	405	448
	WALKUP	258	282	327	402	438
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	341	373	441	---	---
BILOXI	DETACHED	---	---	292	344	390
	SEMI-DETACHED/ROW	---	242	282	336	376
	WALKUP	227	241	282	336	373
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	305	329	392	---	---
CORINTH	DETACHED	---	---	287	365	411
	SEMI-DETACHED/ROW	---	234	274	347	388
	WALKUP	202	232	274	347	385
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	285	319	384	---	---
GREENVILLE	DETACHED	---	---	338	368	409
	SEMI-DETACHED/ROW	---	261	316	345	388
	WALKUP	223	252	315	342	378
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	304	339	423	---	---
GREENWOOD	DETACHED	---	---	301	341	390
	SEMI-DETACHED/ROW	---	256	301	332	372
	WALKUP	224	254	301	332	369
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	304	340	409	---	---
GULFPORT	DETACHED	---	---	292	344	390
	SEMI-DETACHED/ROW	---	242	282	336	376
	WALKUP	227	241	282	336	373
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	305	329	392	---	---

AREA _____ OFFICE JACKSON, MISS. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
HATTIESBURG	DETACHED	---	---	305	357	399
	SEMI-DETACHED/ROW	---	228	283	334	377
	WALKUP	193	221	282	331	367
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	275	308	390	---	---
SOUTHAVEN	DETACHED	216	265	339	359	404
	SEMI-DETACHED/ROW	214	256	339	348	386
	WALKUP	210	254	308	348	386
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	---	---	---	---	---
TUPELO	DETACHED	---	---	287	365	411
	SEMI-DETACHED/ROW	---	234	274	347	388
	WALKUP	202	232	274	347	385
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	285	319	384	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA _____ OFFICE GREENSBORO, N.C. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
GREENSBORO	DETACHED	---	---	319	383	433
	SEMI-DETACHED/ROW	215	250	290	355	410
	WALKUP	215	250	290	355	410
	ELEVATOR-2-4 Sty	235	270	310	---	---
	5 + Sty	253	295	344	---	---
GREENSBORO	MOBILE HOME	---	---	227	272	304
ASHEVILLE	DETACHED	---	---	295	370	425
	SEMI-DETACHED/ROW	205	245	285	350	405
	WALKUP	205	245	285	350	405
	ELEVATOR-2-4 Sty	225	265	305	---	---
	5 + Sty	253	295	344	---	---
CHARLOTTE	DETACHED	---	---	309	364	414
	SEMI-DETACHED/ROW	205	240	280	340	390
	WALKUP	205	240	280	340	390
	ELEVATOR-2-4 Sty	225	260	300	---	---
	5 + Sty	254	295	344	---	---
CHARLOTTE	MOBILE HOME	---	---	227	272	304
DURHAM	DETACHED	---	---	293	352	406
	SEMI-DETACHED/ROW	200	235	280	335	385
	WALKUP	200	235	280	335	385
	ELEVATOR-2-4 Sty	220	255	300	---	---
	5 + Sty	253	295	344	---	---

AREA OFFICE GREENSBORO, N.C. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DURHAM	MOBILE HOME	---	---	227	272	304
GREENVILLE	DETACHED	---	---	290	340	390
	SEMI-DETACHED/ROW	200	235	275	325	375
	WALKUP	200	235	275	325	375
	ELEVATOR-2-4 Sty	220	255	295	---	---
	5 + Sty	262	295	344	---	---
RALEIGH	DETACHED	---	---	321	397	446
	SEMI-DETACHED/ROW	220	255	295	360	415
	WALKUP	220	255	295	360	415
	ELEVATOR-2-4 Sty	240	275	315	---	---
	5 + Sty	253	295	344	---	---
RALEIGH	MOBILE HOME	---	---	227	272	304
WILMINGTON	DETACHED	---	---	312	373	424
	SEMI-DETACHED/ROW	205	235	280	335	390
	WALKUP	205	235	280	335	390
	ELEVATOR-2-4 Sty	225	255	300	---	---
	5 + Sty	257	295	344	---	---
WILMINGTON	MOBILE HOME	---	---	227	272	304

AREA OFFICE GREENSBORO, N.C. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WINSTON - SALEM	DETACHED	---	---	300	366	417
	SEMI-DETACHED/ROW	210	250	290	350	400
	WALKUP	210	250	290	350	400
	ELEVATOR-2-4 Sty	230	270	310	---	---
	5 + Sty	253	295	344	---	---
FAYETTEVILLE	DETACHED	---	---	299	353	403
	SEMI-DETACHED/ROW	205	240	285	330	380
	WALKUP	205	240	285	330	380
	ELEVATOR-2-4 Sty	225	260	305	---	---
	5 + Sty	258	295	344	---	---
FAYETTEVILLE	MOBILE HOME	---	---	227	272	304
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE COLUMBIA, S. C. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
GREENVILLE	DETACHED	255	280	310	370	425
	SEMI-DETACHED/ROW	250	275	305	365	420
	WALKUP	240	265	295	355	410
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-
GREENWOOD	DETACHED	265	275	305	355	395
	SEMI-DETACHED/ROW	250	270	300	350	390
	WALKUP	240	260	290	340	380
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-
MYRTLE BEACH	DETACHED	255	280	315	370	440
	SEMI-DETACHED/ROW	250	275	310	365	435
	WALKUP	240	265	300	355	425
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-
NORTH AUGUSTA	DETACHED	255	275	310	355	405
	SEMI-DETACHED/ROW	250	270	305	350	400
	WALKUP	240	260	295	340	390
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-
ORANGEBURG	DETACHED	255	275	310	355	400
	SEMI-DETACHED/ROW	250	270	305	350	395
	WALKUP	240	260	295	340	385
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-
ROCKHILL	DETACHED	255	275	310	355	405
	SEMI-DETACHED/ROW	250	270	305	350	400
	WALKUP	240	260	295	340	390
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-

AREA OFFICE COLUMBIA, S. C. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
COLUMBIA	DETACHED	255	275	310	360	405
	SEMI-DETACHED/ROW	250	270	305	355	400
	WALKUP	240	260	295	345	390
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-
AIKEN	DETACHED	255	275	310	355	405
	SEMI-DETACHED/ROW	250	270	305	350	400
	WALKUP	240	260	295	340	390
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-
ANDERSON	DETACHED	265	275	305	355	395
	SEMI-DETACHED/ROW	250	270	300	350	390
	WALKUP	240	260	290	340	380
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-
BEAUFORT	DETACHED	255	280	315	370	440
	SEMI-DETACHED/ROW	250	275	310	365	435
	WALKUP	240	265	300	355	425
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-
CHARLESTON	DETACHED	255	280	315	370	440
	SEMI-DETACHED/ROW	250	275	310	365	435
	WALKUP	240	265	300	355	425
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-
FLORENCE	DETACHED	255	275	310	355	400
	SEMI-DETACHED/ROW	250	270	305	350	395
	WALKUP	240	260	295	340	385
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	---	---

AREA OFFICE COLUMBIA, S. C. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SPARTANBURG	DETACHED	255	280	310	370	425
	SEMI-DETACHED/ROW	250	275	305	365	420
	WALKUP	240	265	295	355	410
	ELEVATOR-2-4 Sty	250	290	345	-	-
	5 + Sty	260	300	355	-	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE KNOXVILLE, TENN. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
KNOXVILLE	DETACHED	---	---	330	390	420
	SEMI-DETACHED/ROW	---	255	315	380	410
	WALKUP	225	245	305	365	395
	ELEVATOR-2-4 Sty	250	270	325	---	---
	5 + Sty	270	300	350	---	---
CHATTANOOGA	DETACHED	---	---	310	370	400
	SEMI-DETACHED/ROW	---	270	305	365	395
	WALKUP	240	260	290	350	380
	ELEVATOR-2-4 Sty	265	285	330	---	---
	5 + Sty	290	310	350	---	---
JOHNSON CITY	DETACHED	---	---	290	345	370
	SEMI-DETACHED/ROW	---	240	280	335	360
	WALKUP	210	230	265	320	345
	ELEVATOR-2-4 Sty	230	255	290	---	---
	5 + Sty	255	280	315	---	---
KINGSPORT	DETACHED	---	---	290	345	370
	SEMI-DETACHED/ROW	---	240	280	335	360
	WALKUP	210	230	265	320	345
	ELEVATOR-2-4 Sty	230	255	290	---	---
	5 + Sty	255	280	315	---	---
OAKRIDGE	DETACHED	---	---	330	390	420
	SEMI-DETACHED/ROW	---	255	315	380	410
	WALKUP	225	245	305	365	395
	ELEVATOR-2-4 Sty	250	270	325	---	---
	5 + Sty	270	300	350	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE MEMPHIS, TENN. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MEMPHIS	DETACHED	---	---	350	399	457
	SEMI-DETACHED/ROW	286	312	350	393	426
	WALKUP	209	234	284	333	364
	ELEVATOR-2-4 Sty	261	297	355	---	---
	5 + Sty	293	330	396	---	---
JACKSON	DETACHED	---	---	285	322	368
	SEMI-DETACHED/ROW	202	230	270	316	359
	WALKUP	193	220	266	304	343
	ELEVATOR-2-4 Sty	239	276	328	---	---
	5 + Sty	264	302	359	---	---
UNION CITY	DETACHED	---	---	284	315	351
	SEMI-DETACHED/ROW	208	236	283	315	351
	WALKUP	198	232	278	313	348
	ELEVATOR-2-4 Sty	259	291	343	---	---
	5 + Sty	299	340	397	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE NASHVILLE, TENN. REGION IV - ATLANTA

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NASHVILLE	DETACHED	---	---	348	397	434
	SEMI-DETACHED/ROW	---	250	288	378	420
	WALKUP	210	240	282	378	414
	ELEVATOR-2-4 Sty	225	270	315	---	---
	5 + Sty	240	300	345	---	---
CLARKSVILLE	DETACHED	---	---	330	377	412
	SEMI-DETACHED/ROW	---	216	288	368	391
	WALKUP	175	216	264	330	357
	ELEVATOR-2-4 Sty	195	240	285	---	---
	5 + Sty	216	270	310	---	---
COLUMBIA	DETACHED	---	---	330	377	412
	SEMI-DETACHED/ROW	---	217	288	370	395
	WALKUP	175	217	260	348	380
	ELEVATOR-2-4 Sty	195	240	285	---	---
	5 + Sty	216	270	310	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE CHICAGO, ILL. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CHICAGO	DETACHED	---	---	600	632	736
	SEMI-DETACHED/ROW	---	463	508	553	620
	WALKUP	328	361	435	527	549
	ELEVATOR-2-4 Sty	336	370	445	538	---
	5 + Sty	398	457	567	607	---
MOLINE	DETACHED	---	---	547	578	644
	SEMI-DETACHED/ROW	---	443	469	529	558
	WALKUP	324	355	427	511	---
	ELEVATOR-2-4 Sty	332	364	437	---	---
	5 + Sty	374	412	525	---	---
ROCKFORD	DETACHED	---	---	461	492	557
	SEMI-DETACHED/ROW	---	396	419	439	469
	WALKUP	274	303	361	418	---
	ELEVATOR-2-4 Sty	282	312	371	---	---
	5 + Sty	325	363	426	---	---
ROCK ISLAND	DETACHED	---	---	547	578	644
	SEMI-DETACHED/ROW	---	443	469	529	558
	WALKUP	324	355	427	511	---
	ELEVATOR-2-4 Sty	332	364	437	---	---
	5 + Sty	374	412	525	---	---
STERLING	DETACHED	---	---	443	472	536
	SEMI-DETACHED/ROW	---	389	412	432	461
	WALKUP	274	304	360	415	---
	ELEVATOR-2-4 Sty	282	313	370	---	---
	5 + Sty	319	356	428	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE SPRINGFIELD, ILL. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SPRINGFIELD	DETACHED	---	---	405	458	516
	SEMI-DETACHED/ROW	---	337	384	437	490
	WALKUP	289	316	379	432	481
	ELEVATOR-2-4 Sty	299	334	397	---	---
	5 + Sty	345	381	449	---	---
BELLEVILLE	DETACHED	---	---	365	421	483
	SEMI-DETACHED/ROW	---	284	343	397	456
	WALKUP	238	275	338	392	443
	ELEVATOR-2-4 Sty	256	292	355	---	---
	5 + Sty	291	327	403	---	---
CARBONDALE	DETACHED	---	---	388	444	504
	SEMI-DETACHED/ROW	---	301	367	420	478
	WALKUP	253	292	362	412	459
	ELEVATOR-2-4 Sty	276	310	380	---	---
	5 + Sty	315	349	432	---	---
CHAMPAIGN	DETACHED	---	---	385	439	497
	SEMI-DETACHED/ROW	---	304	363	417	472
	WALKUP	258	293	359	411	459
	ELEVATOR-2-4 Sty	277	310	376	---	---
	5 + Sty	313	347	426	---	---
DANVILLE	DETACHED	---	---	416	472	532
	SEMI-DETACHED/ROW	---	337	395	448	503
	WALKUP	288	324	390	443	493
	ELEVATOR-2-4 Sty	311	346	412	---	---
	5 + Sty	344	380	460	---	---
EAST ST. LOUIS	DETACHED	---	---	356	413	475
	SEMI-DETACHED/ROW	---	280	334	389	448
	WALKUP	233	271	330	384	435
	ELEVATOR-2-4 Sty	254	291	350	---	---
	5 + Sty	298	336	411	---	---

INSURING OFFICE SPRINGFIELD, ILL. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LASALLE	DETACHED	---	---	394	453	516
	SEMI-DETACHED/ROW	---	311	372	428	489
	WALKUP	256	293	356	410	459
	ELEVATOR-2-4 Sty	276	311	374	---	---
	5 + Sty	319	356	435	---	---
QUINCY	DETACHED	---	---	350	405	462
	SEMI-DETACHED/ROW	---	280	329	382	436
	WALKUP	235	270	324	376	424
	ELEVATOR-2-4 Sty	254	291	342	---	---
	5 + Sty	289	324	391	---	---
PEORIA	DETACHED	---	---	436	493	552
	SEMI-DETACHED/ROW	---	356	415	468	527
	WALKUP	311	348	410	464	513
	ELEVATOR-2-4 Sty	332	367	429	---	---
	5 + Sty	369	406	481	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE INDIANAPOLIS, IND. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
INDIANAPOLIS	DETACHED	---	---	422	502	541
	SEMI-DETACHED/ROW	---	274	335	409	446
	WALKUP	238	269	326	405	---
	ELEVATOR-2-4 Sty	257	289	366	---	---
	5 + Sty	305	338	421	---	---
BLOOMINGTON	DETACHED	---	---	407	441	484
	SEMI-DETACHED/ROW	---	253	330	360	392
	WALKUP	219	248	320	353	---
	ELEVATOR-2-4 Sty	239	268	360	---	---
	5 + Sty	285	319	413	---	---
EVANSVILLE	DETACHED	---	---	416	452	494
	SEMI-DETACHED/ROW	---	272	349	380	411
	WALKUP	238	262	330	365	---
	ELEVATOR-2-4 Sty	258	282	371	---	---
	5 + Sty	300	332	421	---	---
FORT WAYNE	DETACHED	---	---	424	460	504
	SEMI-DETACHED/ROW	---	280	341	376	412
	WALKUP	240	271	320	357	---
	ELEVATOR-2-4 Sty	260	291	361	---	---
	5 + Sty	308	340	419	---	---
GARY	DETACHED	---	---	453	496	535
	SEMI-DETACHED/ROW	---	315	379	423	451
	WALKUP	279	307	365	406	---
	ELEVATOR-2-4 Sty	299	328	406	---	---
	5 + Sty	349	385	466	---	---
HAMMOND	DETACHED	---	---	461	506	548
	SEMI-DETACHED/ROW	---	318	377	421	457
	WALKUP	277	307	365	406	---
	ELEVATOR-2-4 Sty	297	328	406	---	---
	5 + Sty	317	375	457	---	---

AREA OFFICE INDIANAPOLIS, IND. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LAFAYETTE	DETACHED	---	---	417	460	499
	SEMI-DETACHED/ROW	---	284	332	373	402
	WALKUP	250	281	329	365	---
	ELEVATOR-2-4 Sty	270	302	370	---	---
	5 + Sty	318	351	416	---	---
SOUTH BEND	DETACHED	---	---	457	501	541
	SEMI-DETACHED/ROW	---	310	376	410	445
	WALKUP	274	305	371	407	---
	ELEVATOR-2-4 Sty	294	326	412	---	---
	5 + Sty	340	375	458	---	---
TERRE HAUTE	DETACHED	---	---	415	459	500
	SEMI-DETACHED/ROW	---	285	329	369	401
	WALKUP	246	277	325	365	---
	ELEVATOR-2-4 Sty	267	298	366	---	---
	5 + Sty	316	348	414	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE DETROIT, MICH. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DETROIT	DETACHED	---	---	456	489	515
	SEMI-DETACHED/ROW	---	393	421	448	489
	WALKUP	271	311	375	414	441
	ELEVATOR-2-4 Sty	293	348	389	---	---
	5 + Sty	314	379	467	---	---
ANN ARBOR	DETACHED	---	---	456	489	515
	SEMI-DETACHED/ROW	---	393	421	448	489
	WALKUP	271	311	375	414	441
	ELEVATOR-2-4 Sty	293	348	389	---	---
	5 + Sty	314	379	467	---	---
FLINT	DETACHED	---	---	418	450	476
	SEMI-DETACHED/ROW	---	317	381	424	455
	WALKUP	246	294	344	387	413
	ELEVATOR-2-4 Sty	278	331	370	---	---
	5 + Sty	298	360	444	---	---
SAGINAW	DETACHED	---	---	418	450	476
	SEMI-DETACHED/ROW	---	317	381	424	455
	WALKUP	246	294	344	387	413
	ELEVATOR-2-4 Sty	278	331	370	---	---
	5 + Sty	298	360	444	---	---
YPSILANTI	DETACHED	---	---	456	489	515
	SEMI-DETACHED/ROW	---	393	421	448	489
	WALKUP	271	311	375	414	441
	ELEVATOR-2-4 Sty	293	348	389	---	---
	5 + Sty	314	379	467	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE GRAND RAPIDS, MICH. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
GRAND RAPIDS	DETACHED	---	---	400	442	462
	SEMI-DETACHED/ROW	---	323	347	403	421
	WALKUP	213	247	305	354	---
	ELEVATOR-2-4 Sty	268	305	333	---	---
	5 + Sty	286	325	358	---	---
BATTLE CREEK	DETACHED	---	---	287	438	459
	SEMI-DETACHED/ROW	---	316	358	399	417
	WALKUP	238	241	298	339	---
	ELEVATOR-2-4 Sty	261	298	327	---	---
	5 + Sty	270	319	353	---	---
BENTON HARBOR	DETACHED	---	---	376	430	465
	SEMI-DETACHED/ROW	---	299	330	430	465
	WALKUP	226	260	287	347	---
	ELEVATOR-2-4 Sty	249	286	315	---	---
	5 + Sty	266	307	342	---	---
KALAMAZOO	DETACHED	---	---	387	439	459
	SEMI-DETACHED/ROW	---	316	353	399	417
	WALKUP	209	246	298	343	---
	ELEVATOR-2-4 Sty	261	298	327	---	---
	5 + Sty	279	319	353	---	---
LANSING	DETACHED	---	---	396	448	468
	SEMI-DETACHED/ROW	---	267	334	393	428
	WALKUP	220	259	308	371	---
	ELEVATOR-2-4 Sty	257	303	364	---	---
	5 + Sty	265	319	387	---	---
MUSKEGON	DETACHED	---	---	374	426	446
	SEMI-DETACHED/ROW	---	305	341	387	404
	WALKUP	204	239	286	363	---
	ELEVATOR-2-4 Sty	249	286	315	---	---
	5 + Sty	267	307	341	---	---

INSURING OFFICE GRAND RAPIDS, MICH. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
TRAVERSE CITY	DETACHED	---	---	447	503	525
	SEMI-DETACHED/ROW	---	373	412	463	481
	WALKUP	252	286	354	399	---
	ELEVATOR-2-4 Sty	313	353	384	---	---
	5 + Sty	332	375	412	---	---
MARQUETTE	DETACHED	---	---	411	467	490
	SEMI-DETACHED/ROW	---	336	377	427	447
	WALKUP	208	248	317	366	---
	ELEVATOR-2-4 Sty	231	273	350	---	---
	5 + Sty	257	300	379	---	---
JACKSON	DETACHED	---	---	438	490	512
	SEMI-DETACHED/ROW	---	318	360	418	443
	WALKUP	242	278	347	395	---
	ELEVATOR-2-4 Sty	266	300	373	---	---
	5 + Sty	280	315	395	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE MINNEAPOLIS, MINN. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MINNEAPOLIS-ST. PAUL	DETACHED	---	---	497	539	554
	SEMI-DETACHED/ROW	---	363	408	448	489
	WALKUP	226	254	315	417	438
	ELEVATOR-2-4 Sty	246	284	343	429	450
	5 + Sty	310	356	448	---	---
DULUTH	DETACHED	---	---	472	514	532
	SEMI-DETACHED/ROW	---	385	433	475	521
	WALKUP	234	305	399	442	464
	ELEVATOR-2-4 Sty	244	315	409	452	473
	5 + Sty	319	367	464	---	---
MANKATO	DETACHED	---	---	457	498	540
	SEMI-DETACHED/ROW	---	350	395	435	478
	WALKUP	216	265	342	392	413
	ELEVATOR-2-4 Sty	225	274	351	401	421
	5 + Sty	307	353	445	---	---
ROCHESTER	DETACHED	---	---	443	484	501
	SEMI-DETACHED/ROW	---	353	396	444	468
	WALKUP	217	273	342	391	411
	ELEVATOR-2-4 Sty	226	282	351	400	419
	5 + Sty	298	343	432	---	---
ST. CLOUD	DETACHED	---	---	461	500	516
	SEMI-DETACHED/ROW	---	350	395	435	476
	WALKUP	230	255	314	401	422
	ELEVATOR-2-4 Sty	239	264	323	410	430
	5 + Sty	305	351	443	---	---
WORTHINGTON	DETACHED	---	---	445	486	501
	SEMI-DETACHED/ROW	---	346	391	431	438
	WALKUP	215	236	283	391	411
	ELEVATOR-2-4 Sty	224	245	292	400	420
	5 + Sty	305	351	443	---	---

INSURING OFFICE CINCINNATI, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CINCINNATI	DETACHED	---	---	519	568	594
	SEMI-DETACHED/ROW	---	363	425	480	510
	WALKUP	250	289	351	410	440
	ELEVATOR-2-4 Sty	255	295	360	435	455
	5 + Sty	366	428	547	---	---
DAYTON	DETACHED	---	---	509	561	597
	SEMI-DETACHED/ROW	---	342	404	474	505
	WALKUP	302	337	387	455	485
	ELEVATOR-2-4 Sty	305	340	395	470	500
	5 + Sty	413	475	581	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE CLEVELAND, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CLEVELAND	DETACHED	---	---	498	543	592
	SEMI-DETACHED/ROW	---	351	409	450	497
	WALKUP	292	324	376	423	461
	ELEVATOR-2-4 Sty	312	345	401	---	---
	5 + Sty	356	391	461	---	---
AKRON	DETACHED	---	---	457	495	538
	SEMI-DETACHED/ROW	---	339	390	429	477
	WALKUP	281	313	360	404	443
	ELEVATOR-2-4 Sty	300	333	384	---	---
	5 + Sty	341	374	437	---	---
FINDLAY	DETACHED	---	---	401	437	478
	SEMI-DETACHED/ROW	---	288	348	384	429
	WALKUP	234	264	319	362	397
	ELEVATOR-2-4 Sty	252	283	342	---	---
	5 + Sty	293	324	395	---	---
LORAIN	DETACHED	---	---	435	474	517
	SEMI-DETACHED/ROW	---	311	372	409	455
	WALKUP	256	286	342	387	423
	ELEVATOR-2-4 Sty	276	307	367	---	---
	5 + Sty	319	351	422	---	---
MANSFIELD	DETACHED	---	---	394	432	473
	SEMI-DETACHED/ROW	---	285	339	376	421
	WALKUP	232	261	312	356	392
	ELEVATOR-2-4 Sty	250	281	335	---	---
	5 + Sty	292	325	391	---	---
TOLEDO	DETACHED	---	---	471	504	548
	SEMI-DETACHED/ROW	---	335	395	434	481
	WALKUP	277	308	364	410	447
	ELEVATOR-2-4 Sty	297	329	389	---	---
	5 + Sty	340	374	446	---	---

INSURING OFFICE CLEVELAND, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
YOUNGSTOWN	DETACHED	---	---	429	467	508
	SEMI-DETACHED/ROW	---	314	363	401	446
	WALKUP	260	289	335	379	415
	ELEVATOR-2-4 Sty	279	309	359	---	---
	5 + Sty	321	353	414	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-- Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE COLUMBUS, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
COLUMBUS	DETACHED	---	---	420	470	495
	SEMI-DETACHED/ROW	---	290	340	405	435
	WALKUP	255	285	315	380	400
	ELEVATOR-2-4 Sty	300	340	400	---	---
	5 + Sty	345	380	430	---	---
ATHENS	DETACHED	---	---	400	455	480
	SEMI-DETACHED/ROW	---	300	330	390	420
	WALKUP	255	290	325	355	395
	ELEVATOR-2-4 Sty	295	330	390	---	---
	5 + Sty	340	370	425	---	---
LIMA	DETACHED	---	---	400	455	480
	SEMI-DETACHED/ROW	---	300	330	390	420
	WALKUP	255	290	325	355	395
	ELEVATOR-2-4 Sty	295	330	390	---	---
	5 + Sty	340	370	425	---	---
MARIETTA	DETACHED	---	---	400	455	480
	SEMI-DETACHED/ROW	---	300	330	390	420
	WALKUP	255	290	325	355	395
	ELEVATOR-2-4 Sty	295	330	390	---	---
	5 + Sty	340	370	425	---	---
NEWARK	DETACHED	---	---	400	455	480
	SEMI-DETACHED/ROW	---	300	330	390	420
	WALKUP	255	290	325	355	395
	ELEVATOR-2-4 Sty	295	330	390	---	---
	5 + Sty	340	370	425	---	---
SPRINGFIELD	DETACHED	---	---	400	455	480
	SEMI-DETACHED/ROW	---	300	330	390	420
	WALKUP	255	290	325	355	395
	ELEVATOR-2-4 Sty	295	330	390	---	---
	5 + Sty	340	370	425	---	---

AREA OFFICE COLUMBUS, OHIO REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
TROY	DETACHED	---	---	400	455	480
	SEMI-DETACHED/ROW	---	300	330	390	420
	WALKUP	255	290	325	355	395
	ELEVATOR-2-4 Sty	295	330	390	---	---
	5 + Sty	340	370	425	---	---
ZANESVILLE	DETACHED	---	---	400	455	480
	SEMI-DETACHED/ROW	---	300	330	390	420
	WALKUP	255	290	325	355	395
	ELEVATOR-2-4 Sty	295	330	390	---	---
	5 + Sty	340	370	425	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE MILWAUKEE, WIS. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MADISON	DETACHED	---	---	420	491	531
	SEMI-DETACHED/ROW	---	294	362	427	465
	WALKUP	247	277	331	390	---
	ELEVATOR-2-4 Sty	259	289	343	402	---
	5 + Sty	294	324	399	---	---
REEDSVILLE	DETACHED	---	---	404	464	513
	SEMI-DETACHED/ROW	---	326	347	410	480
	WALKUP	227	250	318	377	---
	ELEVATOR-2-4 Sty	239	262	330	389	---
	5 + Sty	277	307	390	---	---
SUPERIOR	DETACHED	---	---	426	501	534
	SEMI-DETACHED/ROW	---	295	363	428	475
	WALKUP	255	287	343	408	---
	ELEVATOR-2-4 Sty	267	299	355	420	---
	5 + Sty	299	326	404	---	---
MILWAUKEE	DETACHED	---	---	463	543	580
	SEMI-DETACHED/ROW	---	327	399	464	512
	WALKUP	274	304	357	419	---
	ELEVATOR-2-4 Sty	286	316	369	431	---
	5 + Sty	338	357	432	---	---
EAU CLAIRE	DETACHED	---	---	398	473	511
	SEMI-DETACHED/ROW	---	278	352	409	442
	WALKUP	238	268	313	372	---
	ELEVATOR-2-4 Sty	253	280	325	384	---
	5 + Sty	281	292	366	---	---
GREEN BAY	DETACHED	---	---	399	466	498
	SEMI-DETACHED/ROW	---	275	337	400	439
	WALKUP	217	246	312	369	---
	ELEVATOR-2-4 Sty	229	258	324	412	---
	5 + Sty	255	283	379	---	---

AREA OFFICE MILWAUKEE, WIS. REGION V - CHICAGO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WAUSAU	DETACHED	---	---	413	475	502
	SEMI-DETACHED/ROW	---	301	343	409	442
	WALKUP	230	259	322	380	---
	ELEVATOR-2-4 Sty	242	271	334	392	---
	5 + Sty	269	314	383	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE SAN ANTONIO, TX. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
VICTORIA	DETACHED	---	---	325	422	504
	SEMI-DETACHED/ROW	197	251	311	380	458
	WALKUP	184	235	293	362	420
	ELEVATOR-2-4 Sty	274	322	409	---	---
	5 + Sty	316	369	469	---	---
DEL RIO	DETACHED	---	---	345	491	503
	SEMI-DETACHED/ROW	---	280	330	420	474
	WALKUP	199	248	297	378	416
	ELEVATOR-2-4 Sty	314	355	430	---	---
	5 + Sty	360	409	496	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE SAN ANTONIO, TX. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SAN ANTONIO	DETACHED	---	---	309	396	463
	SEMI-DETACHED/ROW	214	248	292	378	443
	WALKUP	202	234	281	360	410
	ELEVATOR-2-4 Sty	302	331	404	---	---
	5 + Sty	347	381	466	---	---
AUSTIN	DETACHED	---	---	367	466	492
	SEMI-DETACHED/ROW	250	274	351	420	471
	WALKUP	236	256	331	400	432
	ELEVATOR-2-4 Sty	346	350	456	---	---
	5 + Sty	399	402	526	---	---
CORPUS CHRISTI	DETACHED	---	---	325	422	504
	SEMI-DETACHED/ROW	197	251	311	380	458
	WALKUP	184	235	293	362	420
	ELEVATOR-2-4 Sty	274	322	409	---	---
	5 + Sty	316	369	469	---	---
EAGLE PASS	DETACHED	---	---	345	491	503
	SEMI-DETACHED/ROW	---	280	330	420	474
	WALKUP	199	248	297	378	416
	ELEVATOR-2-4 Sty	314	355	430	---	---
	5 + Sty	360	409	496	---	---
HARLINGEN	DETACHED	---	---	352	431	528
	SEMI-DETACHED/ROW	---	236	322	412	480
	WALKUP	174	213	275	352	400
	ELEVATOR-2-4 Sty	275	285	394	---	---
	5 + Sty	315	328	454	---	---
LAREDO	DETACHED	---	---	345	491	503
	SEMI-DETACHED/ROW	---	280	330	420	474
	WALKUP	199	248	297	378	416
	ELEVATOR-2-4 Sty	314	355	430	---	---
	5 + Sty	360	409	496	---	---

INSURING OFFICE LUBBOCK, TX. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LUBBOCK	DETACHED	---	---	308	402	464
	SEMI-DETACHED/ROW	199	235	296	386	442
	WALKUP	187	226	286	374	424
	ELEVATOR-2-4 Sty	231	253	292	---	---
	5 + Sty	253	281	369	---	---
AMARILLO	DETACHED	---	---	322	417	460
	SEMI-DETACHED/ROW	206	237	303	392	430
	WALKUP	193	226	292	380	411
	ELEVATOR-2-4 Sty	231	253	292	---	---
	5 + Sty	253	281	369	---	---
EL PASO	DETACHED	---	---	297	383	424
	SEMI-DETACHED/ROW	206	231	292	376	414
	WALKUP	193	220	281	363	395
	ELEVATOR-2-4 Sty	231	253	292	---	---
	5 + Sty	253	281	369	---	---
MIDLAND	DETACHED	---	---	323	402	452
	SEMI-DETACHED/ROW	225	256	311	393	429
	WALKUP	215	248	303	374	415
	ELEVATOR-2-4 Sty	251	273	312	---	---
	5 + Sty	273	301	379	---	---
ODESSA	DETACHED	---	---	331	407	447
	SEMI-DETACHED/ROW	227	264	314	386	422
	WALKUP	215	253	303	374	403
	ELEVATOR-2-4 Sty	251	273	312	---	---
	5 + Sty	273	301	379	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE HOUSTON, TX. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
HOUSTON	DETACHED	---	---	458	567	657
	SEMI-DETACHED/ROW	244	290	365	443	508
	WALKUP	244	281	356	439	488
	ELEVATOR-2-4 Sty	257	293	368	---	---
	5 + Sty	320	403	485	---	---
BEAUMONT	DETACHED	---	---	419	507	599
	SEMI-DETACHED/ROW	202	257	322	406	447
	WALKUP	196	257	322	389	441
	ELEVATOR-2-4 Sty	207	268	333	---	---
	5 + Sty	344	413	520	---	---
BRYAN	DETACHED	---	---	395	464	542
	SEMI-DETACHED/ROW	251	285	379	464	540
	WALKUP	223	261	348	436	477
	ELEVATOR-2-4 Sty	236	274	361	---	---
	5 + Sty	404	442	587	---	---
EL CAMPO	DETACHED	---	---	429	525	615
	SEMI-DETACHED/ROW	187	235	315	396	431
	WALKUP	187	227	315	384	431
	ELEVATOR-2-4 Sty	197	237	326	---	
	5 + Sty	317	356	479	---	---
LUFKIN	DETACHED	---	---	415	478	596
	SEMI-DETACHED/ROW	184	223	300	364	419
	WALKUP	179	214	300	344	412
	ELEVATOR-2-4 Sty	189	223	310	---	---
	5 + Sty	303	348	472	---	---
TEXAS CITY	DETACHED	---	---	390	463	559
	SEMI-DETACHED/ROW	201	245	317	374	434
	WALKUP	201	245	317	374	434
	ELEVATOR-2-4 Sty	212	255	328	---	---
	5 + Sty	326	370	510	---	---

INSURING OFFICE FORT WORTH, TX. REGION VI - Dallas

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
FORT WORTH	DETACHED	---	---	300	376	412
	SEMI-DETACHED/ROW	---	198	273	342	375
	WALKUP	191	197	273	342	375
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	245	279	352	---	---
WICHITA FALLS	DETACHED	---	---	294	386	434
	SEMI-DETACHED/ROW	---	190	247	324	355
	WALKUP	155	190	247	324	355
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	236	280	359	---	---
SAN ANGELO	DETACHED	---	---	261	373	408
	SEMI-DETACHED/ROW	---	172	217	310	339
	WALKUP	---	172	217	310	339
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	178	250	319	---	---
ABILENE	DETACHED	---	---	315	380	416
	SEMI-DETACHED/ROW	---	180	266	321	352
	WALKUP	---	180	266	321	352
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	242	285	345	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE DALLAS, TEXAS REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DALLAS	DETACHED	---	---	313	373	449
	SEMI-DETACHED/ROW	181	215	268	319	384
	WALKUP	175	206	260	308	357
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	284	330	419	---	---
SHERMAN	DETACHED	---	---	284	339	409
	SEMI-DETACHED/ROW	160	192	239	285	342
	WALKUP	147	177	232	275	320
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	259	302	381	---	---
TYLER	DETACHED	---	---	286	342	411
	SEMI-DETACHED/ROW	166	199	248	293	354
	WALKUP	147	185	231	272	316
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	277	324	410	---	---
WACO	DETACHED	---	---	286	340	411
	SEMI-DETACHED/ROW	165	199	246	294	354
	WALKUP	147	157	232	275	319
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	280	317	400	---	---
MARSHALL	DETACHED	---	---	295	355	425
	SEMI-DETACHED/ROW	169	206	250	302	362
	WALKUP	161	200	250	298	346
	ELEVATOR-2-4 Sty	238	255	275	---	---
	5 + Sty	240	278	348	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE TULSA, OKLA. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
TULSA	DETACHED	---	---	420	461	495
	SEMI-DETACHED/ROW	---	338	383	430	457
	WALKUP	290	316	377	425	453
	ELEVATOR-2-4 Sty	437	450	542	---	---
	5 + Sty	445	458	550	---	---
BARTLESVILLE	DETACHED	---	---	372	403	431
	SEMI-DETACHED/ROW	---	322	341	376	400
	WALKUP	269	289	320	356	381
	ELEVATOR-2-4 Sty	397	403	454	---	---
	5 + Sty	405	411	462	---	---
MC ALESTER	DETACHED	---	---	277	324	371
	SEMI-DETACHED/ROW	---	226	251	294	337
	WALKUP	176	197	230	268	292
	ELEVATOR-2-4 Sty	273	286	337	---	---
	5 + Sty	281	294	345	---	---
MUSKOGEE	DETACHED	---	---	334	368	397
	SEMI-DETACHED/ROW	---	264	312	345	375
	WALKUP	176	230	283	320	344
	ELEVATOR-2-4 Sty	281	345	430	---	---
	5 + Sty	289	353	438	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE OKLAHOMA CITY, OKLA. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SHAWNEE	DETACHED	---	---	258	349	394
	SEMI-DETACHED/ROW	153	193	246	331	363
	WALKUP	133	167	213	287	315
	ELEVATOR-2-4 Sty	159	193	239	---	---
	5 + Sty	219	253	325	---	---
STILLWATER	DETACHED	---	---	275	364	431
	SEMI-DETACHED/ROW	195	220	262	346	398
	WALKUP	169	191	227	300	345
	ELEVATOR-2-4 Sty	195	217	253	---	---
	5 + Sty	278	289	347	---	---
WOODWARD	DETACHED	---	---	297	347	400
	SEMI-DETACHED/ROW	193	230	284	330	368
	WALKUP	167	200	246	286	319
	ELEVATOR-2-4 Sty	193	226	279	---	---
	5 + Sty	281	309	384	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA . . OFFICE OKLAHOMA CITY, OKLA. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
OKLAHOMA CITY	DETACHED	---	---	260	346	394
	SEMI-DETACHED/ROW	201	216	248	327	363
	WALKUP	175	188	215	284	315
	ELEVATOR-2-4 Sty	201	214	241	---	---
	5 + Sty	274	295	338	---	---
ADA	DETACHED	---	---	298	403	475
	SEMI-DETACHED/ROW	201	240	282	382	441
	WALKUP	175	208	259	332	383
	ELEVATOR-2-4 Sty	201	234	285	---	---
	5 + Sty	288	315	356	---	---
ARDMORE	DETACHED	---	---	278	319	369
	SEMI-DETACHED/ROW	195	220	271	310	347
	WALKUP	169	191	235	269	301
	ELEVATOR-2-4 Sty	195	217	261	---	---
	5 + Sty	275	290	358	---	---
ENID	DETACHED	---	---	361	417	477
	SEMI-DETACHED/ROW	213	251	327	377	419
	WALKUP	185	218	284	327	363
	ELEVATOR-2-4 Sty	211	244	310	---	---
	5 + Sty	325	354	467	---	---
GUYMON	DETACHED	---	---	288	334	395
	SEMI-DETACHED/ROW	182	214	273	317	363
	WALKUP	158	186	237	275	315
	ELEVATOR-2-4 Sty	184	212	263	---	---
	5 + Sty	262	291	369	---	---
LAWTON	DETACHED	---	---	339	378	452
	SEMI-DETACHED/ROW	202	227	304	357	415
	WALKUP	175	197	264	310	360
	ELEVATOR-2-4 Sty	201	223	290	---	---
	5 + Sty	254	298	401	---	---

INSURING OFFICE ALBUQUERQUE, N.M. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MESCALERO	DETACHED	---	---	318	380	449
	SEMI-DETACHED/ROW	243	274	306	365	433
	WALKUP	200	249	290	342	393
	ELEVATOR-2-4 Sty	222	250	323	---	---
	5 + Sty	237	276	343	---	---
PENASCO	DETACHED	---	---	320	381	449
	SEMI-DETACHED/ROW	240	270	300	360	425
	WALKUP	190	245	276	331	374
	ELEVATOR-2-4 Sty	212	255	323	---	---
	5 + Sty	227	275	343	---	---
POJOAQUE	DETACHED	---	---	320	381	449
	SEMI-DETACHED/ROW	240	270	300	360	425
	WALKUP	190	245	276	331	374
	ELEVATOR-2-4 Sty	212	255	323	---	---
	5 + Sty	227	275	343	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE ALBUQUERQUE, N.M. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SANTA FE	DETACHED	---	---	320	381	449
	SEMI-DETACHED/ROW	240	270	300	360	425
	WALKUP	190	245	276	331	374
	ELEVATOR-2-4 Sty	212	255	323	---	---
	5 + Sty	227	275	343	---	---
SILVER CITY	DETACHED	---	---	318	380	449
	SEMI-DETACHED/ROW	243	274	306	365	433
	WALKUP	200	249	290	342	393
	ELEVATOR-2-4 Sty	222	250	323	---	---
	5 + Sty	237	276	343	---	---
TRUTH OR CONSEQUENCES	DETACHED	---	---	291	358	416
	SEMI-DETACHED/ROW	218	248	276	331	396
	WALKUP	178	222	251	297	343
	ELEVATOR-2-4 Sty	203	237	299	---	---
	5 + Sty	218	257	319	---	---
TIERRA AMARILLA	DETACHED	---	---	318	380	449
	SEMI-DETACHED/ROW	243	274	306	365	433
	WALKUP	200	249	290	342	393
	ELEVATOR-2-4 Sty	222	250	323	---	---
	5 + Sty	237	276	343	---	---
TAOS	DETACHED	---	---	318	380	449
	SEMI-DETACHED/ROW	243	274	306	365	433
	WALKUP	200	249	290	342	393
	ELEVATOR-2-4 Sty	222	256	323	---	---
	5 + Sty	237	276	343	---	---
FARMINGTON	DETACHED	---	---	318	380	449
	SEMI-DETACHED/ROW	243	274	306	365	433
	WALKUP	200	249	290	342	393
	ELEVATOR-2-4 Sty	222	256	323	---	---
	5 + Sty	237	276	343	---	---

INSURING OFFICE ALBUQUERQUE, N.M. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SOCORRO	DETACHED	---	---	291	358	416
	SEMI-DETACHED/ROW	218	248	276	331	396
	WALKUP	178	222	251	297	343
	ELEVATOR-2-4 Sty	203	237	299	---	---
	5 + Sty	218	257	319	---	---
RUIDOSO	DETACHED	---	---	318	380	449
	SEMI-DETACHED/ROW	243	274	306	365	433
	WALKUP	200	249	290	342	393
	ELEVATOR-2-4 Sty	222	250	323	---	---
	5 + Sty	237	276	343	---	---
DULCE	DETACHED	---	---	318	380	449
	SEMI-DETACHED/ROW	243	274	306	365	433
	WALKUP	200	249	290	342	393
	ELEVATOR-2-4 Sty	222	250	323	---	---
	5 + Sty	237	276	343	---	---
ISLETA	DETACHED	---	---	310	380	414
	SEMI-DETACHED/ROW	220	246	280	330	390
	WALKUP	180	222	259	310	355
	ELEVATOR-2-4 Sty	225	265	325	---	---
	5 + Sty	240	285	345	---	---
JEMEZ	DETACHED	---	---	320	381	449
	SEMI-DETACHED/ROW	240	270	300	360	425
	WALKUP	190	245	276	331	374
	ELEVATOR-2-4 Sty	212	255	323	---	---
	5 + Sty	227	275	343	---	---
LAGUNA	DETACHED	---	---	325	387	462
	SEMI-DETACHED/ROW	248	282	314	370	439
	WALKUP	202	256	289	335	360
	ELEVATOR-2-4 Sty	222	266	323	---	---
	5 + Sty	237	286	343	---	---

INSURING OFFICE ALBUQUERQUE, N.M. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
GALLUP	DETACHED	---	---	325	387	462
	SEMI-DETACHED/ROW	248	282	314	370	439
	WALKUP	202	256	289	335	360
	ELEVATOR-2-4 Sty	222	266	323	---	---
	5 + Sty	237	286	343	---	---
HOBBS	DETACHED	---	---	302	360	426
	SEMI-DETACHED/ROW	230	260	296	346	407
	WALKUP	190	231	260	310	355
	ELEVATOR-2-4 Sty	207	240	301	---	---
	5 + Sty	222	260	321	---	---
LAS CRUCES	DETACHED	---	---	299	354	430
	SEMI-DETACHED/ROW	223	255	287	342	403
	WALKUP	188	232	268	310	350
	ELEVATOR-2-4 Sty	210	243	304	---	---
	5 + Sty	225	263	324	---	---
LAS VEGAS	DETACHED	---	---	320	381	449
	SEMI-DETACHED/ROW	240	270	300	360	425
	WALKUP	190	245	276	331	374
	ELEVATOR-2-4 Sty	212	255	323	---	---
	5 + Sty	227	275	343	---	---
LOS ALAMOS	DETACHED	---	---	320	381	449
	SEMI-DETACHED/ROW	240	270	300	360	425
	WALKUP	190	245	276	331	374
	ELEVATOR-2-4 Sty	212	255	323	---	---
	5 + Sty	227	275	343	---	---
RATON	DETACHED	---	---	320	381	449
	SEMI-DETACHED/ROW	240	270	300	360	425
	WALKUP	190	245	276	331	374
	ELEVATOR-2-4 Sty	212	255	323	---	---
	5 + Sty	227	275	343	---	---

INSURING OFFICE ALBUQUERQUE, N.M. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ALBUQUERQUE	DETACHED	---	---	310	380	414
	SEMI-DETACHED/ROW	220	246	280	330	390
	WALKUP	180	222	259	310	355
	ELEVATOR-2-4 Sty	225	265	325	---	---
	5 + Sty	240	285	345	---	---
ALAMOGORDO	DETACHED	---	---	291	358	416
	SEMI-DETACHED/ROW	218	248	276	331	396
	WALKUP	178	222	251	297	343
	ELEVATOR-2-4 Sty	203	237	299	---	---
	5 + Sty	218	257	319	---	---
ARTESIA	DETACHED	---	---	302	360	426
	SEMI-DETACHED/ROW	230	260	296	346	407
	WALKUP	190	231	260	310	355
	ELEVATOR-2-4 Sty	207	240	301	---	---
	5 + Sty	222	260	321	---	---
CARLSBAD	DETACHED	---	---	302	360	426
	SEMI-DETACHED/ROW	230	260	296	346	407
	WALKUP	190	231	260	310	355
	ELEVATOR-2-4 Sty	207	240	301	---	---
	5 + Sty	222	260	321	---	---
CLOVIS	DETACHED	---	---	296	356	431
	SEMI-DETACHED/ROW	220	255	290	340	405
	WALKUP	190	230	260	310	355
	ELEVATOR-2-4 Sty	205	238	299	---	---
	5 + Sty	225	258	319	---	---
FORT SUMNER	DETACHED	---	---	318	380	449
	SEMI-DETACHED/ROW	243	274	306	365	433
	WALKUP	200	249	290	342	393
	ELEVATOR-2-4 Sty	222	250	323	---	---
	5 + Sty	237	276	343	---	---

INSURING OFFICE SHREVEPORT, LA. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SHREVEPORT	DETACHED	---	---	351	401	485
	SEMI-DETACHED/ROW	198	225	292	336	405
	WALKUP	181	210	280	321	370
	ELEVATOR-2-4 Sty	265	285	305	---	---
	5 + Sty	281	303	405	---	---
ALEXANDRIA	DETACHED	---	---	299	355	426
	SEMI-DETACHED/ROW	175	202	255	302	357
	WALKUP	161	200	250	298	349
	ELEVATOR-2-4 Sty	246	269	289	---	---
	5 + Sty	249	290	367	---	---
MONROE	DETACHED	---	---	317	379	457
	SEMI-DETACHED/ROW	174	216	281	334	385
	WALKUP	170	210	267	321	370
	ELEVATOR-2-4 Sty	260	283	303	---	---
	5 + Sty	261	310	405	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE NEW ORLEANS, LA. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
NEW ORLEANS	DETACHED	---	---	430	510	618
	SEMI-DETACHED/ROW	---	281	351	454	544
	WALKUP	232	273	337	430	498
	ELEVATOR-2-4 Sty	242	299	374	---	---
	5 + Sty	339	419	481	---	---
LAKE CHARLES	DETACHED	---	---	432	514	620
	SEMI-DETACHED/ROW	---	293	363	498	577
	WALKUP	234	293	363	498	577
	ELEVATOR-2-4 Sty	244	304	382	---	---
	5 + Sty	381	440	560	---	---
LAFAYETTE	DETACHED	---	---	405	482	583
	SEMI-DETACHED/ROW	---	277	349	423	492
	WALKUP	222	277	349	423	492
	ELEVATOR-2-4 Sty	232	287	355	---	---
	5 + Sty	363	420	535	---	---
BATON ROUGE	DETACHED	---	---	376	445	537
	SEMI-DETACHED/ROW	---	249	316	419	497
	WALKUP	230	249	316	419	484
	ELEVATOR-2-4 Sty	241	298	373	---	---
	5 + Sty	390	452	575	---	---
BURAS	DETACHED	---	---	430	510	618
	SEMI-DETACHED/ROW	---	281	351	454	544
	WALKUP	232	273	337	430	498
	ELEVATOR-2-4 Sty	242	299	374	---	---
	5 + Sty	339	419	481	---	---
HOUMA	DETACHED	---	---	387	461	557
	SEMI-DETACHED/ROW	---	257	322	418	485
	WALKUP	205	257	322	418	485
	ELEVATOR-2-4 Sty	214	266	330	---	---
	5 + Sty	339	393	500	---	---

AREA OFFICE LITTLE ROCK, ARK. REGION VI - DALLAS

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
FAYETTEVILLE	DETACHED	---	---	283	336	406
	SEMI-DETACHED/ROW	183	216	265	325	380
	WALKUP	183	216	263	325	361
	ELEVATOR-2-4 Sty	217	256	311	---	---
	5 + Sty	267	308	389	---	---
LITTLE ROCK	DETACHED	---	---	289	342	411
	SEMI-DETACHED/ROW	187	221	271	323	389
	WALKUP	187	221	263	321	363
	ELEVATOR-2-4 Sty	221	262	311	---	---
	5 + Sty	278	332	396	---	---
TEXARKANA	DETACHED	---	---	282	336	404
	SEMI-DETACHED/ROW	178	217	267	317	383
	WALKUP	178	209	255	314	351
	ELEVATOR-2-4 Sty	211	247	302	---	---
	5 + Sty	275	330	389	---	---
FORT SMITH	DETACHED	---	---	259	307	370
	SEMI-DETACHED/ROW	166	201	250	296	356
	WALKUP	156	197	244	288	334
	ELEVATOR-2-4 Sty	185	233	289	---	---
	5 + Sty	248	302	366	---	---
JONESBORO	DETACHED	---	---	275	325	392
	SEMI-DETACHED/ROW	174	211	263	311	374
	WALKUP	167	207	262	310	358
	ELEVATOR-2-4 Sty	198	245	310	---	---
	5 + Sty	253	307	371	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE OMAHA, NEB. REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
OMAHA	DETACHED	---	---	435	485	515
	SEMI-DETACHED/ROW	---	306	379	450	478
	WALKUP	232	259	316	371	393
	ELEVATOR-2-4 Sty	276	317	402	---	---
	5 + Sty	309	358	460	---	---
GRAND ISLAND	DETACHED	---	---	386	431	465
	SEMI-DETACHED/ROW	---	293	362	428	455
	WALKUP	225	250	303	353	374
	ELEVATOR-2-4 Sty	265	303	383	---	---
	5 + Sty	---	---	---	---	---
LINCOLN	DETACHED	---	---	428	478	504
	SEMI-DETACHED/ROW	---	290	361	430	458
	WALKUP	229	256	311	364	385
	ELEVATOR-2-4 Sty	276	316	399	---	---
	5 + Sty	307	356	459	---	---
NORFOLK	DETACHED	---	---	411	459	487
	SEMI-DETACHED/ROW	---	294	363	430	456
	WALKUP	226	252	305	357	378
	ELEVATOR-2-4 Sty	270	309	391	---	---
	5 + Sty	---	---	---	---	---
NORTH PLATTE	DETACHED	---	---	385	431	461
	SEMI-DETACHED/ROW	---	285	350	409	439
	WALKUP	215	249	301	352	373
	ELEVATOR-2-4 Sty	270	308	389	---	---
	5 + Sty	---	---	---	---	---
SCOTTS BLUFF	DETACHED	---	---	383	429	457
	SEMI-DETACHED/ROW	---	288	353	416	442
	WALKUP	222	247	299	355	381
	ELEVATOR-2-4 Sty	267	305	385	---	---
	5 + Sty	---	---	---	---	---

AREA OFFICE ST. LOUIS, MO. REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ST. LOUIS	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	316	373	450	530
	WALKUP	230	289	352	426	473
	ELEVATOR-2-4 Sty	260	324	392	---	---
	5 + Sty	283	344	482	---	---
CAPE GIRARDEAU	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	243	312	399	446
	WALKUP	186	236	302	369	412
	ELEVATOR-2-4 Sty	216	271	342	---	---
	5 + Sty	---	---	---	---	---
COLUMBIA	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	268	343	420	470
	WALKUP	217	258	332	406	450
	ELEVATOR-2-4 Sty	247	293	372	---	---
	5 + Sty	---	---	---	---	---
KIRKSVILLE	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	261	328	414	454
	WALKUP	200	249	312	387	427
	ELEVATOR-2-4 Sty	230	284	352	---	---
	5 + Sty	---	---	---	---	---
ROLLA	DETACHED	---	---	---	---	---
	SEMI-DETACHED/ROW	---	239	306	390	446
	WALKUP	180	228	295	363	395
	ELEVATOR-2-4 Sty	210	263	335	---	---
	5 + Sty	---	---	---	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE TOPEKA, KAN. REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
TOPEKA	DETACHED	---	---	364	421	457
	SEMI-DETACHED/ROW	---	301	355	412	448
	WALKUP	199	253	309	370	425
	ELEVATOR-2-4 Sty	223	304	385	---	---
	5 + Sty	226	308	390	---	---
GARDEN CITY	DETACHED	---	---	351	405	432
	SEMI-DETACHED/ROW	---	278	342	397	422
	WALKUP	213	247	301	362	405
	ELEVATOR-2-4 Sty	223	304	385	---	---
	5 + Sty	226	308	390	---	---
PITTSBURG	DETACHED	---	---	343	400	435
	SEMI-DETACHED/ROW	---	280	325	386	411
	WALKUP	208	243	294	362	405
	ELEVATOR-2-4 Sty	215	299	378	---	---
	5 + Sty	218	303	384	---	---
SALINA	DETACHED	---	---	344	399	442
	SEMI-DETACHED/ROW	---	281	338	388	431
	WALKUP	210	243	296	359	397
	ELEVATOR-2-4 Sty	223	304	385	---	---
	5 + Sty	226	308	390	---	---
WICHITA	DETACHED	---	---	355	416	446
	SEMI-DETACHED/ROW	---	286	346	405	441
	WALKUP	195	249	303	371	421
	ELEVATOR-2-4 Sty	223	304	385	---	---
	5 + Sty	226	308	390	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE KANSAS CITY, KAN REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
KANSAS CITY	DETACHED	-	-	367	419	448
	SEMI-DETACHED/ROW	-	266	329	419	448
	WALKUP	213	258	288	376	421
	ELEVATOR-2-4 Sty	219	282	331	-	-
	5 + Sty	233	324	439	-	-
JOPLIN	DETACHED	-	-	304	352	380
	SEMI-DETACHED/ROW	-	251	298	347	371
	WALKUP	175	201	248	292	316
	ELEVATOR-2-4 Sty	195	266	310	-	-
	5 + Sty	222	307	418	-	-
ST. JOSEPH	DETACHED	-	-	299	386	423
	SEMI-DETACHED/ROW	-	249	292	386	423
	WALKUP	207	242	289	330	363
	ELEVATOR-2-4 Sty	217	279	328	-	-
	5 + Sty	231	320	436	-	-
SEDALIA	DETACHED	-	-	284	323	351
	SEMI-DETACHED/ROW	-	226	272	323	351
	WALKUP	187	212	261	307	334
	ELEVATOR-2-4 Sty	194	265	308	-	-
	5 + Sty	221	306	418	-	-
SPRINGFIELD	DETACHED	-	-	295	351	373
	SEMI-DETACHED/ROW	-	258	301	351	373
	WALKUP	173	202	236	281	311
	ELEVATOR-2-4 Sty	195	266	310	-	-
	5 + Sty	222	307	418	-	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE DES MOINES, IOWA REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
MASON CITY	DETACHED	-	-	404	448	516
	SEMI-DETACHED/ROW	-	242	371	398	463
	WALKUP	236	255	312	364	400
	ELEVATOR-2-4 Sty	308	365	428	-	-
	5 + Sty	336	399	482	-	-
SIOUX CITY	DETACHED	-	-	412	479	550
	SEMI-DETACHED/ROW	-	308	371	416	483
	WALKUP	234	287	341	380	463
	ELEVATOR-2-4 Sty	308	365	428	-	-
	5 + Sty	336	399	482	-	-
WATERLOO	DETACHED	-	-	405	448	490
	SEMI-DETACHED/ROW	-	292	348	393	455
	WALKUP	253	272	315	367	403
	ELEVATOR-2-4 Sty	308	365	428	-	-
	5 + Sty	336	399	482	-	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE DES MOINES, IOWA REGION VII - KANSAS CITY

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DES MOINES	DETACHED	-	-	442	491	562
	SEMI-DETACHED/ROW	-	305	395	455	507
	WALKUP	234	262	336	389	426
	ELEVATOR-2-4 Sty	302	357	418	-	-
	5 + Sty	328	390	471	-	-
BETTENDORF	DETACHED	-	-	422	473	544
	SEMI-DETACHED/ROW	-	303	400	442	502
	WALKUP	248	265	343	390	421
	ELEVATOR-2-4 Sty	308	365	428	-	-
	5 + Sty	336	399	482	-	-
CEDAR RAPIDS	DETACHED	-	-	419	468	539
	SEMI-DETACHED/ROW	-	287	385	424	498
	WALKUP	223	250	330	374	418
	ELEVATOR-2-4 Sty	308	365	428	-	
	5 + Sty	336	399	482	-	-
COUNCIL BLUFFS	DETACHED	-	-	400	478	548
	SEMI-DETACHED/ROW	-	288	351	410	473
	WALKUP	193	228	292	353	385
	ELEVATOR-2-4 Sty	284	336	392	-	-
	5 + Sty	308	365	440	-	-
DAVENPORT	DETACHED	-	-	422	473	544
	SEMI-DETACHED/ROW	-	303	400	442	502
	WALKUP	248	265	343	390	421
	ELEVATOR-2-4 Sty	308	365	428	-	-
	5 + Sty	336	399	482	-	-
DUBUQUE	DETACHED	-	-	429	472	548
	SEMI-DETACHED/ROW	-	307	370	416	484
	WALKUP	236	255	302	353	419
	ELEVATOR-2-4 Sty	308	365	428	-	-
	5 + Sty	336	399	482	-	-

INSURING OFFICE DENVER, COLO. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
DENVER	DETACHED	-	332	378	442	490
	SEMI-DETACHED/ROW	306	327	364	410	442
	WALKUP	247	276	323	397	435
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	247	276	330	-	-
COLORADO SPRINGS	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	213	238	265	321	367
	WALKUP	209	238	265	321	363
	ELEVATOR-2-4 Sty	-	-	273	-	-
	5 + Sty	214	238	293	-	-
DURANGO	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	225	251	299	372	430
	WALKUP	211	230	283	348	388
	ELEVATOR-2-4 Sty	219	238	291	-	-
	5 + Sty	222	243	299	-	-
GRAND JUNCTION	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	300	321	354	399	459
	WALKUP	248	277	336	374	412
	ELEVATOR-2-4 Sty	-	285	344	-	-
	5 + Sty	248	289	356	-	-
GREELEY	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	-	252	293	361	417
	WALKUP	213	231	277	337	376
	ELEVATOR-2-4 Sty	221	239	-	-	-
	5 + Sty	233	240	284	-	-
PUEBLO	DETACHED	-	-	-	-	-
	SEMI-DETACHED/ROW	234	255	286	322	378
	WALKUP	208	232	273	301	338
	ELEVATOR-2-4 Sty	-	240	281	-	-
	5 + Sty	210	245	293	-	-

INSURING OFFICE HELENA, MONT. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
HELENA	DETACHED	-	-	353	412	450
	SEMI-DETACHED/ROW	-	284	349	405	443
	WALKUP	222	276	340	397	435
	ELEVATOR-2-4 Sty	237	291	354	-	-
	5 + Sty	247	301	364	-	-
BILLINGS	DETACHED	-	-	349	397	426
	SEMI-DETACHED/ROW	-	262	341	390	419
	WALKUP	213	254	332	382	412
	ELEVATOR-2-4 Sty	227	268	345	-	-
	5 + Sty	237	278	355	-	-
BOZEMAN	DETACHED	-	-	340	402	431
	SEMI-DETACHED/ROW	-	274	333	394	423
	WALKUP	226	266	326	386	416
	ELEVATOR-2-4 Sty	240	282	342	-	-
	5 + Sty	250	292	352	-	-
BUTTE	DETACHED	-	-	341	402	432
	SEMI-DETACHED/ROW	-	285	333	395	425
	WALKUP	228	278	326	387	418
	ELEVATOR-2-4 Sty	242	294	343	-	-
	5 + Sty	252	304	353	-	-
GREAT FALLS	DETACHED	-	-	339	390	419
	SEMI-DETACHED/ROW	-	268	332	382	412
	WALKUP	217	260	325	375	405
	ELEVATOR-2-4 Sty	233	271	340	-	-
	5 + Sty	243	281	350	-	-
HAVRE	DETACHED	-	-	335	381	416
	SEMI-DETACHED/ROW	-	254	328	374	408
	WALKUP	212	247	320	366	400
	ELEVATOR-2-4 Sty	231	263	338	-	-
	5 + Sty	241	273	348	-	-

INSURING OFFICE HELENA, MONT. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
KALISPELL	DETACHED	-	-	341	399	430
	SEMI-DETACHED/ROW	-	263	333	392	425
	WALKUP	219	256	325	384	417
	ELEVATOR-2-4 Sty	236	270	340	-	-
	5 + Sty	246	280	350	-	-
MILES CITY	DETACHED	-	-	335	381	416
	SEMI-DETACHED/ROW	-	254	328	374	408
	WALKUP	212	247	320	366	400
	ELEVATOR-2-4 Sty	231	263	338	-	-
	5 + Sty	241	273	348	-	-
MISSOULA	DETACHED	-	-	340	400	430
	SEMI-DETACHED/ROW	-	267	333	393	424
	WALKUP	221	260	325	385	415
	ELEVATOR-2-4 Sty	238	275	341	-	-
	5 + Sty	248	285	351	-	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE FARGO, N.D. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
FARGO	DETACHED	–	–	395	465	495
	SEMI-DETACHED/ROW	–	298	340	400	440
	WALKUP	245	280	315	390	430
	ELEVATOR-2-4 Sty	–	–	–	–	–
	5 + Sty	280	320	390	–	–
BISMARK	DETACHED	–	–	390	460	495
	SEMI-DETACHED/ROW	–	285	350	410	440
	WALKUP	240	275	315	390	430
	ELEVATOR-2-4 Sty	–	–	–	–	–
	5 + Sty	280	335	390	–	–
DICKINSON	DETACHED	–	330	375	435	465
	SEMI-DETACHED/ROW	–	270	320	380	410
	WALKUP	215	260	305	370	395
	ELEVATOR-2-4 Sty	–	–	–	–	–
	5 + Sty	250	295	355	–	–
GRAND FORKS	DETACHED	–	–	400	460	490
	SEMI-DETACHED/ROW	–	292	350	405	435
	WALKUP	225	280	315	380	415
	ELEVATOR-2-4 Sty	–	–	–	–	–
	5 + Sty	270	310	375	–	–
MINOT	DETACHED	–	–	385	455	490
	SEMI-DETACHED/ROW	–	270	340	395	435
	WALKUP	220	260	305	375	400
	ELEVATOR-2-4 Sty	–	–	–	–	–
	5 + Sty	260	310	365	–	–
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE SIOUX FALLS, S. D. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SIOUX FALLS	DETACHED	–	–	365	385	420
	SEMI-DETACHED/ROW	–	305	340	370	400
	WALKUP	250	290	320	355	385
	ELEVATOR-2-4 Sty	265	300	330	365	–
	5 + Sty	270	305	335	370	–
ABERDEEN	DETACHED	–	–	355	385	420
	SEMI-DETACHED/ROW	–	300	340	370	400
	WALKUP	240	280	320	355	385
	ELEVATOR-2-4 Sty	250	290	330	365	–
	5 + Sty	260	300	335	370	–
FORT THOMPSON	DETACHED	–	–	365	397	436
	SEMI-DETACHED/ROW	–	311	349	380	421
	WALKUP	259	295	330	366	400
	ELEVATOR-2-4 Sty	267	303	338	374	–
	5 + Sty	271	307	342	378	–
MCLAUGHLIN	DETACHED	–	–	365	397	436
	SEMI-DETACHED/ROW	–	311	348	380	421
	WALKUP	259	295	330	366	400
	ELEVATOR-2-4 Sty	267	303	338	374	–
	5 + Sty	271	307	342	378	–
MISSION	DETACHED	–	–	365	397	436
	SEMI-DETACHED/ROW	–	311	349	380	421
	WALKUP	259	295	330	366	400
	ELEVATOR-2-4 Sty	267	303	338	374	–
	5 + Sty	271	307	342	378	–
PIERRE	DETACHED	–	–	365	395	430
	SEMI-DETACHED/ROW	–	310	350	380	420
	WALKUP	240	285	320	360	400
	ELEVATOR-2-4 Sty	255	295	330	370	–
	5 + Sty	260	300	335	375	–

INSURING OFFICE SIOUX FALLS, S. D. REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RAPID CITY	DETACHED	-	-	365	395	435
	SEMI-DETACHED/ROW	-	315	350	380	420
	WALKUP	250	290	330	370	400
	ELEVATOR-2-4 Sty	265	305	340	375	-
	5 + Sty	270	310	345	380	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE SALT LAKE CITY, UTAH REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SALT LAKE CITY	DETACHED	-	-	352	388	441
	SEMI-DETACHED/ROW	-	245	267	297	325
	WALKUP	180	240	262	292	317
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	238	308	352	-	-
CEDAR CITY	DETACHED	-	-	293	324	349
	SEMI-DETACHED/ROW	-	226	263	294	312
	WALKUP	168	219	257	288	306
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	-	-	-	-	-
PROVO	DETACHED	-	-	308	352	406
	SEMI-DETACHED/ROW	-	245	272	308	352
	WALKUP	194	238	263	299	344
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	-	-	-	-	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE CASPER, WYO REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
CASPER	DETACHED	-	-	461	526	590
	SEMI-DETACHED/ROW	-	317	418	526	576
	WALKUP	273	317	418	526	576
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	358	418	490	-	-
CHEYENNE	DETACHED	-	-	447	526	575
	SEMI-DETACHED/ROW	-	317	390	512	562
	WALKUP	266	317	390	512	562
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	332	403	461	-	-
CODY	DETACHED	-	-	418	489	548
	SEMI-DETACHED/ROW	-	331	396	480	526
	WALKUP	267	324	396	468	526
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	338	396	461	-	-
GILLETTE	DETACHED	-	-	447	541	605
	SEMI-DETACHED/ROW	-	317	418	533	591
	WALKUP	273	317	418	526	570
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	346	411	480	-	-
JACKSON	DETACHED	-	-	483	576	634
	SEMI-DETACHED/ROW	-	361	447	541	597
	WALKUP	302	346	432	533	562
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	374	426	497	-	-
LARAMIE	DETACHED	-	-	421	497	569
	SEMI-DETACHED/ROW	-	332	403	497	548
	WALKUP	266	324	396	497	538
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	324	396	453	-	-

INSURING OFFICE CASPER, WYO REGION VIII - DENVER

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RIVERTON	DETACHED	-	-	418	491	548
	SEMI-DETACHED/ROW	-	331	396	476	526
	WALKUP	266	324	396	468	526
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	331	396	461	-	-
ROCK SPRINGS	DETACHED	-	-	468	533	605
	SEMI-DETACHED/ROW	-	324	432	533	590
	WALKUP	281	324	418	533	576
	ELEVATOR-2-4 Sty	-	-	-	-	-
	5 + Sty	367	425	483	-	-
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE PHOENIX, ARIZ. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PHOENIX	DETACHED	---	---	350	410	459
	SEMI-DETACHED/ROW	---	293	330	370	410
	WALKUP	210	253	315	370	410
	ELEVATOR-2-4 Sty	245	280	355	---	---
	5 + Sty	321	376	475	---	---
CASA GRANDE	DETACHED	---	---	310	380	431
	SEMI-DETACHED/ROW	---	264	303	380	431
	WALKUP	235	264	302	361	384
	ELEVATOR-2-4 Sty	242	281	319	---	---
	5 + Sty	---	---	---	---	---
FLAGSTAFF	DETACHED	---	---	365	458	470
	SEMI-DETACHED/ROW	---	252	300	340	381
	WALKUP	221	252	300	340	381
	ELEVATOR-2-4 Sty	238	269	317	---	---
	5 + Sty	---	---	---	---	---
KEAMS CANYON	DETACHED	---	---	307	342	412
	SEMI-DETACHED/ROW	---	221	307	332	402
	WALKUP	188	211	248	296	344
	ELEVATOR-2-4 Sty	205	228	265	---	---
	5 + Sty	---	---	---	---	---
TUCSON	DETACHED	---	---	366	407	456
	SEMI-DETACHED/ROW	---	267	327	397	447
	WALKUP	230	246	309	382	424
	ELEVATOR-2-4 Sty	247	263	326	---	---
	5 + Sty	344	372	486	---	---
YUMA	DETACHED	---	---	361	405	454
	SEMI-DETACHED/ROW	---	307	341	383	430
	WALKUP	231	264	324	362	399
	ELEVATOR-2-4 Sty	248	281	341	---	---
	5 + Sty	---	---	---	---	---

AREA OFFICE LOS ANGELES, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
LOS ANGELES	DETACHED	---	---	528	588	670
	SEMI-DETACHED/ROW	---	460	487	541	613
	WALKUP	294	349	443	471	511
	ELEVATOR-2-4 Sty	309	364	458	---	---
	5 + Sty	388	501	699	---	---
BAKERSFIELD	DETACHED	---	---	406	491	585
	SEMI-DETACHED/ROW	---	293	380	467	504
	WALKUP	244	280	363	448	488
	ELEVATOR-2-4 Sty	259	295	378	463	510
	5 + Sty	372	414	530	---	---
LANCASTER	DETACHED	---	---	446	478	519
	SEMI-DETACHED/ROW	---	288	383	424	458
	WALKUP	240	275	354	406	448
	ELEVATOR-2-4 Sty	255	290	369	---	---
	5 + Sty	368	411	533	---	---
OXNARD	DETACHED	---	---	494	526	584
	SEMI-DETACHED/ROW	---	371	428	509	553
	WALKUP	284	319	363	434	475
	ELEVATOR-2-4 Sty	299	334	378	---	---
	5 + Sty	412	453	530	---	---
SANTA BARBARA	DETACHED	---	---	584	616	658
	SEMI-DETACHED/ROW	---	379	467	587	634
	WALKUP	289	325	399	510	553
	ELEVATOR-2-4 Sty	304	340	414	---	---
	5 + Sty	416	460	566	---	---
SANTA MARIA	DETACHED	---	---	401	434	473
	SEMI-DETACHED/ROW	---	307	363	406	443
	WALKUP	248	283	331	372	414
	ELEVATOR-2-4 Sty	263	298	346	---	---
	5 + Sty	378	421	502	---	---

AREA OFFICE LOS ANGELES, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
VENTURA	DETACHED	---	---	494	526	584
	SEMI-DETACHED/ROW	---	371	428	509	553
	WALKUP	284	319	363	434	475
	ELEVATOR-2-4 Sty	299	334	378	---	---
	5 + Sty	412	453	530	---	---
PASA ROBLES	DETACHED	---	---	530	563	604
	SEMI-DETACHED/ROW	---	347	410	505	550
	WALKUP	259	294	343	429	471
	ELEVATOR-2-4 Sty	274	309	358	444	486
	5 + Sty	389	432	514	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE SACRAMENTO, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SACRAMENTO	DETACHED	---	---	359	404	464
	SEMI-DETACHED/ROW	---	287	341	387	455
	WALKUP	224	258	302	371	420
	ELEVATOR-2-4 Sty	300	325	370	---	---
	5 + Sty	335	375	431	---	---
CHICO	DETACHED	---	---	372	420	482
	SEMI-DETACHED/ROW	---	298	354	402	473
	WALKUP	223	273	306	377	425
	ELEVATOR-2-4 Sty	312	338	385	---	---
	5 + Sty	---	---	---	---	---
DAVIS	DETACHED	---	---	359	404	464
	SEMI-DETACHED/ROW	---	287	341	393	455
	WALKUP	225	271	310	393	420
	ELEVATOR-2-4 Sty	300	325	370	---	---
	5 + Sty	---	---	---	---	---
PLACERVILLE	DETACHED	---	---	368	414	480
	SEMI-DETACHED/ROW	---	294	350	397	467
	WALKUP	229	265	310	381	431
	ELEVATOR-2-4 Sty	308	333	380	---	---
	5 + Sty	---	---	---	---	---
REDDING	DETACHED	---	---	373	420	482
	SEMI-DETACHED/ROW	---	298	354	402	473
	WALKUP	225	257	297	368	405
	ELEVATOR-2-4 Sty	312	338	385	---	---
	5 + Sty	---	---	---	---	---
STOCKTON	DETACHED	---	---	341	404	460
	SEMI-DETACHED/ROW	---	284	335	386	435
	WALKUP	215	256	293	368	420
	ELEVATOR-2-4 Sty	300	325	370	---	---
	5 + Sty	335	375	431	---	---

INSURING OFFICE SACRAMENTO, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
YREKA	DETACHED	---	---	378	427	492
	SEMI-DETACHED/ROW	---	302	365	410	483
	WALKUP	234	274	283	395	448
	ELEVATOR-2-4 Sty	297	322	366	---	---
	5 + Sty	---	---	---	---	---
SUSANVILLE	DETACHED	---	---	467	526	587
	SEMI-DETACHED/ROW	---	327	384	443	504
	WALKUP	217	294	372	440	500
	ELEVATOR-2-4 Sty	297	322	372	---	---
	5 + Sty	---	---	---	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE SAN DIEGO, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SAN DIEGO	DETACHED	---	---	441	493	537
	SEMI-DETACHED/ROW	---	363	419	462	503
	WALKUP	269	319	373	431	467
	ELEVATOR-2-4 Sty	338	390	489	---	---
	5 + Sty	360	443	542	---	---
EL CAJON	DETACHED	---	---	441	493	537
	SEMI-DETACHED/ROW	---	363	419	462	503
	WALKUP	269	319	373	431	467
	ELEVATOR-2-4 Sty	338	390	489	---	---
	5 + Sty	360	443	542	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE SAN FRANCISCO, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SAN FRANCISCO	DETACHED	---	---	839	935	970
	SEMI-DETACHED/ROW	---	526	716	798	827
	WALKUP	436	463	631	703	729
	ELEVATOR-2-4 Sty	460	498	670	---	---
	5 + Sty	577	623	812	---	---
FRESNO	DETACHED	---	---	423	483	506
	SEMI-DETACHED/ROW	---	300	351	419	444
	WALKUP	243	262	325	391	416
	ELEVATOR-2-4 Sty	298	335	413	---	---
	5 + Sty	413	462	564	---	---
MODESTO	DETACHED	---	---	388	441	462
	SEMI-DETACHED/ROW	---	295	343	410	426
	WALKUP	249	273	324	385	411
	ELEVATOR-2-4 Sty	298	335	408	---	---
	5 + Sty	417	466	564	---	---
SAN JOSE	DETACHED	---	---	469	492	589
	SEMI-DETACHED/ROW	---	348	407	481	515
	WALKUP	293	348	407	481	515
	ELEVATOR-2-4 Sty	324	363	442	---	---
	5 + Sty	491	534	646	---	---
OAKLAND-MARIN	DETACHED	---	---	643	702	719
	SEMI-DETACHED/ROW	---	426	485	577	605
	WALKUP	298	342	408	500	545
	ELEVATOR-2-4 Sty	316	352	472	---	---
	5 + Sty	438	483	622	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE SANTA ANA, CA. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SANTA ANA	DETACHED	---	---	405	497	566
	SEMI-DETACHED/ROW	---	312	385	456	530
	WALKUP	241	302	363	421	455
	ELEVATOR-2-4 Sty	256	318	381	---	---
	5 + Sty	370	442	538	---	---
SAN BERNARDINO	DETACHED	---	---	335	407	473
	SEMI-DETACHED/ROW	---	260	325	393	439
	WALKUP	219	252	316	371	410
	ELEVATOR-2-4 Sty	234	268	334	---	---
	5 + Sty	344	384	483	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE HONOLULU REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
HONOLULU	DETACHED	---	---	474	551	633
	SEMI-DETACHED/ROW	---	379	412	499	532
	WALKUP	283	325	396	469	504
	ELEVATOR-2-4 Sty	291	333	404	---	---
	5 + Sty	311	348	409	---	---
GUAM	DETACHED	---	---	444	515	556
	SEMI-DETACHED/ROW	---	364	403	474	515
	WALKUP	234	293	381	446	---
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	---	---	---	---	---
HILO	DETACHED	---	---	378	451	485
	SEMI-DETACHED/ROW	---	318	361	434	477
	WALKUP	255	280	311	388	424
	ELEVATOR-2-4 Sty	263	288	319	---	---
	5 + Sty	---	---	---	---	---
KAUAI	DETACHED	---	---	439	500	541
	SEMI-DETACHED/ROW	---	382	414	475	516
	WALKUP	272	305	331	404	438
	ELEVATOR-2-4 Sty	280	313	339	---	---
	5 + Sty	---	---	---	---	---
KONA	DETACHED	---	---	418	491	534
	SEMI-DETACHED/ROW	---	358	401	474	517
	WALKUP	268	303	368	445	481
	ELEVATOR-2-4 Sty	276	311	376	---	---
	5 + Sty	---	---	---	---	---
MAUI	DETACHED	---	---	440	515	558
	SEMI-DETACHED/ROW	---	393	420	495	538
	WALKUP	260	303	399	479	516
	ELEVATOR-2-4 Sty	268	311	407	---	---
	5 + Sty	---	---	---	---	---

INSURING OFFICE RENO, NEV. REGION IX - SAN FRANCISCO

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
RENO	DETACHED	---	---	430	572	592
	SEMI-DETACHED/ROW	---	331	406	482	---
	WALKUP	264	308	381	461	---
	ELEVATOR-2-4 Sty	271	320	394	---	---
	5 + Sty	307	362	459	---	---
LAS VEGAS	DETACHED	---	---	412	491	506
	SEMI-DETACHED/ROW	---	317	368	451	---
	WALKUP	267	317	368	451	---
	ELEVATOR-2-4 Sty	274	329	381	---	---
	5 + Sty	310	371	446	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE ANCHORAGE, ALASKA REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
ANCHORAGE	DETACHED	---	---	625	632	702
	SEMI-DETACHED/ROW	---	538	596	608	675
	WALKUP	359	441	501	533	592
	ELEVATOR-2-4 Sty	489	576	644	---	---
	5 + Sty	498	586	655	---	---
FAIRBANKS	DETACHED	---	---	618	674	734
	SEMI-DETACHED/ROW	---	530	594	667	720
	WALKUP	465	505	571	642	706
	ELEVATOR-2-4 Sty	570	655	729	---	---
	5 + Sty	581	668	743	---	---
JUNEAU	DETACHED	---	---	597	652	711
	SEMI-DETACHED/ROW	---	509	564	621	678
	WALKUP	419	468	524	587	646
	ELEVATOR-2-4 Sty	465	510	567	---	---
	5 + Sty	474	520	578	---	---
KETCHIKAN	DETACHED	---	---	492	598	613
	SEMI-DETACHED/ROW	---	398	469	530	594
	WALKUP	322	372	443	505	566
	ELEVATOR-2-4 Sty	395	482	565	---	---
	5 + Sty	402	492	577	---	---
BARTER ISLAND, NORTH COASTAL AREA	DETACHED	---	678	745	819	902
	SEMI-DETACHED/ROW	---	658	724	796	876
	WALKUP	581	639	703	773	850
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	---	---	---	---	---
COASTAL AREA, NORTH OF ALEUTIANS	DETACHED	---	678	745	819	902
	SEMI-DETACHED/ROW	---	658	724	796	876
	WALKUP	581	639	703	773	850
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	---	---	---	---	---

AREA OFFICE BOISE, IDAHO REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
BOISE	DETACHED	---	---	419	478	507
	SEMI-DETACHED/ROW	---	311	372	425	462
	WALKUP	243	285	338	397	432
	ELEVATOR-2-4 Sty	297	364	425	---	---
	5 + Sty	312	382	463	---	---
IDAHO FALLS	DETACHED	---	---	415	467	511
	SEMI-DETACHED/ROW	---	320	364	437	461
	WALKUP	259	283	349	422	457
	ELEVATOR-2-4 Sty	303	371	433	---	---
	5 + Sty	318	389	472	---	---
McCALL	DETACHED	---	---	306	345	384
	SEMI-DETACHED/ROW	---	234	273	319	358
	WALKUP	176	215	254	306	345
	ELEVATOR-2-4 Sty	---	---	---	---	---
	5 + Sty	222	273	326	---	---
POCATELLO	DETACHED	---	---	428	474	505
	SEMI-DETACHED/ROW	---	316	371	431	461
	WALKUP	246	289	356	428	451
	ELEVATOR-2-4 Sty	300	367	429	---	---
	5 + Sty	315	386	467	---	---
TWIN FALLS	DETACHED	---	---	395	448	479
	SEMI-DETACHED/ROW	---	300	370	410	450
	WALKUP	235	259	329	374	401
	ELEVATOR-2-4 Sty	283	347	405	---	---
	5 + Sty	297	364	441	---	---
LEWISTON	DETACHED	---	---	429	472	514
	SEMI-DETACHED/ROW	---	286	365	423	460
	WALKUP	247	273	329	395	432
	ELEVATOR-2-4 Sty	295	361	422	---	---
	5 + Sty	309	379	459	---	---

AREA OFFICE BOISE, IDAHO REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
COEUR D'ALENE	DETACHED	---	---	395	440	489
	SEMI-DETACHED/ROW	---	280	365	418	446
	WALKUP	220	261	321	380	420
	ELEVATOR-2-4 Sty	281	344	402	---	---
	5 + Sty	295	361	438	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE PORTLAND, ORE. REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
PORTLAND	DETACHED	---	---	314	380	415
	SEMI-DETACHED/ROW	217	248	307	365	401
	WALKUP	209	236	289	343	380
	ELEVATOR-2-4 Sty	248	311	360	---	---
	5 + Sty	275	345	400	---	---
BEND	DETACHED	---	---	290	363	403
	SEMI-DETACHED/ROW	---	243	284	351	383
	WALKUP	194	231	270	334	364
	ELEVATOR-2-4 Sty	236	286	332	---	---
	5 + Sty	262	318	369	---	---
COOS BAY	DETACHED	---	---	294	327	361
	SEMI-DETACHED/ROW	---	251	284	318	350
	WALKUP	201	234	268	301	335
	ELEVATOR-2-4 Sty	242	289	330	---	---
	5 + Sty	269	321	367	---	---
EUGENE	DETACHED	---	---	305	371	407
	SEMI-DETACHED/ROW	---	248	281	335	368
	WALKUP	212	236	270	323	355
	ELEVATOR-2-4 Sty	248	287	329	---	---
	5 + Sty	276	319	365	---	---
MEDFORD	DETACHED	---	---	306	352	392
	SEMI-DETACHED/ROW	---	247	292	338	378
	WALKUP	199	232	284	320	353
	ELEVATOR-2-4 Sty	239	287	346	---	---
	5 + Sty	266	319	384	---	---
ONTARIO	DETACHED	---	---	305	346	387
	SEMI-DETACHED/ROW	---	243	284	332	375
	WALKUP	187	228	270	325	367
	ELEVATOR-2-4 Sty	214	262	313	---	---
	5 + Sty	238	291	348	---	---

AREA _ OFFICE PORTLAND, ORE. REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
WEST SALEM	DETACHED	---	---	298	360	390
	SEMI-DETACHED/ROW	---	249	283	345	375
	WALKUP	207	240	276	332	370
	ELEVATOR-2-4 Sty	250	298	340	---	---
	5 + Sty	278	331	378	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

AREA OFFICE SEATTLE, WASH. REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SEATTLE	DETACHED	---	---	329	405	436
	SEMI-DETACHED/ROW	---	273	329	377	424
	WALKUP	218	259	324	372	421
	ELEVATOR-2-4 Sty	250	316	370	---	---
	5 + Sty	274	346	408	---	---
ABERDEEN	DETACHED	---	---	306	367	413
	SEMI-DETACHED/ROW	---	259	306	361	413
	WALKUP	226	259	302	344	394
	ELEVATOR-2-4 Sty	250	279	342	---	---
	5 + Sty	275	313	383	---	---
BELLINGHAM	DETACHED	---	---	307	403	448
	SEMI-DETACHED/ROW	---	254	306	371	418
	WALKUP	209	234	287	340	383
	ELEVATOR-2-4 Sty	260	278	333	---	---
	5 + Sty	286	311	373	---	---
LONGVIEW	DETACHED	---	---	308	367	422
	SEMI-DETACHED/ROW	---	255	308	358	422
	WALKUP	208	241	287	344	395
	ELEVATOR-2-4 Sty	249	300	348	---	---
	5 + Sty	274	336	390	---	---
OLYMPIA	DETACHED	---	---	320	372	420
	SEMI-DETACHED/ROW	---	248	288	350	404
	WALKUP	216	238	288	350	404
	ELEVATOR-2-4 Sty	250	305	349	---	---
	5 + Sty	275	342	391	---	---
PORT ANGELES	DETACHED	---	---	324	380	421
	SEMI-DETACHED/ROW	---	247	298	360	404
	WALKUP	199	239	296	351	386
	ELEVATOR-2-4 Sty	236	280	337	---	---
	5 + Sty	260	314	377	---	---

AREA OFFICE SEATTLE, WASH. REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
YAKIMA	DETACHED	---	---	302	348	394
	SEMI-DETACHED/ROW	---	267	292	347	389
	WALKUP	196	234	274	347	389
	ELEVATOR-2-4 Sty	243	280	332	---	---
	5 + Sty	267	314	372	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

INSURING OFFICE SPOKANE, WASH. REGION X - SEATTLE

MARKET AREA	STRUCTURE TYPE	NUMBER OF BEDROOMS				
		0	1	2	3	4 or more
SPOKANE	DETACHED	---	---	298	384	431
	SEMI-DETACHED/ROW	---	251	282	349	391
	WALKUP	195	238	274	341	383
	ELEVATOR-2-4 Sty	249	310	365	---	---
	5 + Sty	274	341	401	---	---
CHENEY	DETACHED	---	---	298	384	431
	SEMI-DETACHED/ROW	---	251	282	349	391
	WALKUP	195	238	274	341	383
	ELEVATOR-2-4 Sty	249	310	365	---	---
	5 + Sty	274	341	401	---	---
KENNEWICK	DETACHED	---	---	368	435	475
	SEMI-DETACHED/ROW	---	319	365	435	475
	WALKUP	220	268	326	385	425
	ELEVATOR-2-4 Sty	265	325	392	---	---
	5 + Sty	292	358	431	---	---
PULLMAN	DETACHED	---	---	334	404	444
	SEMI-DETACHED/ROW	---	270	316	371	416
	WALKUP	210	256	308	363	398
	ELEVATOR-2-4 Sty	265	325	392	---	---
	5 + Sty	292	341	401	---	---
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					
	DETACHED					
	SEMI-DETACHED/ROW					
	WALKUP					
	ELEVATOR-2-4 Sty					
	5 + Sty					

[FR Doc. 78-8248 Filed 3-30-78; 8:45 am]

federal register

FRIDAY, MARCH 31, 1978
PART V



DEPARTMENT OF LABOR

Employment and Training Administration

■

Extended Benefits

[4510-30]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 615—EXTENDED BENEFITS

Revision of Regulations

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: The Extended Benefit Program is a part of the Federal-State Unemployment Compensation Program, and takes effect during periods of high unemployment to furnish up to 13 weeks of additional benefits to individuals who have exhausted their rights to regular benefits under permanent State and Federal unemployment compensation laws. The Department of Labor is revising the Extended Benefit regulations to reflect the recent changes in the laws. The principal revisions require the Virgin Islands to participate in the Extended Benefit Program effective January 1, 1978, revise the National indicators for beginning and ending Extended Benefit Periods, add an optional State indicator for beginning Extended Benefit Periods in States, and discontinue Federal reimbursement of the costs of Extended Benefits paid to State and local government employees after 1978.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Lawrence E. Weatherford, Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-7032.

SUPPLEMENTARY INFORMATION: Part 615, Chapter V, Title 20 of the Code of Federal Regulations, implements the Extended Benefit Program established by the Federal-State Extended Unemployment Compensation Act of 1970 (Title II of Pub. L. 91-373; 84 Stat. 695, 708). The revisions to Part 615 reflect recent amendments to pertinent statutes, and were published as a proposal with opportunity for public participation, at 42 FR 61834, on December 6, 1977.

In the Unemployment Compensation Amendments of 1976 (Pub. L. 94-566; 90 Stat. 2667), certain statutory amendments were enacted that affect the Extended Benefit Program. Section 116 contained provisions for the affiliation of the Virgin Islands in the Federal-State Unemployment Compensation Program. Section 212 amended the Federal-State Extended Unemployment Compensation Act of 1970 to provide that, after 1978, the United States would discontinue reimbursing the States for 50 percent of the costs of Extended Benefits paid to former employees of State and local governments, but without affecting the rights of those workers to Extended Benefits. Section 311 also amended the Extended Benefits law to revise the National indicators for beginning and ending Extended Benefit Periods in all States, and added an optional State indicator for beginning State Extended Benefit Periods. Changes in Part 615 were proposed to implement those statutory amendments and make one clarifying change in the regulations. The changes proposed were fully explained in the published proposal, and are summarized as follows:

Section 615.5(a)(3), renumbered § 615.5(a)(1)(iii), is amended to clarify the definition of "exhaustee" and incorporate the Department's interpretation of the law. Under this provision an individual may not qualify for a second round of Extended Benefits when the individual fails to qualify for a second benefit year because of the requalifying work test required by section 3304(a)(7) of the Internal Revenue Code of 1954, (26 U.S.C. 3304(a)(7)). For further clarification another provision is added as § 615.5(a)(2) to specify when an individual ceases to be an exhaustee for purposes of Extended Benefits.

Section 615.5(a)(5), renumbered § 615.5(a)(1)(v), now states that the day following the day the Secretary approves the unemployment compensation law of the Virgin Islands, it will become a cooperating State in the Federal-State Unemployment Compensation Program, and as such it will be able to pay Extended Benefits to otherwise eligible claimants. Subsequent to the publication of this proposal the unemployment compensation law of the Virgin Islands was approved by the Secretary of Labor, and the Virgin Islands became a State in the Federal-State program effective on January 1, 1978.

Section 615.12(a) is amended to provide that National "on" and "off" indicators will be determined by the Secretary when the rate of insured unemployment (seasonally adjusted) attains or falls below 4.5 percent for the period consisting of the indicator week and the immediately preceding twelve weeks. Previously, the National "on" and "off" indicators consisted of an indicator week preceded by the three most recent calendar months ending before such week, during which the rate of insured unemployment (seasonally adjusted) attained or fell below 4.5 percent.

Section 615.12(c) is amended to provide that a State may, by law, waive the 120 percent indicator to begin a State Extended Benefit Period, if its rate of insured unemployment (not seasonally adjusted) is at least 5 percent. However, the State may not end its Extended Benefit Period solely by reason of the fact that the insured rate of unemployment fell below 5 percent.

Section 615.14(a)(4) is amended to provide that, effective for weeks of unemployment beginning after December 31, 1978, States and their subdivisions and their instrumentalities will be required to finance the costs of all Extended Benefits attributable to them; the Federal Government will no longer share the costs of Extended Benefits payable to employees of those entities. Prior to that date, the Federal Government will share the costs by reimbursing the State for 50 percent of costs of Extended Benefits paid to former State and local government employees.

Other changes in the revised regulations are technical and editorial. They are self explanatory.

Comments on the proposed revision of Part 615 were received in the comment period that ended on January 5, 1978. The comments received and our responses are:

Section 615.5(a)(3). Comment is made that a State does not establish a second benefit year unless the individual meets the State law counterpart of section 3304(a)(7) of the Internal Revenue code of 1954, 26 U.S.C., 3304(a)(7). This being the case, it is not necessary to provide in this section that a claimant may not receive Extended Benefits on the basis of a second benefit year when the individual fails to qualify for regular benefits in a second benefit year.

Response. There are many States which do establish a second benefit year, even though the individual is not entitled to regular benefits unless he meets the State's requalifying requirements which are in accord with 26 U.S.C. 3304(a)(7). Because of the claimant's failure to meet the State's requalifying requirements, the claimant is not eligible for a second regular State claim or extended benefits which are based on the second regular State claim. The paragraph is retained as clarified, so as to set forth the Department's interpretation of the law on this point, and is renumbered § 615.5(a)(1)(iii).

Section 615.5(a)(3). The wording of 26 U.S.C. 3304(a)(7) does not seem applicable to the payment of extended benefits. This paragraph prohibits the establishment of a new benefit year in cases where an individual has not had work since the beginning of a previous benefit year. However, this restriction clearly applies to the establishment of a new claim for regular compensation. No new benefit year is established

when an individual is determined eligible for extended compensation; rather, extended compensation is payable (provided all other eligibility criteria are met) only for as long as he is unable to establish a new benefit year. This restriction, therefore, can act only to determine eligibility for a new benefit year, not to restrict eligibility for extended compensation.

Response. The requirement of 26 U.S.C. 3304(a)(7) is, as pointed out, a barrier to paying benefits for a second benefit year. The regulation is intended to prevent a second round of extended benefit payments based on the first benefit year. A second round of extended benefits must be based upon eligibility for a second regular State claim. Clarification of the regulation was necessary to avoid misunderstanding of its effect. It does not affect the application of 26 U.S.C. 3304(a)(7), but prescribes the effect on eligibility for Extended Benefits where section 3304(a)(7) applies. The paragraph is retained as clarified (renumbered § 615.5(a)(1)(iii)), and a further provision is added to § 615.5 to specify when an individual ceases to be an exhaustee for Extended Benefit purposes.

Section 615.5(b)(3). The definition of "exhaustee" is too broad when it includes an individual whose benefit rights on his regular claim have been cancelled in whole or in part.

Response. This comment is not relevant to the changes proposed in the revision of Part 615. A response will be made by correspondence.

Section 615.10(b). Many States operate under a base period of the first four of the last five calendar quarters. When these States and their subdivisions are required to finance all Extended Benefits effective January 1, 1979, some claims will be based on previously uncovered services performed in the fourth calendar quarter of 1977. The question is, how will the benefits based on the 1977 wages be financed?

Response. In the same manner and under the same conditions as any other previously uncovered services performed in the fourth calendar quarter of 1977. If the State has adopted a transition program in accordance with section 121 of Pub. L. 94-566, reimbursement of benefit costs based on all 1977 wage credits will be payable to the State. This comment simply asked a question, which is answered, and suggested no change in Part 615.

Part 615. It is suggested that no extended benefits should be payable for any week which begins more than two years after the end of the applicable benefit year.

Response. It will take a Congressional amendment to modify Title II of Pub. L. 91-373 to implement this suggestion. No change is made in Part 615.

NOTE.—The Department of Labor has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and applicable authority.

This document was prepared under the direction and control of Lawrence E. Weatherford, Administrator, Unemployment Insurance Service, Employment and Training Administration, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-7032.

Accordingly, Part 615 of Title 20 of the Code of Federal Regulations is revised as set forth below.

Signed at Washington, D.C., on March 24, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Sec.
615.1 Purpose.
615.2 Definitions.
615.3 Effective period of the program.
615.4 Eligibility requirements for Extended Benefits.
615.5 Definition of "exhaustee".
615.6 Extended Benefits: weekly amount.
615.7 Extended Benefits: maximum amount.
615.8 Provisions of State law applicable to claims.
615.9 Restrictions on entitlement.
615.10 Special provisions for employers.
615.11 Extended Benefit Periods.
615.12 Determination of "on" and "off" indicators.
615.13 Announcement of the beginning and ending of Extended Benefit Periods.
615.14 Payments to States.
615.15 Records and reports.

AUTHORITY: Title II, Pub. L. 91-373 (84 Stat. 695, 708); secs. 116, 212, and 311 of Pub. L. 94-566 (90 Stat. 2667, 2672, 2677, 2678); 5 U.S.C. 553; Secretary's Order No. 4-75 (40 FR 18515).

§ 615.1 Purpose.

The regulations in this Part are issued to implement the "Federal-State Extended Unemployment Compensation Act of 1970" as it has been amended, which requires, as a condition of tax offset under the Federal Unemployment Tax Act (26 U.S.C. 3301 *et seq.*), that a State unemployment compensation law provide for the payment of extended unemployment compensation during periods of high unemployment to eligible individuals as prescribed in the Act. The benefits provided under State law, in accordance with the Act and this Part, are hereafter referred to as Extended Benefits.

§ 615.2 Definitions.

For the purpose of the Act and this Part—

(a) "Act" means the "Federal-State Extended Unemployment Compensation Act of 1970" (title II of Pub. L. 91-373; 84 Stat. 695, 708), approved August 10, 1970, as amended from time to time, including the 1976 amendments in sections 116, 212, and 311 of Pub. L. 94-566 (90 Stat. 2667, 2672, 2677, 2678), approved October 20, 1976.

(b) "Base period" means, with respect to an individual, the base period as determined under the applicable State law for the individual's benefit year.

(c)(1) "Benefit year" means, with respect to an individual, the benefit year as defined in the applicable State law.

(2) "Applicable benefit year" means, with respect to an individual, the current benefit year if, at the time an initial claim for Extended Benefits is filed, the individual has an unexpired benefit year only in the State in which such claim is filed, or, in any other case, the individual's most recent benefit year. For this purpose the most recent benefit year, for an individual who has unexpired benefit years in more than one State when an initial claim for Extended Benefits is filed, is the benefit year with the latest ending date or, if such benefit years have the same ending date, the benefit year in which the latest continued claim for regular compensation was filed.

(d) "Compensation" means cash benefits (including dependents' allowances) payable to individals with respect to their unemployment, and includes regular compensation, additional compensation and extended compensation as defined in this section.

(e) "Regular compensation" means compensation payable to an individual under any State law, and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85, but does not include extended compensation or additional compensation.

(f) "Additional compensation" means compensation totally financed by a State and payable under a State law by reason of conditions of high unemployment or by reason of other special factors and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85.

(g) "Extended compensation" means the extended unemployment compensation payable to an individual for weeks of unemployment which begin in an Extended Benefit Period, under those provisions of a State law which satisfy the requirements of the Act and this Part with respect to the payment of extended unemployment compensation, and, when so payable, includes compensation payable pursuant to 5 U.S.C. chapter 85, but does not include regular compensation or additional compensation. Extended compensation is referred to in this Part as Extended Benefits.

(h) "Eligibility period" means, with respect to an individual, the period consisting of:

(1) The weeks in the individual's applicable benefit year which begin in an Extended Benefit Period, and

(2) If the applicable benefit year ends within an Extended Benefit Period, any weeks thereafter which begin in such Extended Benefit Period.

(i) "Sharable compensation" means—

(1) Extended Benefits paid to an individual with respect to any applicable benefit year in an aggregate amount that does not exceed the smallest of the following amounts:

(i) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the applicable benefit year; or

(ii) 13 times the individual's average weekly benefit amount during the applicable benefit year; or

(iii) 39 times the individual's average weekly benefit amount, reduced by the regular compensation paid (or deemed paid) to the individual during the applicable benefit year; and

(2) Regular compensation paid to an individual for weeks of unemployment in the individual's eligibility period, but only to the extent that the sum of such compensation, plus the regular compensation paid (or deemed paid) to the individual with respect to prior weeks of unemployment in the applicable benefit year, exceeds 26 times, and does not exceed 39 times, the average weekly benefit amount (including allowances for dependents) for weeks of total unemployment payable to the individual under the State law in such benefit year.

(3) Effective with respect to Extended Benefits paid for weeks of unemployment that begin on or after January 1, 1979, "sharable compensation" shall not include any compensation paid which is attributable under the provisions of paragraph (4) of section 204(a) of the Act to services performed for governmental entities or instrumentalities to which section 3306(c)(7) of the Internal Revenue Code of 1954 (26 U.S.C. 3306(c)(7)) applies.

(j) "Secretary" means the Secretary of Labor of the United States.

(k)(1) "State" means the States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, and includes the Virgin Islands effective on the day after the day on which the Secretary approves under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)), an unemployment compensation law submitted to the Secretary by the Virgin Islands for approval.

(2) "Applicable State" means, with respect to an individual, the State with respect to which the individual is an "exhaustee" as defined in § 615.5, and in the case of a combined wage claim for regular compensation the term means the "Paying State" as defined in § 616.6(e) of this chapter.

(l)(1) "State law" means the unemployment compensation law of a State, approved by the Secretary under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)).

(2) "Applicable State law" means the State law of the State which is the applicable State for an individual.

(m) "Week" means, for purposes of eligibility for and payment of Extended Benefits, a week as defined in the applicable State law, and, for purposes of computation of Extended Benefit "on" and "off" indicators and insured unemployment rates, and the beginning and ending of Extended Benefit Periods, a calendar week.

(n) "Week of unemployment" means a week of total, part-total, or partial unemployment as defined in the applicable State law, which shall be applied in the same manner and to the same extent to the Extended Benefit Program as if the individual filing for a claim for Extended Benefits were filing a claim for regular compensation.

§ 615.3 Effective period of the program.

An Extended Benefit Program conforming with the Act and this Part shall be a requirement for a State law effective on and after January 1, 1972, pursuant to section 3304(a)(11) of the Internal Revenue Code of 1954, (26 U.S.C. 3304(a)(11)). Continuation of the program by a State in conformity with the Act and this Part, throughout any 12-month period ending on October 31 of a year subsequent to 1972, shall be a condition of the certification of the State with respect to such 12-month period under section 3304(c) of the Internal Revenue code of 1954 (26 U.S.C. 3304(c)).

§ 615.4 Eligibility requirements for extended benefits.

An individual is entitled to Extended Benefits for a week of unemployment which begins in the individual's eligibility period if, with respect to such week, the individual is an exhaustee as defined in § 615.5, files a timely claim for Extended Benefits, and satisfies the pertinent requirements of the applicable State law as provided in the Act and this Part.

§ 615.5 Definition of "exhaustee".

(a)(1) "Exhaustee" means an individual who, with respect to any week of unemployment in the individual's eligibility period:

(i) Has received, prior to such week, all of the regular compensation that was payable under the applicable State law or any other State law (including dependents' allowances and regular compensation payable to Federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) for the applicable benefit year that includes such week; or

(ii) Has received, prior to such week, all of the regular compensation that was available under the applicable State law or any other State law (including dependent's allowances and regular compensation available to Federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in the benefit year that includes such week, after the cancellation of some or all of the individual's wage credits or the total or partial reduction of the individual's right to regular compensation; or

(iii) The applicable benefit year having expired prior to such week, the individual has insufficient wages or employment, or both, on the basis of which a new benefit year could be established in any State that would include such week: *Provided,* That, an individual shall not be entitled to Extended Benefits based on regular compensation in a second benefit year during which the individual is precluded from receiving regular compensation solely by reason of a State law provision which meets the requirement of section 3304(a)(7) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)(7)); and

(iv) Has no right for such week to unemployment compensation under the Railroad Unemployment Insurance Act or such other Federal laws as are specified pursuant to this paragraph; and

(v) Has not received and is not seeking for such week unemployment benefits under the unemployment compensation law of the Virgin Islands or Canada, unless the appropriate agency finally determines that the individual is not entitled to unemployment compensation under such law for such week; *Provided,* That, this subparagraph (v) shall read as if the Virgin Islands was not referred to therein, effective on the day after the day on which the Secretary approves under section 3304(a) of the Internal Revenue Code of 1954 (26 U.S.C. 3304(a)), an unemployment compensation law submitted by the Virgin Islands for approval.

(2) An individual who becomes an exhaustee as defined above shall cease to be an exhaustee commencing with the first week that the individual becomes eligible for regular compensation under any State law, or has any right to unemployment compensation as provided in paragraph (a)(1)(iv) of this section, or has received or is seeking unemployment compensation as provided in paragraph (a)(1)(v) of this section. The individual's Extended Benefit Account shall be terminated upon the occurrence of any such week, and the individual shall have no further right to any balance in that Extended Benefit Account.

(b) *Special rules.* For the purpose of paragraphs (a)(1)(i) and (a)(1)(ii) of

this section, an individual shall be deemed to have received in the applicable benefit year all of the regular compensation payable according to the monetary determination, or available to the individual, as the case may be, even though—

(1) As a result of a pending appeal with respect to wages or employment or both that were not included in the original monetary determination with respect to such benefit year, the individual may subsequently be determined to be entitled to more or less regular compensaton; or

(2) By reason of a provision in the State law that establishes the weeks of the year in which regular compensation may be paid to the individual on the basis of wages in seasonal employment—

(i) The individual may be entitled to regular compensation with respect to future weeks of unemployment in the next season or off season, as the case may be, but such compensation is not payable with respect to the week of unemployment for which Extended Benefits are claimed; and

(ii) The individual is otherwise an exhaustee within the meaning of this section with respect to rights to regular compensation during the season or off season in which that week of unemployment occurs; or

(3) Having established a benefit year, no regular compensation is payable during such year because wage credits were cancelled or the right to regular compensation was totally reduced as the result of the application of a disqualification.

(c) *Adjustment of week.* It is subsequently determined as the result of a redetermination or appeal that an individual is an exhaustee as of a different week than was previously determined, the individual's rights to Extended Benefits shall be adjusted so as to accord with such redetermination or decision.

§ 615.6 Extended benefits: weekly amount.

(a) *Total unemployment.* The weekly amount of Extended Benefits payable to an individual for a week of total unemployment in the individual's eligibility period shall be the amount of regular compensation payable to the individual for a week of total unemployment during the applicable benefit year. If the individual had more than one weekly amount of regular compensation for total unemployment during such benefit year, the weekly amount of extended compensation for total unemployment shall be one of the following which applies as specified in the applicable State law:

(1) The average of such weekly amounts of regular compensation; or

(2) The last weekly benefit amount of regular compensation in such benefit year; or

(3) An amount that is reasonably representative of the weekly amounts of regular compensation payable during such benefit year.

If the method in subparagraph (3) of this paragraph is adopted by a State, the State law shall specify how such amount is to be computed. If the method in subparagraph (1) of this paragraph is adopted by a State, and the amount computed is not an even dollar amount, the amount shall be raised or lowered to an even dollar amount as provided by the applicable State law for regular compensation.

(b) *Partial and part-total unemployment.* The weekly amount of Extended Benefits payable for a week of partial or part-total unemployment shall be determined under the provisions of the applicable State law which apply to regular compensation, computed on the basis of the weekly amount of Extended Benefits payble for a week of total unemployment as determined pursuant to paragraph (a) of this section.

§ 615.7 Extended benefits: maximum amount.

(a) *Individual account.* An Extended Benefit Account shall be established for each individual determined to be eligible for Extended Benefits, in the sum of the maximum amount potentially payable to the individual as computed in accordance with paragraph (b) of this section.

(b) *Computation of amount in individual account.* (1) The amount established in the Extended Benefit Account of an individual, as the maximum amount potentially payable to the individual during the individual's eligibility period, shall be equal to the lesser of—

(i) 50 percent of the total amount of regular compensation payable to the individual during the individual's applicable benefit year; or

(ii) 13 times the individual's weekly amount of Extended Benefits payable for a week of total unemployment, as determined pursuant to § 615.6(a); or

(iii) 39 times the individual's average weekly benefit amount, reduced by the regular compensation paid (or deemed paid) to the individual during the individual's applicable benefit year.

(2) Wherever the individual's average weekly benefit amount is necessary for the computation of the total in the individual's account, the weekly amount determined pursuant to § 615.6(a) shall be used.

(3) If the State law so provides, the amount in the individual's Extended Benefit Account shall be reduced by the aggregate amount of additional compensation paid (or deemed paid) to the individual under such law for prior weeks of unemployment in such benefit year which did not begin in an Extended Benefit Period.

(c) *Changes in accounts.* (1) If an individual is entitled to more or less Extended Benefits as a result of an appeal which awarded more or less regular compensation, an appropriate change shall be made in the individual's Extended Benefit Account pursuant to an amended determination of the individual's entitlement to Extended Benefits.

(2) If an individual who has received Extended Benefits for a week of unemployment is determined to be entitled to more regular compensation with respect to such week as the result of an appeal, the Extended Benefits paid shall be treated as if they were regular compensation up to the greater amount to which the individual has been determined to be entitled, and the State agency shall make appropriate adjustments between the State and Federal accounts. If the individual is entitled to more Extended Benefits as a result of being entitled to more regular compensation, an amended determination shall be made of the individual's entitlement to Extended Benefits. If the greater amount of regular compensation results in an increased duration of regular compensation, the individual's status as an exhaustee shall be redetermined as of the new date of exhaustion of regular compensation.

(3) If an individual who has received Extended Benefits for a week of unemployment is determined to be entitled to less regular compensation as the result of an appeal, and as a consequence is entitled to less Extended Benefits, any Extended Benefits paid in excess of the amount to which the individual is determined to be entitled after the decision on appeal shall be considered an overpayment which the individual shall have to repay on the same basis and in the same manner that excess payments of regular compensation are required to be repaid under the applicable State law. If such decision reduces the duration of regular compensation payable to the individual, the claim for Extended Benefits shall be backdated to the earliest date, subsequent to the date when the redetermined regular compensation was exhausted and within the individual's eligibility period, that the individual was eligible to file a claim for Extended Benefits. Any such changes shall be made pursuant to an amended determination of the individual's entitlement to Extended Benefits.

§ 615.8 Provisions of State law applicable to claims.

(a) *Particular provisions applicable.* Except where the result would be inconsistent with the provisions of the Act or this Part, the terms and conditions of the applicable State law which apply to claims for, and the payment of, regular compensation shall apply

to claims for, and the payment of, Extended Benefits. The provisions of the applicable State law which shall apply to claims for, and the payment of, Extended Benefits include, but are not limited to:

(1) Claim filing and reporting;

(2) Information to individuals, as appropriate;

(3) Notices to individuals and employers, as appropriate;

(4) Determinations, redeterminations, and appeal and review;

(5) Ability to work, availability for work, and search for work;

(6) Disqualifications, including disqualifying income provisions;

(7) Overpayments, and the recovery thereof;

(8) Administrative and criminal penalties;

(9) The Interstate Benefit Payment Plan; and

(10) The Interstate Arrangement for Combining Employment and Wages, in accordance with Part 616 of this chapter.

(b) *Provisions not to be applicable.* The State law and regulations shall specify those of its terms and conditions which shall not be applicable to claims for, or payment of, Extended Benefits. Among such terms and conditions shall be at least those relating to—

(1) Any waiting period;

(2) Monetary or other qualifying requirements; and

(3) Computation of weekly and total regular compensation.

§ 615.9 Restrictions on entitlement.

(a) *Disqualifications.* If the week of unemployment for which an individual claims Extended Benefits is a week to which a disqualification for regular compensation applies, including a reduction because of the receipt of disqualifying income, or would apply but for the fact that the individual has exhausted rights to such compensation, the individual shall not be entitled to Extended Benefits for that week.

(b) *Additional compensation.* No individual shall be paid additional compensation and Extended Benefits with respect to the same week. If both are payable by a State with respect to the same week, the State law may provide for the payment of Extended Benefits instead of additional compensation with respect to the week. If Extended Benefits are payable to an individual by one State and additional compensation is payable to the individual for the same week by another State, the individual may elect which of the two types of compensation to claim.

(c) *Other restrictions.* The restrictions on entitlement specified in this section are in addition to other restrictions in the Act and this Part on eligibility for and entitlement to Extended Benefits.

§ 615.10 Special provisions for employers.

(a) *Charging contributing employers.* Section 3303(a)(1) of the Internal Revenue Code of 1954, (26 U.S.C. 3303(a)(1)), does not require that Extended Benefits paid to an individual be charged to the experience rating accounts of employers. A State law may, however, consistently with section 3303(a)(1), require the charging of Extended Benefits paid to an individual, and if it does, it may provide for charging all or any portion of such compensation paid. Sharable regular compensation must be charged as all other regular compensation is charged under the State law.

(b) *Payments by reimbursing employers.* The State law shall require an employer to reimburse the State unemployment fund for not less than 50 percent of any sharable compensation paid to an individual that is attributable under the State law to service with such employer if the employer, consistently with the requirements of sections 3304(a)(6)(B) and 3309(a)(2) of the Internal Revenue code of 1954, (26 U.S.C. 3304(a)(6)(B) and 3309(a)(2)), is reimbursing the State unemployment fund in lieu of paying contributions: *Provided,* That, effective with respect to regular compensation and Extended Benefits paid for weeks of unemployment that begin after December 31, 1978, that do not constitute sharable compensation by reason of the provisions of section 204(a)(4) of the Act, the State law shall require the employer to reimburse the State unemployment fund for 100 percent, instead of 50 percent, of any such compensation paid.

§ 615.11 Extended benefit periods.

(a) *Beginning date.* Except as provided in paragraph (d) of this section, an Extended Benefit Period shall begin in a State on the first day of the third calendar week after whichever of the following occurs first:

(1) A week for which there is a National "on" indicator; or

(2) A week for which there is a State "on" indicator in that State; and

(3) An Extended Benefit Period shall begin in every State in which an Extended Benefit Period is not already in effect, on the first day of the third calendar week following the week in which there is a National "on" indicator.

(b) *Ending date.* Except as provided in paragraph (c) of this section, an Extended Benefit Period in a State shall end on the last day of the third week after the first week for which there is both a National "off" indicator and a State "off" indicator in that State.

(c) *Duration.* An Extended Benefit Period which becomes effective in any State shall continue in effect for not less than 13 consecutive weeks.

(d) *Limitation.* In the case of any State no Extended Benefit Period may begin by reason of a State "on" indicator before the 14th week after the ending of a prior Extended Benefit Period with respect to such State.

§ 615.12 Determination of "on" and "off" indicators.

(a) *National indicators.* (1) There is a National "on" indicator for a week if the Secretary determines in accordance with paragraph (d) of this section that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (seasonally adjusted) for all States equaled or exceeded 4.5 percent.

(2) There is a National "off" indicator for a week if the Secretary determines in accordance with paragraph (d) of this section that, for the period consisting of that week and the immediately preceding 12 weeks, the total rate of insured unemployment (seasonally adjusted) for all States was less than 4.5 percent.

(3) The revised National indicators in this paragraph (a) apply to all weeks beginning after December 31, 1976.

(b) *Standard State indicators.* (1) There is a State "on" indicator in a State for a week if the head of the State agency determines, in accordance with paragraph (e) of this section, that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State law—

(i) Equaled or exceeded 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years, and

(ii) Equaled or exceeded 4.0 percent.

(2) There is a State "off" indicator in a State for a week if the head of the State agency determines, in accordance with paragraph (e) of this section, that, for the period consisting of the week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State law—

(i) Was less than 120 percent of the average of such rates for the corresponding 13-week period ending in each of the preceding two calendar years, or

(ii) Was less than 4.0 percent.

(c) *Optional State indicators.* (1) The optional State indicators in this paragraph (c) may be made effective in a State with respect to Extended Benefits payable for weeks for unemployment beginning after March 30, 1977, or on any later date established pursuant to the State law.

(2)(i) As an option to the standard State indicators in paragraph (b) of this section, a State may by its law provide that there is a State "on" or "off" indicator in the State for a week

if the head of the State agency determines, in accordance with paragraph (e) of this section that, for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment (not seasonally adjusted) under the State law equalled or exceeded 5 percent as specified in the State law.

(ii) A State which adopts the optional State indicators in its law must also provide by law that any week for which there would otherwise be a State "on" indicator in the State, in accordance with the standard State "on" indicator specified in paragraph (b)(1) of this section, shall continue to be an "on" indicator week and shall not be determined to be a week for which there is a State "off" indicator by reason of the application of the optional State "off" indicator.

(3) The revised State indicators in this paragraph (c) shall apply to weeks beginning after March 30, 1977.

(d) *Computation of national insured unemployment rates.* The computation of national insured unemployment rates utilizes data on weeks claimed and average monthly employment furnished on regular reports to the Secretary pursuant to § 615.15.

(1) *Equation.* Each week the Secretary shall determine the total rate of insured unemployment (seasonally adjusted) for purposes of the National "on" and "off" and no-change indicators. In making such a determination he shall use a fraction, the numerator of which shall be the sum of the weekly average number of weeks claimed in all States for the 13-week period ending with the week for which the determination is made, adjusted by the seasonal adjustment factors applicable to the period; and the denominator of which shall be the average monthly employment covered by all State laws for the first four of the last six calendar quarters ending before the close of the 13-week period. The quotient obtained is to be rounded to four decimal places, is not otherwise rounded, and is to be expressed as a percentage by multiplying the resultant decimal fraction by 100.

(2) *Method of computing the National indicator rate.* The seasonally adjusted weekly average number of weeks claimed in all States is computed in the following manner:

(i) The number of weeks claimed for regular compensation reported by all State agencies is compiled for the current week and for each of the preceding 12 weeks.

(ii) The national total of unadjusted weeks claimed for each week in the 13-week period obtained in subdivision (i) of this subparagraph is seasonally adjusted, using the applicable seasonal adjustment factor or factors developed and published by the Bureau of Labor Statistics of the U.S. Department of Labor.

(iii) To these seasonally adjusted weekly volumes of insured unemployment (weeks claimed) are added weeks claimed for additional compensation and for Extended Benefit for which there are no seasonal factors.

(iv) The resulting weekly totals are added for the 13 weeks and divided by 13 to obtain the average weekly volume for the 13-week period.

(e) *Computation of State Insured Unemployment Rates.* (1) *Equation.* Each week the State agency head shall determine the rate of insured unemployment under the State law (not seasonally adjusted) for purposes of the State "on" and "off" and no-change indicators. In making such a determination he shall use a fraction, the numerator of which shall be the weekly average number of weeks claimed (not seasonally adjusted) in the State for the 13-week period ending with the week for which the determination is made, and the denominator of which will be the average monthly employment covered by State law for the first four of the last six calendar quarters ending before the close of the 13-week period. The quotient obtained is to be computed to four decimal places, is not otherwise rounded, and is to be expressed as a percentage by multiplying the resultant decimal fraction by 100.

(2) *Method of computing the State indicator rates.* The unadjusted weekly average number of weeks claimed in the State is computed in the following manner:

(i) The number of weeks claimed for regular compensation, additional compensation, and Extended Benefits are added for the current week and for each of the preceding 12 weeks.

(ii) The weekly totals obtained in subdivision (i) of this subparagraph are added for the 13 weeks and divided by 13 to obtain the average weekly volume for the 13-week period.

(3) *Rates for preceding 2 years.* Determinations of State rates for the corresponding 13-week periods in the preceding two years shall be made in the same manner as provided in paragraph (e)(4) of this section.

(4) *Method of computing the State 120 percent indicator.* The rate for a current 13-week period shall be divided by the average of the rates for the corresponding 13-week period in each of the two preceding calendar years to determine whether the rate is equal to 120 percent of the average rate for the two years. The quotient obtained shall be computed to four decimal places and not otherwise rounded, and is expressed as a percentage by multiplying the resultant decimal fraction by 100. The average of the rates for the corresponding 13-week periods in each of the two preceding calendar years shall be one-half the sum of such rates computed to four decimal places and not otherwise rounded. The specific methodology follows:

(i) For the purpose of determining the corresponding 13-week period ending in each of the preceding two calendar years, each calendar week shall be identified by the date (calendar month and day of the month) on which it ends.

(ii) For any specific calendar week, the date of the comparable week in the immediately preceding calendar year shall be determined by adding one (1) to the date of the end of such specific week, or by adding two (2) if the date of the end of the specific week is February 29, or a February 29 intervenes between:

(A) The beginning date of the week in which occurs the date established by the addition of one (1) to the specific week; and

(B) The ending date of the specific week.

(iii) For any specific calendar week, the ending date of the comparable week in the second preceding calendar year shall be determined by adding two (2) to the ending date of the specific week, or by adding three (3) if the ending date of the specific week is February 29, or a February 29 intervenes between:

(A) The beginning date of the week in which occurs the date established by the addition of two (2) to the ending date of the specific week; and

(B) The ending date of the specific week.

(f) *Freeze of State and National indicator rates.* After weeks claimed and covered employment have been used to calculate a State or National rate of insured unemployment under the Act, for a week which determines the beginning or ending of a State or National Extended Benefit Period, the data used to compute that rate shall not be revised and the data shall be used without change in the determination of subsequent "on" and "off" indicators.

(g) *Notice to Secretary.* Within 10 calendar days after the end of any week with respect to which the head of a State agency has determined that there is an "on" indicator or an "off" indicator in the State by reason of which an Extended Benefit Period will begin or end in the State, the head of the State agency shall notify the Secretary of the determination. The notice shall state clearly the State agency head's determination of the specific week for which there is a State "on" indicator or "off" indicator. The notice shall include also the State agency head's findings supporting the determination, with a certification that the findings are made in accordance with the requirements of this section and § 615.15. Findings made as provided in this section shall be accepted by the Secretary, but the head

of the State agency shall comply with such provisions as the Secretary may find necessary to assure the correctness and verification of notices given under this paragraph.

§ 615.13 Announcement of the beginning and ending of extended benefit periods.

(a) *National indicators.* Immediately after the Secretary determines that there is a National "on" indicator or that there is a National "off" indicator, beginning or ending a National Extended Benefit Period, as the case may be, notice thereof shall be published in the FEDERAL REGISTER. In addition to stating the Secretary's determination with respect to the national indicator, such notice shall designate the beginning or ending date, as the case may be, of Extended Benefit Periods for all States by reason of the national indicator. If an Extended Benefit Period continues in a State by reason of a State indicator, such notice shall list all such States. The Secretary shall also notify appropriate news media, the heads of all State agencies, and the Regional Administrators of the Employment and Training Administration, of the determination of any National "on" or "off" indicator and of its effect.

(b) *State indicators.* Upon receipt of the notice required by § 615.12(g), the Secretary shall publish in the FEDERAL REGISTER a notice of the State agency head's determination that there is an "on" indicator or an "off" indicator in the State, as the case may be, the name of the State and the beginning or ending date of the Extended Benefit Period, whichever is appropriate. The Secretary shall also notify appropriate news media, the heads of all other State agencies, and the Regional Administrators of the Employment and Training Administration, of the State agency head's determination of such State "on" or "off" indicator and of its effect.

(c) *Publicity by State.* Whenever a State agency head determines that there is an "on" indicator in the State by reason of which an Extended Benefit Period will begin in the State, or an "off" indicator by reason of which an Extended Benefit Period in the State will end, the head of the State agency shall promptly announce the determination through appropriate news media in the State and notify the Secretary in accordance with § 615.12(g). Such announcement shall include the beginning or ending date of the Extended Benefit Period, whichever is appropriate. In the case of an Extended Benefit Period that is about to begin, the announcement shall also describe clearly the unemployed individuals who may be eligible for Extended Benefits during the period; and in the case of an Extended Benefit Period that is about to end, the announcement shall also describe clearly the individuals whose entitlement to Extended Benefits will be terminated.

(d) *Notices to individuals.* (1) Whenever there has been a determination that an Extended Benefit Period will begin in a State, the State agency shall provide prompt written notice of potential entitlement to Extended Benefits to each individual who has established a benefit year in the State that will not expire prior to the beginning of the Extended Benefit Period, and who exhausted all rights under the State law to regular compensation before the beginning of the Extended Benefit Period.

(2) The State agency shall provide such notice promptly to each individual who exhausts all rights under the State law to regular compensation during an Extended Benefit Period, including exhaustion by reason of the expiration of the individual's benefit year.

(3) Whenever there has been a determination that an Extended Benefit Period will end in a State, the State agency shall provide prompt written notice to each individual who is currently filing claims for Extended Benefits of the forthcoming end of the Extended Benefit Period and its effect on the individual's right to Extended Benefits.

§ 615.14 Payments to States.

(a) *Sharable compensation to individuals covered by State law.* (1) Except as provided in subparagraphs (3) and (4) of this paragraph (a), and in paragraph (b) of this section—

(i) The Secretary shall promptly reimburse each State which has paid sharable compensation to individuals covered by the State law an amount representing one-half of the amount of such sharable compensation paid under the State law during any calendar month.

(ii) The Secretary may instead, when he deems it necessary, advance to a State such amount as he estimates will represent one-half of the sharable compensation to be paid under the State law for a calendar month or fraction thereof. Any payment to a State with respect to a month shall be reduced or increased, as the case may be, by any amount by which the Secretary finds that a previous payment with respect to any prior calendar month or fraction thereof was greater or less than the amount that should have been paid to the State.

(2) Any payment to a State pursuant to subparagraph (1) of this paragraph (a) shall be made by a transfer from the extended unemployment compensation account in the Unemployment Trust Fund to the account of the State in such fund, in accordance with section 204(e) of the Act.

(3) The Secretary shall make no payment to a State under this paragraph (a) in respect of sharable compensation for which the State is entitled to reimbursement under the provisions of any Federal law other than the Act or section 121 of the Unemployment Compensation Amendments of 1976, Pub. L. 94-566.

(4) Sharable compensation reimbursable under this section shall include only "sharable compensation" as defined in § 615.2(i), which shall not include regular compensation and Extended Benefits paid after December 31, 1978, that do not constitute sharable compensation by reason of the provisions of section 204(a)(4) of the Act.

(b) *Extended Benefits paid to individuals covered by 5 U.S.C. chapter 85.* (1) The Secretary shall pay to each State as provided in 5 U.S.C. 8505 an amount equal to the cost of Extended Benefits paid to Federal civilian employees and ex-servicemen and women pursuant to 5 U.S.C. chapter 85.

(2) Any payments to a State pursuant to subparagraph (1) of this paragraph (b) shall be made out of appropriations for the payment of unemployment compensation to Federal civilian employees and ex-servicemen and women pursuant to 5 U.S.C. chapter 85.

(c) *Combined-wage claims.* Where regular compensation exhausted by an individual or sharable regular compensation was based on combined wage credits earned in more than one State, any payment required by paragraph (a) or (b) of this section shall be made only to the "Paying State" as defined in § 616.6(e) of this chapter.

(d) *Interstate claims.* Where sharable compensation is paid to an individual under the provisions of the Interstate Benefit Payment Plan, any payment required by paragraph (a) or (b) of this section shall be made only to the liable State.

§ 615.15 Records and reports.

(a) *General.* State agencies shall furnish to the Secretary such information and reports and make such studies as the Secretary decides are necessary or appropriate for carrying out the purposes of the Act and this Part.

(b) *Record keeping.* Each State agency will make and maintain records pertaining to the administration of the Extended Benefit Program as the Secretary requires, and will make all such records available for inspection, examination and audit by such Federal officials or employees as the Secretary may designate or as may be required by law.

(c) *Weekly report of Extended Benefit Data.* Each State shall file with the Secretary within 10 calendar days after the end of each calendar week in which claims are filed a weekly report entitled ETA 5-39, Extended Benefit Data. The report shall include:

(1) The data reported on the form ETA 5-39 filed during the week ending

(date), reflecting unemployment experienced during the prior week ending (date). Week ending dates shall always be the Saturday ending date of the calendar week beginning at 12:01 a.m. Sunday and ending 12 p.m. Saturday.

(2) The number of continued weeks claimed filed for total, part-total and partial unemployment and with separate counts for regular compensation, additional compensation and Extended Benefits under a State unemployment compensation law. The report shall include intrastate continued weeks claimed, interstate continued weeks claimed (taken as agent State) but shall exclude interstate continued weeks claimed (received as liable State) and continued weeks claimed for regular compensation, additional compensation and Extended Benefits filed solely under 5 U.S.C. chapter 85.

(i) In accordance with section 2015, part III, of the *Employment Security Manual* and procedures in Appendix A of the *Handbook for Estimating Unemployment*, BES No. R-185, dated March 1960, the report of continued weeks claimed filed in a State shall be adjusted to eliminate distortions or noneconomic fluctuations in the volume of weekly claims due to such factors as rescheduling a claimant's reporting day when it falls on a holiday or when the agency shifts from a weekly to a biweekly reporting system, or to delayed receipt of mail claims.

(ii) The report of the number of continued weeks claimed filed in a State for regular compensation shall not be adjusted for seasonality.

(3) The average weekly number of adjusted weeks claimed for the most recent calendar week of unemployment experience and the immediately preceding 12 calendar weeks of unemployment experience.

(4) The rate of insured unemployment for the current 13-week period.

(5) The average of the rates of insured unemployment in comparable 13-week periods in the preceding two years.

(6) The current rate as a percent of the average rate in the prior two year comparable 13-week periods.

(7) The 12 month average monthly covered employment covered by State law for the first 4 of the last 6 complete calendar quarters prior to the end of the last week of the current 13-week period to which the insured unemployment data relate. This figure will change only once each calendar quarter as the most recent 3 months employment data become available from regular covered employment quarterly reports. Such covered employment excludes Federal civilian and military employment covered by 5 U.S.C. chapter 85.

(8) The date that a State Extended Benefit Period begins or ends, or a report that there is no change in the existing Extended Benefit Period status.

[FR Doc. 78-8431 Filed 3-30-78; 8:45 am]

federal register

FRIDAY, MARCH 31, 1978
PART VI



DEPARTMENT OF LABOR

Employment and Training Administration

■

Administrative Procedure

[4510-30]

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

PART 601—ADMINISTRATIVE PROCEDURE

Revision of Regulations

AGENCY: Employment and Training Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule revises the Department of Labor's regulation on deferral of tax credit reductions to implement an amendment to the Federal Unemployment Tax Act. It also revises criteria in the regulations to make the conditions for deferral more effective toward restoring State unemployment fund solvency, and clarifies the procedures to be followed by a State to obtain a deferral of tax credit reduction.

EFFECTIVE DATE: May 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Lawrence E. Weatherford, Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-7032.

SUPPLEMENTARY INFORMATION: The Federal Unemployment Tax Act, in 26 U.S.C. 3302(c)(2), imposes additional taxes on employers through a reduction in the credit otherwise allowed for contributions paid into a State unemployment fund, if that State has received repayable advances pursuant to Title XII of the Social Security Act, and has an outstanding balance of such advances on January 1 in two consecutive years.

Pub. L. 94-45 amended section 3302(c)(2) to authorize deferral of the tax credit reduction for 1975, 1976, and 1977, if the Secretary of Labor finds for each such year that the State has studied and taken appropriate action to restore solvency to its unemployment fund and permit repayment of the advances within a reasonable time. Section 110(b)(2) of the Act required the Secretary of Labor to prescribe and publish in the FEDERAL REGISTER criteria to determine the adequacy of action taken by a State. 20 CFR 601.5 was amended by adding a new paragraph (f), Tax Credit Reductions, to accomplish this purpose.

Pub. L. 95-15 further amends section 3302(c)(2) by adding 1978 and 1979 as years in which the deferral of tax credit reductions are available to qualifying States.

A proposal to revise 20 CFR 601.5(f) was published at 42 FR 61618 on December 20, 1977. The amendments proposed would extend the period for which deferral is available through 1979; change the criterion in 601.5(f)(2)(i)(B) and (C) from the Federal wage base to the State wage base; add a new subparagraph (c) to 601.5(f)(2)(ii) making it a condition of deferral under criterion (ii) that State reserves and income from contributions be adequate to meet obligations for 6 months after deferral without Title XII advances in order to qualify for the deferral; and establish July 1 as the due date for submission of deferral requests and documentation. The published proposal fully explained the changes in the regulation.

Comments were received from several sources, most indicating concurrence with the revision. One commenter recommended retention of the Federal wage base in both subparagraph (B) and (C) of Criterion (i), to equalize the requirements in States with varying wage bases. In view of the comment we have reconsidered the change and agree that it would result in unequal treatment of the States required to meet the criteria. Therefore, the provisions of subparagraphs (B) and (C) are republished without the change that was proposed.

One State recommended deletion of the 6 month solvency requirement in subparagraph (C) of Criterion (ii), as it was involved in a long range program review which would be adversely affected. The requirement is retained as essential to the integrity of Criterion (ii).

Deletion of the July 1 due date was also recommended on the premise it did not permit sufficient time to develop documentation. The requirement is retained as essential to permit sufficient time for full review of deferral requests so that timely findings may be made by the Secretary.

Other comments were received, but they are not relevant to the changes proposed in the regulation.

NOTE.—The Department of Labor has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11949 and applicable authority.

This document was prepared under the direction and control of Lawrence E. Weatherford, Administrator, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone 202-376-7032.

Accordingly, 20 CFR 601.5(f) is revised as set forth below.

Signed at Washington, D.C., on March 24, 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

§ 601.5 Withholding payments and certifications.

* * * * *

(f) *Tax credit reductions.* (1) Section 3302(c)(2) 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), and as further amended by Title II of the Emergency Unemployment Compensation Extension Act of 1977 (Pub. L. 95-19, approved April 12, 1977; 91 Stat. 39, 43), The incremental reductions in total credits will not apply to a State with respect to the taxable years beginning on January 1, 1975, January 1, 1976, January 1, 1977, January 1, 1978, and January 1, 1979, if the Secretary of Labor finds as to each such year that the State has studied and taken appropriate action with respect to the financing of its unemployement 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, 1977, 1978, and 1979, 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 (*1*) for any year prior to 1978, the reduction in total credits prescribed by section 3302(c)(2)(A) 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, and (*2*) for any year after 1977, the reduction in total credits prescribed by the applicable provisions of section 3302(c)(2) 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; and

(C) Determination by the Secretary that unemployment reserves and income from contributions in the State unemployment fund will be adequate to meet benefit payment obligations without Title XII advances during the 6-month period beginning November 1 of the year in which such determination is made.

(3)(i) An application for deferral under this paragraph (f) must be requested and filed with the Secretary of Labor by the Governor of a State no later than July 1 of the taxable year for which such deferral is requested. Such application shall be in such form, and shall be accompanied by such documentation, as the Secretary of Labor shall prescribe.

(ii) A finding by the Secretary of Labor with respect to a 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. 78-8432 Filed 3-30-78; 8:45 am]

federal register

FRIDAY, MARCH 31, 1978
PART VII



DEPARTMENT OF THE INTERIOR

Geological Survey

■

Geothermal Resources Operations on Public, Acquired, and Withdrawn Lands

[4310-31]

Title 30—Mineral Resources

CHAPTER II—GEOLOGICAL SURVEY

PART 270—GEOTHERMAL RESOURCES OPERATIONS ON PUBLIC, ACQUIRED, AND WITHDRAWN LANDS

Simplication of Procedural Requirements for Approval To Conduct Subsequent Well Operations, Exploration Operations, Casual Use Activities, and the Construction or Alteration of Certain Production Facilities on Lands Leased for Geothermal Resources

AGENCY: U.S. Geological Survey, Interior.

ACTION: Final rule.

SUMMARY: This final rulemaking revises the geothermal operating regulations by simplifying the procedural requirements imposed on Federal geothermal lessees in obtaining the approval of the Geological Survey for subsequent well operations, exploration operations, casual use activities, and the construction or alteration of certain production facilities on their leases.

EFFECTIVE DATE: March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Eddie R. Wyatt, Conservation Division, U.S. Geological Survey, Mail Stop 620, 12201 Sunrise Valley Drive, Reston, Va. 22092, 703-860-7535.

SUPPLEMENTARY INFORMATION: The primary author of the final revised regulations is Mr. Billy J. Shoger, Petroleum Engineer, U.S. Geological Survey, phone 703-860-7535.

The revisions in the regulations are made pursuant to the authority vested in the Secretary of the Interior by the Geothermal Steam Act of December 24, 1970 (84 Stat. 1566).

The present geothermal operating regulations (Title 30 CFR Part 270) impose more stringent requirements on geothermal lessees in obtaining approval to conduct exploration operations or casual use activities on their leases than are imposed by the leasing regulations (Title 43 CFR Group 3200) on non-lessees in obtaining approval to conduct similar operations or activities on leased and unleased lands. the revised regulations will eliminate this inequitable situation. Also, approval of subsequent well operations and the construction or alteration of certain production facilities will no longer require the submittal of a detailed plan of operation unless the Supervisor's review of the sundry notice or other appropriate permit application filed in that regard indicates that a new or supplemental plan should be required because the operational site is not within an approved surface use area or otherwise would entail additional surface disturbance.

The changes which have been made in the permitting requirements of the operating regulations are expected to improve the efficiency of the Geological Survey in its consideration of exploration operations, subsequent well operations, casual use activities, and the construction or alteration of certain production facilities which are proposed by lessees. It is believed that these improvements will not result in any decrease in the capability of concerned agencies to assure that these types of operations and activities are conducted with due regard for the protection of the environment.

Comments concerning the proposed revision of the regulations, as published in the FEDERAL REGISTER of September 27, 1977 (Vol. 42, No. 187, pp. 49482-49494), were received from the following:

Atlantic Richfield Co.
Chevron Resources Co.
Department of the Interior
  Bureau of Land Management
  U.S. Geological Survey
Department of the Navy
Phillips Petroleum Company
Shell Oil Company
Southern California Edison Co.
State of New Mexico
Union Oil Company of California

A summary of the substantive comments received is as follows:

Comment. One commentor recommended that the definition of "exploratory operations" be modified so as to clarify that shallow temperature gradient wells may be cored during the course of approved drilling operations.

Rationale. It is agreed that this clarification is necessary, and appropriate modifications in that regard have been made in § 270.2(p).

Comment. One commentor suggested that the definition of "casual use activities" be restructured to provide for greater specificity as to permissible activities included by this definition as well as clarifying the circumstances under which these activities would be permitted.

Rationale. The suggestion was considered and rejected because it is felt that this definition should remain general in nature rather than specific to the point of excluding certain activities which the Supervisor might otherwise determine to be casual use. Thus, only one minor, unrelated language modification has been made in § 270.2(q).

Comment. One commentor requested that a definition be added for "operations" in § 270.2 which would specifically exclude "casual use activities" and "exploratory operations." It was felt that this addition would eliminate any possible confusion as to when a "plan of operation" would be required pursuant to § 270.34.

Rationale. It is agreed that § 270.34, as proposed, might result in confusion as to when a "plan of operation" is required and appropriate modifications have been made in that regard. It is believed that the insertion of this clarification language eliminates the need for a separate definition of "operations" as suggested.

Comment. One commentor recommended that a "plan of operation" not be required for certain facility construction or the alteration of an existing facility when such activities would be conducted on a previously approved surface site and no further surface disturbance would be involved.

Rationale. It is agreed that a new plan of operation should not be required for the construction of new facilities or the alteration of existing facilities provided that (1) the facilities in question are those which are related to the production of geothermal resources and not to the utilization thereof; (2) the site at which such construction or alteration would occur is within a surface area designated for that purpose in a plan of operation previously approved by the Supervisor and the appropriate surface management agency; and (3) no additional surface disturbance is involved. Appropriate modifications to eliminate the need for a new plan of operations in these circumstances have been inserted in §§ 270.34 and 270.35.

Comment. One commentor expressed the opinion that surface management agencies should approve notices and permit applications for subsequent well operations and exploration operations because these operations might adversely affect the programs of surface management agencies.

Rationale. The present geothermal operating regulations impose more stringent requirements on lessees in obtaining approval for certain operations and activities on their leases than are imposed by the leasing regulations on non-lessees in obtaining approval to conduct similar operations or activities on leased and unleased lands. To require the suggested approval by the appropriate surface management agency would defeat the primary purposes of these revisions which are to reduce the permitting requirements imposed on lessees and to achieve compatibility with the requirements imposed on non-lessees in similar circumstances. However, the revised regulations do require that a lessee obtain the joint approval of the Supervisor and the appropriate land management

agency for a new or supplemental plan of operation when the Supervisor's review of a proposed subsequent well operation, the construction of a new production facility, or the alteration of an existing production facility leads to a determination that a new plan of operation should be required because the surface site was not designated in a previously approved plan of operation or additional surface is involved.

Comment. The commentor who suggested that lessees not be required, in every instance, to submit a new plan of operation for approval to construct new facilities or to alter an existing facility, also noted that if this suggestion were adopted, it would be necessary to modify § 270.35. The modification suggested would provide the procedures whereby the Supervisor would consider each such application individually to determine whether the proposed construction or alteration activity should be permitted on the basis of the application or that a new plan of operation should be required before a final decision is made.

Rationale. As it has been decided to permit these activities by approval of an appropriate application subject to the constraints previously enumerated, § 270.35 has been appropriately modified.

Comment. One commentor suggested that clarification be inserted to prevent a possible misunderstanding that a non-lessee must obtain the approval of the Supervisor before conducting exploration operations on lands leased to another party.

Rationale. It is agreed that clarification is needed since non-lessees must obtain the approval of the concerned surface management agency and not the Supervisor prior to conducting exploration operations. This clarification has been accomplished by adding "by the lessee" after "must be obtained" in § 270.78(a).

Comment. One commentor recommended that a provision similar to that contained in Title 43 CFR 3209.1-2 be included whereby applications for a permit to conduct exploration operations would be approved or disapproved within 30 days following the date on which the application for a permit is filed with the Supervisor.

Rationale. It is agreed that some assurance should be provided that prompt consideration will be given to notices of intent to conduct exploration operations. In that regard, a new paragraph (d) has been added to § 270.78 which requires the Supervisor, within 30 days after the filing of an acceptable notice of intent, to either approve the notice or to advise the lessee, in writing, of the reasons for the delay.

As revised, Title 30 CFR Part 270 is modified as follows:

§ 270.2 Definitions.

1. By the addition of paragraphs (p) and (q) to § 270.2, to read:

* * * * *

(p) "Exploration operations" means any activities, relating to the search for evidence of geothermal resources, which require physical presence upon the leased lands and which may result in damage to the leased lands or the resources contained within. It includes, but is not limited to, geophysical operations, drilling and coring of shallow temperature gradient wells, construction of roads and trails, and cross-country transit by vehicle. It does not include casual use activities associated with geothermal resources exploration. In addition, it does not include core drilling to obtain subsurface geologic information, except in conjunction with the drilling of shallow temperature gradient wells, nor does it include the drilling for, the testing of, or the production of geothermal resources. However, these limitations do not preclude the drilling of holes necessary for the emplacement of explosive charges for certain geophysical operations nor do they affect the exclusive right of a lessee to drill for, test, or produce the geothermal resources on lands subject to his lease.

(q) "Casual use" means those activities related to exploration operations which are limited to those practices that ordinarily do not involve any appreciable disturbance or damage to the leased lands, its resources, or improvements thereon. For example, activities which do not involve the use of heavy equipment or explosives or which do not involve vehicular movement except over established roads and trails will be considered as casual use activities.

2. By revising § 270.11 to read:

§ 270.11 General functions.

The Supervisor is authorized and directed to carry out the provisions of this part. The Supervisor will require compliance with the terms of geothermal leases, with the regulations in this part, the applicable regulations in 43 CFR Group 3200, and with the applicable statutes. The Supervisor shall act on all applications, requests, and notices required in this part. In executing the functions under this part, the Supervisor shall ensure that all operations, within the area of operations, conform to the best practice; are conducted in such manner as to protect the deposits of the leased lands; result in the maximum ultimate recovery of geothermal resources, with minimum waste; and are consistent with the principles of the use of the land for other purposes and for the protection of the environment. As conditions in one area may vary widely from conditions in another area, the regulations in this part are intended to be general in nature. Detailed procedures for implementing the regulations in this part or specific requirements in any particular area will be covered by GRO orders. The requirements to be set forth in GRO orders relating to surface resources or uses will be coordinated with the appropriate land management agency. The Supervisor may issue oral orders to govern lease operations, but such orders shall be confirmed in writing by the Supervisor as promptly as possible. The Supervisor may issue other orders and rules to govern the development and method for production of a deposit, field, or area. Prior to the issuance of GRO orders and other orders and rules and the approval of any plan of operation, the Supervisor shall consult with and receive comments from appropriate Federal and State agencies, lessees, operators, and other interested parties. Before permitting operations on the leased land, the Supervisor shall determine if the lease is in good standing and whether the lessee is authorized to conduct operations; has filed an acceptable bond; and has, when required by the regulations in this part, an approved plan of operation, notice of intent, sundry notice, or other appropriate permit application.

3. By revising § 270.34 to read:

§ 270.34 Plan of operation.

Except as otherwise provided in these regulations, a lessee, prior to commencing operations on the leased lands or on lands subject to an approved unit or cooperative agreement, shall obtain the joint approval of a plan of operation by the Supervisor and the authorized representative of the appropriate land management agency. A plan of operation is not required for: (1) Subsequent well operations, the construction of new production facilities, or the alteration of existing production facilities which are approved pursuant to 30 CFR 270.35, unless specifically required by the Supervisor; (2) exploration operations, as defined by 30 CFR 270.2(p); or (3) casual use activities, as defined by 30 CFR 270.2(q). However, unless a previously approved plan included a specific authorization for subsequent well operations, construction of new production facilities, alteration of existing production facilities, or exploration operations, the lessee may not conduct such operations or activities without the Supervisor's prior approval. Before commencing a subsequent well operation, the construction of a new production facility, or the alteration of an existing production facility, the lessee must, as a minimum, obtain the Supervisor's approval of a

permit pursuant to 30 CFR 270.71 or of a sundry notice pursuant to 30 CFR 270.72, whichever is appropriate. Before commencing exploration operations, the lessee must obtain the Supervisor's approval of a notice of intent pursuant to 30 CFR 270.78. When a plan of operation is required by the regulations in this part, it shall be filed, in triplicate, with the Supervisor and shall include:

(a) The proposed location of each well, including a layout showing the position of the mud tanks, reserve pits, cooling towers, pipe racks, and other surface facilities;

(b) Existing and planned access and lateral roads;

(c) Location and source of authorized water supply and road building material;

(d) Location of camp sites, airstrips, and other support facilities;

(e) Other areas of potential surface disturbance;

(f) The topographic features of the land and the drainage patterns;

(g) Methods for disposing of waste material;

(h) A narrative statement describing the proposed measures to be taken in conducting the proposed operation for the protection of the environment, including, but not limited to, the prevention or control of (1) fires, (2) soil erosion, (3) pollution of the surface and ground water, (4) damage to fish and wildlife or other natural resources, (5) air and noise pollution, and (6) hazards to public health and safety;

(i) All pertinent information or data which the Supervisor may require for proper and timely consideration of the plan of operation for the exploration, development, or utilization of geothermal resources and the protection of the environment;

(j) Provisions for monitoring to ensure that operations under the plan are conducted in compliance with the applicable regulations and GRO orders; and

(k) A requirement for the collection of data concerning the existing air and water quality, noise, seismic and land subsidence activities, and ecological system of the leased lands covering a period of at least 1 year prior to the submission of a plan for production.

The information required for paragraphs (a) through (f) of this section may be shown on a map or maps available from State or Federal sources, provided that the scale of such map(s) is acceptable to the Supervisor.

4. By revising § 270.35 to read:

§ 270.35 Subsequent well operations, construction of new production facilities, and alteration of existing production facilities.

After completion of all operations authorized under any previously approved notice, permit, or plan, the lessee shall not begin a subsequent well operation, the construction of a new production facility, or the alteration of an existing production facility until the Supervisor has, as a minimum, approved the proposed operation as described by the lessee in a sundry notice or other appropriate permit application. Subsequent well operations that may be approved without a new or supplemental plan of operation include those operations to redrill, repair, deepen, plug back, shoot, or plug and abandon any well; make casing tests, alter the casing or liner, stimulate production, or change the method of recovering production; or convert any formation or well for brine or fluid injection and which can be conducted without additional surface disturbance. The construction of a new production facility or the alteration of an existing production facility, which may be approved without a new or supplemental plan of operation, includes those where (i) the facility involved is related to the production of geothermal resources and not to the utilization thereof; (ii) the site of the proposed construction or alteration activity is within a surface use area designated for that purpose in a plan of operation previously approved by the Supervisor and the appropriate land management agency; and (iii) the construction or alteration can be performed without additional surface disturbance. When required by the Supervisor, pursuant to the regulations in this part, the lessee shall obtain the joint approval of the Supervisor and the appropriate land management agency for a new or supplemental plan of operation before commencing subsequent well operations, the construction of a new production facility, or the alteration of an existing production facility. In an emergency, a lessee may take action to prevent damage without receiving the prior approval of the Supervisor, but, in such cases, the lessee shall promptly report to the Supervisor the corrective actions taken.

5. By revising § 270.78 to read:

§ 270.78 Notice of intent and permit to conduct exploration operations.

(a) A permit to conduct exploration operations on the leased lands or on any lands covered by a unit or cooperative agreement, other than casual use activities, must be obtained by the lessee from the Supervisor before the operation is begun. Applications for such permits shall be submitted under a notice of intent.

(b) The notice of intent shall be in the form prescribed by the Supervisor and shall be filed, in triplicate, with the Supervisor. The notice of intent shall include:

(1) The name and address, including zip code, of the person, association, or corporation for whom the operations will be conducted and of the person who will be in charge of the actual exploration operations;

(2) A statement that the signers agree that the proposed exploration operations will be conducted pursuant to the terms and conditions listed on the approved notice of intent form;

(3) A brief description of the type of operations which will be conducted;

(4) The approximate dates of the commencement and termination of the exploration operations;

(5) A description of the leased land to be explored by township, including the Federal identification number of the specific leases involved; and

(6) A map or maps, available from State or Federal sources and of a scale acceptable to the Supervisor, showing the leased lands to be entered and the specific sites or locations thereon at which the proposed exploration operations will be conducted.

(c) Within 30 days after the completion of each such exploration operation, the lessee shall furnish the Supervisor with three copies of all data obtained as a result of the operation and such other information as the Supervisor may require to complete the official records.

(d) The Supervisor, within 30 days following the date on which an acceptable notice of intent to conduct exploration operations is filed, will either approve the notice or advise the lessee, in writing, or the reasons for the delay.

It has been determined that the revision of Title 30 CFR Part 270 does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environment Policy Act of 1969 (83 Stat. 852).

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 27, 1978.

JOAN M. DAVENPORT,
Assistant Secretary.

[FR Doc. 78-8457 Filed 3-30-78; 8:45 am]

Federal Register

FRIDAY, MARCH 31, 1978
PART VIII



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

■

UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Implementation Requirements; Community Development Block Grant Program

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 42]

[Docket No. R-78-518]

RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

Proposed Requirements

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department is proposing a comprehensive revision of its requirements for implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) in Departmental programs. The basic objectives of the proposed revision are to adopt requirements appropriate to the community development block grant program authorized by Title I of the Housing and Community Development Act of 1974, to include requirements previously specified only in Departmental Handbooks, to make general improvements based on past experience in implementing the Uniform Act, and to make the regulations more readable and easy to understand.

DATES: All comments which are received on or before May 30, 1978, will be considered before issuance of a final rule.

ADDRESS: All written comments should refer to Docket No. R-78-518, and should be submitted to the Rules Docket Clerk, Room 5218, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All written comments made in connection with this notice will be available for public inspection during normal business hours at this office.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold J. Huecker, Relocation and Development Services Division, HUD/Community Planning and Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-1871.

SUPPLEMENTARY INFORMATION: On February 20, 1975, at 40 FR 7602, the Department of Housing and Urban Development amended Title 24 Part 42, of the Code of Federal Regulations, to include revised requirements for implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) in Departmental programs. These regulations have since been amended at 40 FR 36772, effective August 22, 1975; 42 FR 5044, effective January 26, 1977; and 41 FR 46994, effective April 25, 1977.

Basically, the regulations currently in effect continue to reflect the determinations of the Department in implementing the Uniform Act immediately after its passage when its greatest impact upon Departmental programs occurred under categorical community development programs (e.g., the urban renewal program and the Neighborhood Development Program), which are now being phased out.

The Department has now had time to take a good look at the effect of its relocation and acquisition regulations and to consider in a comprehensive way how these regulations might be improved. In particular, the Department has looked at how it might sensibly apply relocation and acquisition requirements to the community development block grant program authorized by Title I of the Housing and Community Development Act of 1974. The block grant program permits communities to develop and carry out community development activities in a more flexible way than was possible under the older categorical programs.

The Department has also attempted to simplify and clarify policies and make them easier to read and understand. The Department is hopeful that still further improvements can be made, and it is open to all recommendations, including comments designed solely to make the regulations easier to understand.

As part of this simplification effort, all basic acquisition and relocation requirements have been placed in these proposed regulations, including those presently found only in HUD Handbooks, 1320.1, Real Property Acquisition (33 pages, excluding appendixes), and 1371.1 REV, Relocation Policies and Procedures (173 pages, excluding appendixes).

Upon approval of a final rule, the Department intends to cancel these two handbooks. The volume of mandatory material would thereby be reduced substantially by replacing two handbooks as well as the present regulations which are in themselves somewhat longer than the proposed regulations described below.

To help those who desire technical advice and assistance in understanding these policies, the Department intends to issue supplementary guidance material, possibly in the form of a letter-size publication, that would contain a complete reprint of the final regulations with related advisory commentary inserted in a manner that clearly distinguishes it from the regulations.

With respect to proposed revisions, the Department would like to call attention to the relocation procedures that would be followed when real property acquisitions take place with the intent to displace the residents. For these "normal" acquisitions, the proposed regulations are no more complex than in the past and to some extent have been simplified. The basic paperwork requirements to be met by a State agency would be as follows:

First, to insure that a person has early knowledge about facts of importance to him, the State agency would be required to furnish a preliminary relocation notice (see § 42.207) to each person to be displaced, to inform the person that he will be required to relocate and to explain the relocation payments and other assistance for which he may be eligible and the related conditions of eligibility. This notice replaces the "notice to persons in project area" specified at § 42.165 of the present regulations. The preliminary relocation notice could be given very early in the acquisition process. It must be given no later than 30 days after the initiation of negotiations.

Second, to insure that a person is aware of the date when he becomes eligible for relocation assistance, the State agency would be required to send him a notice of displacement (see § 42.209) granting him eligibility for relocation assistance and also explaining what that assistance will be. The notice of displacement must be issued within 10 days after the acquisition of the property, but may be issued much earlier. Moreover, timely issuance of a notice of displacement at an early date would eliminate the need for issuing any preliminary notice.

In order to protect all occupants, the regulations also provide that any person who is not properly informed of his rights on a timely basis would automatically be entitled to obtain relocation assistance for his move (see § 42.209(c) below).

In the first five years after enactment of the Uniform Act, almost all acquisition under Departmental programs subject to that Act took place with the intent of displacing all occupants on the property acquired. Hence, Departmental regulations were designed to grant basic eligibility for relocation assistance automatically to anyone who occupied the property at the time of acquisition and thereafter moved.

Increasingly, however, acquisition for HUD-assisted projects takes place under circumstances in which there is no intent or necessity that the tenants move. In recognition of this, § 42.211 defines the circumstances under which acquisition would not be considered as resulting in the displacement of tenants or requiring the payment of relocation assistance to them.

Under the proposed procedures a tenant would be granted the right to

occupy a decent, safe, and sanitary dwelling (either his present dwelling or near-by dwelling) for a four-year period under certain controlled conditions, including a limitation on rental charges. If these conditions are not met, the tenant would automatically be entitled to relocation assistance under the Uniform Act.

The proposed procedure is similar to the procedure set forth at 24 CFR 841.406 (42 FR 5886, effective February 7, 1977), which applies in certain situations in which a HUD-owned property or a property on which the mortgage is insured or held by HUD is purchased for a traditional public housing project. The proposal is also similar to the procedure at 24 CFR 881.309(d) (43 FR 4243), effective January 31, 1978) that applies to structures selected for substantial rehabilitation with Section 8 housing assistance under the Neighborhood Strategy Areas Program. The proposed procedure is particularly suitable for rehabilitation projects when there is no intent to require the tenants to move permanently. The procedure protects the tenants from paying an excessive rent after completion of the rehabilitation.

It should be emphasized that this new aspect of the regulations would give much greater flexibility to State agencies to minimize unnecessary relocation costs. However, to insure that the rights of affected citizens are protected, State agencies taking advantage of the flexibility to acquire "without displacing" would have to follow carefully the specified procedural steps. Of necessity these steps are more complex than the present procedures under which all residents are automatically eligible for relocation assistance when a notice of intent to acquire is issued or when negotiations to acquire are initiated.

It should be noted that the actual decision as to whether or not a person will be permitted to continue in occupancy of the property or be displaced and receive relocation assistance will be determined in accordance with applicable program regulations, including related fair housing and equal opportunity requirements.

An explanation of other proposals follows:

1. Under the Uniform Act a person cannot be displaced unless the State agency assures that a comparable replacement dwelling is available to him. Section 42.45(g) would revise the definition of a comparable replacement dwelling as it applies to a person displaced from government owned or subsidized housing. In any such case in which a person elected to move to rental housing, a government owned or subsidized dwelling would be considered to be a comparable replacement dwelling if it met the other criteria at § 42.45.

2. In order for a displaced person to obtain a replacement housing payment, he must relocate to a decent, safe, and sanitary dwelling. At § 42.47(a)(4), the Department is proposing that each decent, safe, and sanitary replacement dwelling be required to meet the HUD lead-based paint poisoning prevention requirements at 24 CFR Part 35.

Section 42.47(a)(5) would clarify the Department's policy that all replacement dwellings for the handicapped must comply with applicable requirements of the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable By, the Physically Handicapped," Number A-117.IR-1971, as modified by 41 CFR 101-19.603.

At § 42.47(b), the Department is proposing to revise the definition of a decent, safe, and sanitary dwelling so that any existing dwelling that is assisted under the Section 8 housing assistance payments program would be considered decent, safe, and sanitary if it met the Section 8 housing quality standards at 24 CFR 882.109. This proposal would eliminate the need for a duplicate inspection and inspection record.

3. Under the present regulations all persons who move from real property after the State agency notifies the owner of its intent to acquire the property are eligible for relocation assistance under the Uniform Act. The resulting relocation of tenants prior to acquisition of the property often results in the loss of rental income to the property owner and places undue pressure on him to sell his property at the terms and conditions proposed by the State agency. Moreover, the offer of relocation assistance induces some tenants to move from real property that the State agency later determines it would rather not purchase.

For these reasons, the Department is proposing (see definition of displaced person at § 42.49) that the date of acquisition of the real property be established as the basic date at which occupants of the property would automatically be eligible for relocation assistance. The State agency also would have the option to grant eligibility for assistance to those who wish to move before the date of acquisition but after the initiation of negotiations. There would be no change, however, in the existing rule that a person is immediately eligible for relocation assistance if he moves after he receives a notice to vacate from the acquiring State agency.

Section 42.49(c) would set forth in one place certain circumstances under which a person would not be considered displaced and, therefore would not be eligible for relocation assistance if he moves. In addition to excluding persons permitted to remain in occupancy for at least four years under the conditions described at § 42.211, the definition would exclude a person moving into the property after the acquisition (if previously informed that he would not be eligible for relocation assistance), owners who move for a temporary period to permit rehabilitation but whose property is not acquired for the project, owners who retain life estate interests, persons vacating their property for five days or less to permit code enforcement work, and certain persons who begin their moves after receiving a notice of the State agency's determination not to acquire the property.

4. At § 42.65(d), the Department is proposing a modification in the definition of the initiation of negotiations as it applies to low-income public housing projects that are carried out by the turnkey method. Under that modification, the initiation of negotiations would be the execution of the contract of sale between the private developer and the State agency.

5. At § 42.101(a)(1), it is proposed that any acquisition resulting from a voluntary proposal submitted in response to a public invitation for offers to sell real property to a State agency be exempted from the acquisition requirements of Subpart B. This rule would make HUD policy consistent for all programs. Present HUD policy applies this rule only to certain acquisitions under certain housing programs.

6. Section 42.101(b) and § 42.203(b), would make the regulations applicable to certain acquisitions and resulting displacements which take place in the three-year period before the date of submission of a community development block grant application for related construction, rehabilitation or demolition assistance. However, these provisions would not apply to any acquisition or displacement occurring prior to the effective date of the proposed regulations. The Department believes this revision is necessary to assure that persons are not denied the rights and assistance to which they are entitled under the Uniform Act.

7. Section 42.101(c) of the acquisition regulations would be revised to clarify their applicability to the acquisition of leases, easements, and other less-than-fee interests.

8. Section 42.105 would require that the State agency issue a preliminary acquisition notice to each owner on a timely basis. This notice would replace both the notice of intent to acquire (see § 42.136 of the present regulations) and also the notice of land acquisition procedures (see § 42.137 of the present regulations). The proposed notice takes account of the fact that a State agency may wish to enter negotiations to acquire property prior to making a decision to actually acquire it.

9. At § 42.107, the proposed acquisition regulations would require State agencies to establish appropriate criteria for selecting appraisers, to employ only qualified appraisers, and to obtain appropriately documented appraisals based on nationally recognized appraisal standards.

10. Section 42.109 of the proposed regulations would require that appraisals of property valued in excess of $2,000 be reviewed by a qualified appraiser. This rule would supersede a requirement (now contained in HUD Real Property Acquisition Handbook, 1320.1) that appraisals of all property acquired for certain HUD programs be reviewed. The proposed rule would apply uniformly to all HUD programs, including the community development block grant program for which there presently is no mandatory appraisal review requirement. The Department believes that these appraisal requirements are necessary to assure the proper determination of just compensation for property to be acquired.

11. Section 42.111(e), would set forth the Department's policy with respect to payment by a State agency to an owner, as compensation for his real property, an amount in excess of the property's fair market value. A justification for the action would be required.

12. At § 42.113(e), the Department is proposing to revise the present specifications for the statement of the basis for the determination of just compensation, which must be provided to property owners at the initiation of negotiations. The statement would have to include a brief explanation of the principal appraisal techniques used in appraising the real property (e.g., market approach, income approach, and/or cost approach).

13. Section 42.125 describes the Department's policy governing the State agency's acceptance of real property donations, including the purchase of property at less than fair market value. This policy requires the State agency to inform the owner in advance of the donation as to the amount determined to be just compensation for the property. The Department interprets the Uniform Act as requiring this policy.

14. Section 42.213(a) of the regulations would clarify that the State agency may not require a person to move unless opportunities to relocate to a comparable replacement dwelling are available to him.

15. Section 42.213(b) of the proposed regulations set forth the only circumstances under which a State agency may require a displaced person to relocate for a temporary period. This provision would extend to all other HUD programs a policy which is now in effect for the community development block grant program. However, it should be noted that certain temporary moves, such as for rehabilitation under some circumstances, would not be considered displacement and thus would not confer eligibility for Uniform Act relocation assistance.

16. At § 42.219, the Department proposes to clarify its policy governing the timing of the advance written notice to a property occupant informing him of the date by which he must move from the property. The proposed policy would permit the 90-day advance written notice is be given at any time after the issuance of the notice of displacement, provided that no occupant is required to vacate the property before 30 days after the date on which the State agency obtains title to, or possession of, the property, whichever is earlier.

17. Section 42.311 describes proposed HUD policy governing reimbursement to a person for his expenses in searching for a replacement location for a business, farm or nonprofit organization. It would retain the present $500 overall limit on reimbursable search costs. However, in view of this overall limit and because of recent inflation, the Department is proposing to remove the present $10 hourly limit on reimbursable wages for an individual for time spent on the search. The individual's ordinary wage would remain as a limit.

18. At § 42.315, the payment level above which a business, farm operation or nonprofit organization must obtain three bids in support of reimbursement of its moving expenses would be increased from $1,000 to $1,500. In light of general inflation in the past 6 years, the Department believes $1,500 is a more realistic level. It would reduce documentation requirements for nonresidential moves. To be consistent, the rule would also be applied, for the first time, to any residential moving expense claims totalling in excess of that limit.

19. At § 42.457(a), the Department is proposing that the reasonable purchase or rental cost of a comparable replacement dwelling that is used for purposes of determining the maximum amount of a replacement housing payment must be based on an actual examination of costs of available comparable dwellings. The proposed rule is designed to assure that payments are not based on hypothetical dwelling costs which do not reflect the actual costs of available housing. The new procedure would eliminate the computation of payments on the basis of costs of dwellings which are listed on schedules but which are no longer available to the displaced person at the prices listed.

20. To be eligible for a replacement housing payment, a displaced person must occupy a replacement dwelling within a certain specified time period. The present regulations provide that in certain cases in which a person, who owned and occupied a dwelling for 180 days, purchases a replacement dwelling but cannot meet the normal occupancy requirements because of certain reasons beyond his control, the regulations shall be interpreted in a way that permits the payment. To be consistent, it is proposed (see § 42.457(d)) that this interpretation be applied in similar circumstances to the determination of downpayment assistance payments (described at § 42.455).

21. Under present policies the Department requires that a replacement housing payment for a 180-day owner-occupant, who lives on a larger than typical lot, be computed on a hypothetical basis under which the "acquisition cost" of the residence is based on the house improvements and a portion of the lot, equal in size to a typical neighborhood lot size.

In the case of a 180-day owner-occupant of a property devoted to residential use, but which is appraised on the basis that it has a higher and better use (e.g., a commercial use for which the value is higher), the Department's present policies require computation of a replacement housing payment on the basis that the "acquisition cost" of the residence acquired for the project is the amount that would have been paid, if the property had been valued at its residential use value.

The Department is proposing to change these policies because the actual "acquisition cost" is the appropriate base for purposes of computing a payment. In addition, the hypothetical determinations necessary under the present policies are complicated and difficult to compute. The elimination of the two existing procedures would ordinarily reduce the amount of a replacement housing payment to a homeowner whose residence fits either of these categories.

22. The Department's policies governing last resort replacement housing would be set forth in governmentwide regulations at 24 CFR Part 43, Subpart A (Last Resort Housing Replacement by Displacing Agency). State agencies would not be required to consult the governmentwide regulations for additional guidance.

23. The Department's policies governing appeals of State agency determinations would be set forth in Subpart J. This subpart would consolidate, simplify and conform the appeals policies contained in Subparts F and G of the present regulations which would be superseded. The Department's appeals procedures would be expanded to permit persons to appeal the failure of a State agency to meet its obligations to a person who has been given the right to remain in occupancy for a 4-year period under the conditions described at § 42.211.

Other changes of a technical or conforming nature have been made to clarify the regulations in this Part.

With respect to the environmental review of these regulations, a Finding of Inapplicability as to section 102(2)(e) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1 (38 FR 19182). A copy of that finding is available for inspection in the Office of the Rules Docket Clerk, at the address indicated above.

NOTE.—The Department of Housing and Urban Development has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular No. A-107.

For the reasons described above, the Department proposes to amend 24 CFR Part 42 to read as follows:

Subpart A—General

GENERAL POLICIES AND INSTRUCTIONS

Sec.
42.1 Purpose.
42.3 Supersedure of regulations.
42.5 Assurances with respect to acquisition and displacement.
42.7 No duplication of payments.
42.9 Information at public hearings.
42.11 Expediting payment to owners and displaced persons.
42.13 Notification of denial of claim.
42.15 Corrective action by State agency.
42.17 Confidentiality of records.
42.19 Manner of notices.
42.21 Waivers.

DEFINITIONS

42.40 Applicability of definitions.
42.41 Acquired dwelling.
42.43 Business.
42.45 Comparable replacement dwelling.
42.47 Decent, safe, and sanitary dwelling.
42.49 Displaced person.
42.51 Dwelling.
42.53 Fair market rent.
42.55 Fair market value.
42.57 Farm operation.
42.59 Federal agency.
42.61 Federal financial assistance.
42.63 HUD.
42.65 Initiation of negotiations.
42.67 Monthly housing cost.
42.69 Mortgage.
42.71 Nonprofit organization.
42.73 Owner.
42.75 Person.
42.77 Personal property.
42.79 Project.
42.81 Salvage value.
42.83 State.
42.85 State agency.
42.87 Tenant.
42.89 Uniform Act.

Subpart B—Real Property Acquisition

42.101 Applicability of acquisition requirements.
42.103 Basic acquisition policies.
42.105 Preliminary acquisition notice.
42.107 Criteria for appraisals.
42.109 Review of appraisals.
42.111 Establishment of just compensation.
42.113 Statement of the basis for the determination of just compensation.
42.115 Acquisition of tenant-owned improvements.
Sec.
42.117 Notice of determination not to acquire.
42.119 Expenses incidental to transfer of title.
42.121 Statement of settlement cost.
42.123 Certain litigation expenses.
42.125 Donations.
42.127 Acquisition recordkeeping.
42.129 Effect of these regulations on acquisition.

Subpart C—General Relocation Requirements

42.201 Purpose.
42.203 Applicability of relocation requirements.
42.205 Displacement for code enforcement, demolition, or rehabilitation under certain programs.
42.207 Preliminary relocation notice.
42.209 Notice of displacement.
42.211 Notice of right to continue in occupancy.
42.213 Availability of comparable replacement dwellings prior to displacement.
42.215 Relocation assistance advisory services.
42.217 Fair rental charges.
42.219 Ninety-day notice.
42.221 General requirements—claims for relocation payments.
42.223 Relocation payments not considered as income.
42.225 Relocation recordkeeping.

Subpart D—Moving and Related Expenses—Actual Costs

42.301 Eligibility.
42.303 Actual reasonable moving and related expenses—residential moves.
42.305 Actual reasonable moving and related expenses—nonresidential moves.
42.307 Payment for direct losses—nonresidential moves.
42.309 Substitute personal property—nonresidential moves.
42.311 Expenses in searching for replacement location—residential moves.
42.313 Ineligible moving and related expenses.
42.315 Additional documentation for claims over $1,500.

Subpart E—Moving and Related Expenses—Fixed Payment

42.351 Eligibility.
42.353 Fixed payment for moving expenses—residential moves.
42.355 Fixed payment for moving expenses—nonresidential moves.
42.357 Average net earnings of business or farm.

Subpart F—Replacement Housing Payments for 180-day Homeowner-Occupants

42.401 Eligibility.
42.403 Determination of replacement housing payment.
42.405 Differential amount.
42.407 Increased interest costs.
42.409 Incidental expenses.

Subpart G—Replacement Housing Payments for Tenants and Certain Others

42.451 Basic eligibility requirements.
42.453 Replacement housing payment for rental assistance.
42.455 Replacement housing payment for downpayment assistance.
42.457 Additional rules governing replacement housing payments under Subparts F and G.

Subpart H—[Reserved]

Sec.
42.501-599 [Reserved].

Subpart I—Last Resort Replacement Housing

42.601 Applicability.
42.603 Basic rights and rules.
42.605 Methods of providing replacement housing.
42.607 Construction of housing with project funds.
42.609 Compliance with other laws and regulations.

Subpart J—Appeals

42.701 Purpose.
42.703 Basic rights and rules.
42.705 Appeal to State agency.
42.707 HUD review of appeal.
42.709 State agency dismissal of appeal not based on merits.
42.711 Judicial review.

AUTHORITY.—Sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General

General Policies and Instructions

§ 42.1 Purpose

The purpose of the regulations in this part is to implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et. seq.), in accordance with the following objectives—

(a) To insure that owners of real property to be acquired for HUD or HUD-assisted projects are treated fairly and consistently, to encourage and expedite acquisition by agreements with such owners, to minimize litigation and relieve congestion in the courts, and to promote public confidence in Federal land acquisition; and

(b) To insure that persons displaced as a result of HUD or HUD-assisted projects are treated fairly, consistently, and equitably so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole.

§ 42.3 Supersedure of regulations.

Except as provided at § 42.305(d), these regulations supersede the regulations formerly appearing in this part. However, any acquisition of property or displacement of a person occurring prior to the effective date of these regulations shall continue to be governed by the regulations at 24 CFR Part 42 in effect at the time of the acquisition or displacement.

§ 42.5 Assurances with respect to acquisition and displacement.

HUD will not approve any project which may result in the acquisition of real property, or in the displacement of any person, until the State agency submits satisfactory written assurances that, in accordance with the Uniform Act, Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et.

seq.) and the regulations issued thereunder (24 CFR Part 1), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et. seq.), and Executive Order 11063, it will—

(a) Carry out the policies and procedures of this part in a manner that insures that the acquisition and relocation processes do not result in different or separate treatment to persons on account of race, color, religion, sex, national origin, or source of income;

(b) Assure that, within a reasonable period of time prior to displacement, comparable replacement dwellings (defined at § 42.45) will be available to all displaced families and individuals and that the range of choices offered to such persons will not vary on account of their race, color, religion, sex, national origin, or source of income;

(c) Carry out relocation services in a manner that will promote maximum choice in housing, that will promote lessening of racial, ethnic and economic concentrations, and that will facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities; and

(d) Inform affected persons of their rights under the policies and procedures set forth under the regulations in this part, including their rights under Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968.

§ 42.7 No duplication of payments.

No persons shall receive any compensation under the regulations in this part that would have substantially the same purpose or effect as compensation which he receives under State law and which is part of the cost of the project.

§ 42.9 Information at public hearings.

If real property acquisition or displacement for a project is discussed at a public hearing, the State agency shall—

(a) Indicate that just compensation will be offered for real property to be acquired for the project and that related incidental expenses (described at § 42.119) will be paid;

(b) Generally describe available relocation payments and other relocation assistance, including the conditions of eligibility therefor; and

(c) Distribute to affected persons the acquisition information statement (described at § 42.105(c)) and the relocation information statement(s) (described at § 42.207(a)(6)). There is to be no charge for the brochures.

§ 42.11 Expediting payments to owners and displaced persons.

(a) *General.* The State agency shall disburse each acquisition or relocation payment required under this part as promptly as feasible after a person's entitlement to the payment has been established.

(b) *Advance payments.* An advance payment, including a replacement housing payment prior to occupancy of a replacement dwelling by the displaced person, may be made in any case in which the State agency determines a hardship exists.

§ 42.13 Notification of denial of claim.

If the State agency denies the eligibility of a claimant for a payment under § 42.119 or § 42.123, or any relocation payment under this part, or disapproves the full amount claimed or refuses to consider the claim on its merits because of untimely filing or any other ground, the State agency shall notify the claimant of its determination and the basis therefor and shall inform him of the procedures and time limitations for appealing that determination under Subpart J (Appeals).

§ 42.15 Corrective action by State agency.

(a) *General.* HUD will monitor State agency compliance with the regulations in this part. The State agency shall take whatever corrective action is determined by HUD to be necessary to comply with these regulations.

(b) *Remedies for substandard replacement housing.* Whenever a displaced person has relocated to substandard housing because required payments, housing referrals, or other services were not offered in accordance with the regulations in this part, the State agency shall promptly take whatever steps are appropriate and shall bear whatever reasonable costs are necessary to—

(1) Enable the displaced person to relocate to a comparable replacement dwelling (defined at § 42.45) or a decent, safe, and sanitary dwelling of his choice; or

(2) Repair or rehabilitate the housing occupied by the displaced person to the extent necessary to correct deficiencies which would not be present if the State agency had met its obligations under the regulations in this part. The State agency is not required to remedy housing deficiencies which it can demonstrate were caused after the relocation.

§ 42.17 Confidentiality of records.

Except as otherwise provided by State law, records maintained by State agencies in accordance with the provisions of this part are confidential and are not to be treated as public information. Only authorized staff of the State agency or HUD shall have access to them. However, upon the written request of an affected person, the State agency may release to him a copy of any pertinent record.

§ 42.19 Manner of notices.

Any notice which the State agency is required to provide under the regulations in this part shall be personally served, receipt documented, or sent by certified or registered first-class mail, return receipt requested.

§ 42.21 Waivers.

(a) *State agency.* Any time limit specified for the filing of a claim or an appeal under the regulations in this part may, on a case-by-case basis, be extended by the State agency.

(b) *HUD.* HUD may waive any requirement of the regulations in this part that is not required by law. Any request for a HUD waiver shall be submitted to the HUD Area Office serving the State agency and shall be justified on a case-by-case basis.

DEFINITIONS

§ 42.40 Applicability of definitions.

Except where otherwise noted, the definitions appearing in this Subpart A apply to the regulations in this part.

§ 42.41 Acquired dwelling.

The term "acquired dwelling" means the dwelling acquired or deemed to be acquired for the project (defined at § 42.79).

§ 42.43 Business.

The term "business" means any lawful activity, except a nonprofit organization or a farm operation, that is—

(a) Conducted primarily for the purchase, sale, lease, and/or rental of personal and/or real property, and/or for the manufacture, processing, and/or marketing of products, commodities, and/or any other personal property; or

(b) Conducted primarily for the sale of services to the public; or

(c) Solely for the purpose of Subpart D of these regulations, conducted primarily for outdoor advertising display purposes, when the display(s) must be moved as a result of the project.

§ 42.45 Comparable replacement dwelling.

The term "comparable replacement dwelling" means a dwelling that meets the criteria of this section. To the extent that housing meeting the criteria of this section is not available, available dwellings that exceed such criteria may be considered "comparable replacement dwellings". A comparable replacement dwelling shall be—

(a) Decent, safe, and sanitary as described in § 42.47;

(b) Functionally equivalent to and substantially the same as the acquired dwelling with respect to the number of rooms and area of living space (but not excluding new construction nor excluding larger dwellings necessary to comply with the decent, safe, and sanitary criteria of § 42.47);

(c) Demonstrated to be open to all persons regardless of race, color, reli-

gion, sex, or national origin in a manner consistent with the requirements of Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and available without discrimination based on source of income;

(d) In an area not subjected to unreasonable adverse environmental conditions from either natural or manmade sources and in an area not generally less desirable than that of the acquired dwelling with respect to public utilities and public and commercial facilities;

(e) Reasonably accessible to the place of employment of the displaced person or, if unemployed (but employable), reasonably accessible to sources of employment;

(f) Available at a rental or purchase price within the ability-to-pay of the displaced person. A replacement dwelling shall be considered within the ability-to-pay of the displaced person if, after he receives a replacement housing payment and any available housing assistance payments, his new monthly housing cost (defined at § 42.67) for the replacement dwelling does not exceed—

(1) 25 percent of his monthly gross income, including supplemental income payments received from public agencies. However, if the State agency determines that the actual monthly housing costs generally paid by persons in the locality reflects a higher percentage of monthly gross income, that higher percentage may be used as the ability-to-pay standard. A copy of the State agency's justification for using a higher percentage standard shall be included in the applicable case file; or

(2) In the case of a student or other dependent as described at § 42.453(c), his monthly housing cost (defined at § 42.67) for the acquired dwelling; and

(g) Actually available to the displaced person on the private market. However, in the case of a tenant who is displaced from a government owned or subsidized dwelling and who elects to rent a replacement dwelling, the comparable replacement dwelling(s) may be similarly government owned or subsidized (see also § 42.213(a)).

§ 42.47 Decent, safe, and sanitary dwelling.

(a) *General.* The term "decent, safe, and sanitary dwelling" means a dwelling which—

(1) Meets applicable local housing and occupancy codes;

(2) Is structually sound, clean, weathertight and in good repair;

(3) Has an adequate and safe electrical wiring system for lighting and other electrical services;

(4) Meets the HUD lead-based paint regulations (24 CFR Part 35) issued under the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831 et seq.);

(5) In the case of a handicapped person, meets applicable requirements of the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable By, the Physically Handicapped," No. A-117.IR-1971, as modified by 41 CFR 101-19.603;

(6) Has heating as required by climatic conditions;

(7) Has habitable sleeping area that is adequately ventilated and sufficient to accommodate the occupants;

(8) Has (or, if not a housekeeping unit, has access to) to separate well-lighted and ventilated bathroom, affording privacy to the user, that contains a sink and bathtub or shower stall, properly connected to hot and cold water, and a flush toilet, all in good working order and properly connected to a sewage drainage system; and

(9) If a housekeeping dwelling, has (i) a kitchen area that contains a fully usable sink, properly connected to potable hot and cold water and to a sewage drainage system, and adequate space and utility services connections for a stove and a refrigerator, and (ii) adequate living area.

(b) *Section 8 housing.* Any existing replacement dwelling, which is assisted under the section 8 housing assistance payments program (see § 42.61(c)) and which is found to meet the section 8 housing quality standards described at § 882.109 of this Title, shall be considered to be a decent, safe, and sanitary dwelling under the regulations in this Part.

§ 42.49 Displaced person.

(a) *General.* The term "displaced person" means any person (defined at §42.75) who moves from the real property or moves his personal property from the real property—

(1) As a result of the acquisition of such real property in whole or in part for the project (defined at § 42.79) (see also paragraph (b) of this section); or

(2) As a result of the written order from the acquiring State agency to vacate such real property for the project; or

(3) As a result of the acquisition of, or the State agency's written order to vacate, other real property on which he conducts a business, farm operation, or nonprofit organization, for the project. However, eligibility as a displaced person under this paragraph (a)(3) applies only for purposes of obtaining relocation assistance advisory services (described at § 42.215) and moving expenses under Subpart D or E.

(b) *Persons moving as a result of acquisition.* A person is considered to have been displaced as a result of the acquisition of real property for a project and to be a displaced person if—

(1) He moves as a direct result of code enforcement, demolition, or rehabilitation under an urban renewal, neighborhood development, code enforcement, demolition or model cities program as described at § 42.205; or

(2) He is not issued a preliminary relocation notice (described at § 42.207) within the prescribed 30 days after the initiation of negotiations, and he later moves before receiving such a notice (see § 42.209(c)(1)); or

(3) He moves on or after the date of the acquisition of the real property, unless he is a tenant of a dwelling and, within ten (10) days after acquisition (or the period specified in applicable program regulations), he is issued a notice of right to continue in occupancy as described at § 42.211; or

(4) The commitments made to him under a notice of right to continue in occupancy (described at § 42.211) are not fulfilled and he later moves. (To obtain relocation assistance if the State agency does not acknowledge his right to move as a displaced person he must file an appeal (see Subpart J, Appeals) not later than six months after (i) he moves from the property, or (ii) the end of the 4-year occupancy period, whichever is first); or

(5) He moves between the initiation of negotiations and the date of acquisition of the real property and the State agency determines he is a displaced person, as established by issuing him a notice of displacement (described at § 42.209).

(c) *Persons not displaced.* This paragraph contains a nonexclusive listing of persons not displaced. A person is not considered to have been displaced as a result of acquisition or an order to vacate the real property for the project and is therefore not a displaced person if—

(1) He initially enters into occupancy of the property after the date of its acquisition for the project and he is notified prior to occupancy that he will not be eligible for relocation payments or other assistance under the Uniform Act;

(2) He is a tenant occupying a dwelling and has been properly issued a notice of right to continue in occupancy (described at § 42.211);

(3) He begins his move after receiving a notice of the determination not to acquire the property (described at § 42.117), unless he has been issued a notice of displacement (described at § 42.209) which has not been cancelled;

(4) He is an owner-occupant who voluntarily agrees to move for a temporary period in order to carry out the rehabilitation of the real property, whether or not the rehabilitation is assisted by the State agency, and—

(i) The property is not acquired for the project; and

(ii) The State agency does not issue the owner a notice to vacate or otherwise compel him to move from the property or prevent his return to the

property as the owner-occupant thereof;

(5) He retains a life estate interest in the real property giving him the right to continue occupancy for the remainder of his life; or

(6) His relocation is required in order to permit fumigation or other code enforcement work and is limited to a temporary period not to exceed five days.

§ 42.51 Dwelling.

The term "Dwelling" means the place of permanent or customary and usual residence of a person, including a single-family house, a single-family unit in a two-family, multifamily or multipurpose property, a unit of a condominium or cooperative housing project, a nonhousekeeping unit, or any other residential unit. This includes any mobile home which—

(a) Is considered to be real property under State law; or

(b) Is personal property that cannot be moved without substantial damage or unreasonable cost or that is not decent, safe and sanitary.

§ 42.53 Fair market rent.

The term "fair market rent" means the charge being paid for the unsubsidized use of similar or equivalent real property in similar areas.

§ 42.55 Fair market value.

The term "fair market value" means the value recognized under applicable eminent domain law as the appropriate measure of consideration for the taking of the real property.

§ 42.57 Farm operation.

The term "farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

§ 42.59 Federal agency.

The term "Federal agency" means any department, agency, or instrumentality in the executive branch of the Government, any wholly owned Government corporation, and the Architect of the Capitol, the Federal Reserve Bank and branches thereof.

§ 42.61 Federal financial assistance.

The term "Federal financial assistance" means any grant, loan, or contribution, except a Federal guarantee or insurance, made by HUD to a State agency, including the following:

(a) A community development block grant under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301);

(b) A loan or annual contribution made in connection with a low-income public housing project under the U.S. Housing Act of 1937 (42 U.S.C. 1401 et seq.);

(c) Assistance payments under section 8 of the U.S. Housing Act of 1937 (42 U.S.C. 1437f et seq.);

(d) A loan for housing for the elderly or handicapped under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

(e) Assistance payments under section 235 or interest reduction payments under section 236 of the National Housing Act (12 U.S.C. 1715z and 1715z-1);

(f) Interest reduction payments under section 221(d)(3) (BMIR) of the National Housing Act (12 U.S.C. 1715-1);

(g) Rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s);

(h) A grant under section 713(a) or loan under section 714(a) of Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4514 and 4515) to assist in financing a new community development program;

(i) A loan or grant to assist an educational institution in construction of housing or other educational facilities under Title I of the Housing Act of 1950 (12 U.S.C. 1749);

(j) A grant or loan for an urban renewal project or neighborhood development program under Title I of the Housing Act of 1949 (42 U.S.C. 1450);

(k) A grant for concentrated code enforcement and public improvements under section 117 of the Housing Act of 1949 (42 U.S.C. 1468);

(l) A water and sewer facilities grant under Title VII of the Housing and Urban Development Act of 1965 (42 U.S.C. 3101);

(m) A grant for open-space use or for a historic preservation or urban beautification project under Title VII of the Housing Act of 1961 (42 U.S.C. 1500);

(n) A grant for a neighborhood facilities program under Title VII of the Housing and Urban Development Act of 1965 (42 U.S.C. 3101);

(o) A grant for the purpose of carrying out a comprehensive city demonstration program under Title I of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3301);

(p) A public facility loan under Title II of the Housing Amendments of 1955 (42 U.S.C. 1491);

(q) A grant for advance acquisition of land under Title VII of the Housing and Urban Development Act of 1965 (42 U.S.C. 3101);

(r) A grant for the demolition of unsafe structures under Section 116 of the Housing Act of 1949 (42 U.S.C. 1467); and

(s) A grant for interim assistance to slums or blighted areas under Section 118 of the Housing and Urban Development Act of 1949 (42 U.S.C. 1468(a)).

§ 42.63 HUD.

The term "HUD" means the Department of Housing and Urban Development and more particularly, the Secretary of Housing and Urban Development or an officer or employee duly authorized to perform the functions of the Secretary.

§ 42.65 Initiation of negotiations.

(a) *General.* Except as provided in paragraphs (b), (c), and (d) of this section, the term "initiation of negotiations" means the initial written offer by the State agency to the owner to purchase real property for the project for the amount determined to be just compensation.

(b) *Rehabilitation.* Whenever a person occupies real property to be rehabilitated under an activity that is subject to these regulations as described at § 42.205, the execution of the written agreement between the State agency and the owner of the property under which the rehabilitation will be undertaken, or the approval of the permanent financing for the rehabilitation, whichever is later, is deemed to be the "initiation of negotiations."

(c) *Code enforcement or demolition.* Whenever displacement is caused by a code enforcement or demolition activity as described at § 42.205, the State agency's notice to vacate the real property is deemed to be the "initiations of negotiations."

(d) *New construction or acquisition of existing housing under turnkey.* Whenever a person is displaced as a result of acquisition by a private developer for a project under the low-income public housing program (see § 42.61(b)) that is carried out by the turnkey method, the term "initiation of negotiations" means the execution of the contract of sale between the private developer and the State agency.

§ 42.67 Monthly housing cost.

(a) *General.* The term "monthly housing cost" means the average monthly cost for—

(1) The rental for the dwelling or, whenever a replacement dwelling is purchased, the payment for all mortgages and real property taxes on that dwelling; plus

(2) Utilities, including fuel and water.

(b) *Computation base*—(1) *Acquired dwelling.* A person's monthly housing cost for a dwelling that he rented prior to its acquisition for the project shall be based on actual costs paid for the 12-month period immediately prior to displacement or such other

period that the State agency determines will more accurately reflect average costs. In the case of an owner-occupant or other person who does not pay rent, the monthly housing cost shall be based on the fair market rent for the acquired dwelling, including utility costs.

(2) *Replacement dwelling.* A person's monthly housing cost for a replacement dwelling shall be a projected amount which includes one-twelfth of the estimated annual cost for utilities.

§ 42.69 Mortgage.

The term "mortgage" means a lien commonly given to secure an advance on, or the unpaid purchase price of, real property under the laws of the State in which the real property is located, together with any credit instrument(s) secured thereby.

§ 42.71 Nonprofit organization.

The term "nonprofit organization" means a corporation, partnership, individual, or other public or private entity that is engaged in a lawful business, professional, or instructional activity on a nonprofit basis and that has established its nonprofit status under applicable Federal or State law.

§ 42.73 Owner.

The term "owner" means any person who holds any of the following interests in real property to be acquired for the project—

(a) Fee title, a life estate, a 99-year lease, or a lease, including options for extension, with at least 50 years to run from the date of acquisition; or

(b) An interest in a cooperative housing project which includes the right to occupy a dwelling; or

(c) A contract to purchase any of the interests or estates described in paragraphs (a) or (b) of this section; or

(d) Any interest which in the judgment of the State agency or HUD warrants consideration as ownership.

§ 42.75 Person.

The term "person" means any individual, family, partnership, corporation, or association. For purposes of Subparts E, F, G, H, and I, two or more individuals, whether or not they are members of the same family, who live together in a single family dwelling and are displaced from such dwelling, shall be regarded as one person, unless the State agency determines that separate tenancies exists.

§ 42.77 Personal property.

The term "personal property" means tangible property located on the real property that is not compensated for (other than for moving expenses) in the real property acquisition.

§ 42.79 Project.

The term "project" means any undertaking which receives Federal financial assistance from HUD as defined at § 42.61.

§ 42.81 Salvage value.

The term "salvage value" means the probable sale price of an item, if offered for sale for a reasonable period of time on the condition that it will be removed from the property at the buyer's expense.

§ 42.83 State.

The term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, the trust territories of the Pacific Islands, or a political subdivision of any of these jurisdictions.

§ 42.85 State agency.

The term "State agency" means any department, agency or instrumentality of a State or of a political subdivision of a State, or of two or more States, or of two or more political subdivisions of a State or States.

§ 42.87 Tenant.

The term "tenant" means a person who rents or is temporarily in possession of an interest in real property.

§ 42.89 Uniform Act.

The term "Uniform Act" means the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894; 42 U.S.C. 4601 et. seq.; Pub. L. 91-646).

Subpart B—Real Property Acquisition

§ 42.101 Applicability of acquisition requirements.

(a) *General.* The requirements of this Subpart B apply to any acquisition of real property for a project that occurs on or after the effective date of these regulations, except—

(1) The acquisition of real property which results from a voluntary proposal submitted by the owner in response to a public invitation or solicitation for offers; and

(2) The acquisition of real property from a State, a State agency, or a Federal agency.

(b) *Community Development Block Grant Program.* Any acquisition of real property, whether or not it is federally assisted, shall be considered to be for an activity assisted under the community development block grant program (see § 42.61(a)) and subject to the regulations in this part, if—

(1) It occurs on or after the date of the submission of the application requesting the Federal financial assistance which is granted for an activity in connection with which the acquisition is undertaken; or

(2) It occurs within three years prior to the date of the submission of the application requesting such Federal financial assistance and the assisted activity includes demolition on the real property or the construction or rehabilitation on the real property of a facility or other improvement that has the same or similar use as that planned for construction or rehabilitation on the real property at the time of the acquisition. For example, if the assisted activity includes construction of a neighborhood facility and acquisition of the site for such facility occurred within three years prior to submission of the application, the acquisition may be considered to be subject to the regulations in this part. However, this provision does not apply to any acquisition which occurs prior to the effective date of these regulations.

(c) *Less-than-fee permanent interests in real property.* The provisions of this Subpart apply to acquisitions of a life estate, acquisitions by leasing where the lease term, including option(s) for extension, is fifty years or more, and to any other acquisition for a project of a less-than-fee permanent interest in real property, such as an easement.

(d) *Application of State law.* In acquiring real property for a project, the State agency shall comply with the provisions of §§ 42.103 42.107, 42.109, 42.111, 42.113, 42.115, and 42.125 to the extent permitted by State law.

§ 42.103 Basic acquisition policies.

(a) *Expeditious acquisition.* If the State agency determines to acquire real property, it shall make every reasonable effort to acquire the real property expeditiously by negotiation.

(b) *Appraisal and invitation to owner.* Before the initiation of negotiations, the State agency shall have the real property appraised and shall assure tht the owner or his designated representative is given an opportunity to accompany each appraiser during the appraiser's inspection of the property.

(c) *Determination and offer of just compensation.* Before the initiation of negotiations, the State agency shall establish an amount which it believes is just compensation for the real property as described at § 42.111. Promptly thereafter, it shall make a written offer to the owner to acquire the property for that amount. If any real property improvement will have to be removed or will be adversely affected by the completed project, the State agency shall offer to acquire at least the same interest in the improvement as it acquires in the real property on which the improvement is located. If feasible, the written purchase offer shall be furnished to the owner within 90 days after issuing the preliminary acquisition notice (described at § 42.105).

(d) *Basic negotiation procedures.* The State agency shall make reasonable efforts to meet with the owner or his representative and (1) discuss its offer to purchase his property including the basis for the determination of just compensation (see § 42.113) and (2) explain its acquisition policies and procedures including its payment of incidental expenses in accordance with § 42.119 (expenses incidental to transfer of title). The owner shall be given reasonable opportunity to present material which he believes is relevant to the question of value and to suggest modification in the proposed terms and conditions of the purchase, and the State agency shall consider the owner's presentation.

(e) *Updating determination of just compensation.* If the evidence presented by an owner or a material change in the character or condition of the property indicates the need for new appraisal evidence, or if a significant delay has occurred since the time of the approved appraisal of the property, the State agency shall have the appraisal updated or obtain a new appraisal. If the new appraisal evidence indicates that an increase in the purchase offer is warranted, just compensation shall be reestablished and offered to the owner in writing.

(f) *Coercive action.* The State agency shall not advance the time of condemnation, or defer negotiations or condemnation or the deposit of funds with the court, or take any other coercive action, in order to compel or induce an agreement on the price to be paid for the property.

(g) *Payment before taking possession.* Before requiring an owner to surrender possession of his real property, the State agency shall—

(1) Pay the agreed purchase price to the owner; or

(2) Deposit with the court in the condemnation proceeding, for the benefit of the owner, an amount not less than the State agency's determination of just compensation for the property or the court award of compensation for the property.

(h) *Uneconomic remnant.* If the acquisition of only a portion of a property would leave the oner with an uneconomic remnant, the State agency shall offer to acquire the uneconomic remnant along with the portion of the property needed for the project. For purposes of this Subpart, an uneconomic remnant is a parcel of real property in which the owner is left with an interest after the partial acquisition of his property and which has little or no utility or value to him.

(i) *Inverse condemnation.* If the State agency intends to acquire any interest in real property by exercise of the power of eminent domain, it shall institute formal condemnation proceedings and not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

§ 42.105 Preliminary acquisition notice.

As soon as feasible in the acquisition process, but not later than the time at which the owner is invited to accompany the appraiser on the appraiser's inspection of the real property, the State agency shall issue to the owner a preliminary acquisition notice which—

(a) Informs him of its interest in acquiring his real property;

(b) When applicable, informs him that such preliminary acquisition notice is neither a notice of displacement nor a notice to vacate and that it does not establish any eligibility for relocation payments or other relocation assistance specified in the regulations in this part;

(c) Includes a copy of either (1) the HUD information brochure, "When a Public Agency Acquires Your Property," or (2) a statement which contains substantially the same information, modified as necessary to conform to the requirements of State law.

§ 42.107 Criteria for appraisals.

(a) *Qualifications of appraisers.* The State agency shall establish criteria for determining the minimum qualifications of appraisers. Appraisal qualifications shall be consistent with the level of difficulty of the appraisal assignment. The State agency shall obtain a signed statement by each appraiser setting forth his appraisal qualifications, and it shall review the experience and education and other qualifications of appraisers and identify and employ only qualified appraisers to perform the appraisals.

(b) *Appraisal standards.* The State agency's appraisals of fair market value shall be based upon nationally recognized appraisal standards and techniques to the extent that such principles are consistent with the concepts of value and the rules on the admissibility of evidence of value under the eminent domain law of the State.

(c) *Documentation.* Appraisal reports must contain sufficient documentation, including supporting valuation data and the appraiser's analyses of that data, to demonstrate the correctness of the appraiser's opinion(s) of value.

(d) *Conflict of interest.* No appraiser shall have any interest, direct or indirect, in the real property which he appraises for the State agency that would in any way conflict with his performance of the appraisal. No appraiser shall act as a negotiator for the State agency or the owner in the acquisition of real property which he has appraised in connection with the project, except that a review appraiser on the staff of the State agency is not precluded from acting as a negotiator for the State agency. Compensation for an appraisal shall not be based on the amount of the valuation.

§ 42.109 Review of appraisals.

(a) *Evaluation of appraisals.* If the appraised fair market value of the real property to be acquired exceeds $2,000, the appraisal(s) of the property shall be reviewed by a qualified staff appraiser or independent fee appraiser. The reviewer shall determine the adequacy of the appraiser's reasoning and whether the appraisal conforms with recognized appraisal practices. In practicular, the reviewer shall determine the correctness of the appraiser's opinion of the fair market value of the property. To the extent appropriate, the reviewer shall require the appraiser to make necessary corrections in his appraisal report. After any necessary corrections are made, the reviewer shall determine the acceptability of the appraisal report.

(b) *Review appraiser's report.* If the review appraiser finds the appraisal report(s) to be acceptable, he shall set forth in a written report his recommendation as to the fair market value of the property. The reviewer's report shall identify the appraisal report(s) reviewed and explain the basis for his recommendation.

§ 42.111 Establishment of just compensation.

(a) *General.* Except where HUD program regulations specify that HUD shall determine just compensation, the State agency shall establish the amount of just compensation to be offered to the owner for the real property. Such amount shall not be less than—

(1) The State agency's review appraiser's recommendations as to the fair market value of the property; or

(2) The fair market value estimate set forth in the agency's approved appraisal, if the property is valued at $2,000 or less and the appraisal is not reviewed by a qualified review appraiser.

(b) *Just compensation for tenant-owned improvements.* If any real property improvement has been identified as being the property of a tenant who has the right to remove it or the obligation to remove it at the expiration of his term, the State agency shall determine as just compensation for such improvement the larger of—

(1) The amount which the improvement contributes to the fair market value of the real property (this may be defined as the amount by which the fair market value of the real property with the improvement exceeds the fair market value of the real property without the improvement); or

(2) The value of the improvement for removal from the real property.

(c) *Influence of projects on just compensation.* To the extent permitted by State law:

(1) In determining just compensation for real property to be acquired, the State agency shall disregard any decrease or increase in the fair market value of the real property, prior to the date of valuation, caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for the project other than that due to physical deterioration within the reasonable control of the owner; and

(2) In the case of a partial acquisition, just compensation for the part acquired shall be the amount by which the fair market value of the entire property of the owner, disregarding the increase or decrease in value caused by the project, exceeds the fair market value of the remainder, taking into account the increase or decrease caused by the project.

(d) *Owner retention of improvements.* If the owner of a real property improvement is permitted to retain it for removal off-site, the amount determined to be just compensation for the interest in real property to be acquired from him shall be not less than the amount determined by subtracting the salvage value of the improvements he retains for off-site removal from the amount determined to be just compensation for his entire interest in the real property.

(e) *Payments in excess of just compensation.* Unless prohibited by State law or HUD program regulations, the State agency may pay an owner, as compensation for his real property, an amount in excess of the fair market value of such real property. However, any such determination shall be on a case-by-case basis and a justification shall be included in the applicable case file. An example of circumstances which could justify such action is where the estimated cost to acquire a property through condemnation exceeds the amount of a negotiated settlement offer. Another example is where the State agency determines that the fair and equitable measure of compensation for the acquisition is the cost of a substitute facility.

§ 42.113 Statement of the basis for the determination of just compensation.

At the time of the initiation of negotiations to acquire the real property, the State agency shall furnish the owner, along with the initial written purchase offer, a written statement of the basis for the determination of just compensation. To the extent permitted by State law, the statement shall include the following—

(a) An accurate description and location identification of the real property and the interest in the real property to be acquired.

(b) An inventory identifying the buildings, structures, fixtures, and other improvements, including appurtenant removable building equipment, which are are considered to be part of the real property for which the offer of just compensation is made. To the extent known, the owner of each item of the inventory which is not owned by the owner of the land shall be identified.

(c) A recital of the amount of the offer and a declaration that such amount—

(1) Is the full amount believed by the State agency to be just compensation for the property and is not less than the approved appraisal of the fair market value of the property;

(2) Disregards any increase or decrease in the fair market value of the property caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner; and

(3) Does not reflect any relocation payments or other relocation assistance which the owner is entitled to receive.

(d) The recognized definition of the term "fair market value" or equivalent term used in the State in which the real property is located.

(e) A brief explanation of the principal appraisal techniques used in appraising the real property (e.g., market data approach, capitalization of net income approach, and/or replacement cost approach).

(f) In the case of a tenant-owned improvement, the amount determined to be just compensation for the improvement and the basis for such determination as set forth in § 42.111(b) (just compensation for tenant-owned improvements).

(g) If only a portion of a property is to be acquired, an apportionment of the total estimated just compensation for the partial acquisition between—

(1) An amount representing just compensation for the real property to be acquired (the amount considered to be the fair market value of the portion to be acquired as part of the whole property); and

(2) An amount representing any damages and benefits to the remaining portion of the property, together with a brief description of such damages and benefits.

§ 42.115 Acquisition of tenant-owned improvements.

(a) *Improvements considered to be real property.* If any building, structure, fixture, or other improvement would be considered to be real property if it was owned by the owner of the real proprty on which it is located, it shall be considered to be a real property improvement for purposes of this Subpart.

(b) *Offer to acquire.* If any real property improvement has been identified as being the property of a tenant who has the right to remove it or the obligation to remove it at the expiration of his term, the State agency shall furnish the tenant a written offer to acquire such improvement for the amount determined to be just compensation for the improvement as described at § 42.111(b) and a written statement of the basis for its determination as described at § 42.113.

(c) *Special conditions.* No payment shall be made to a tenant for his real property improvements unless—

(1) The tenant, in consideration for the payment, assigns, transfers, and releases to the State agency all his right, title, and interest in the improvement;

(2) The Owner of the real property on which the improvement is located disclaims all interest in the improvement; and

(3) The payment does not result in the duplication of any compensation otherwise authorized by law.

(d) *Right to alternative compensation.* A tenant has the right to reject payment under this section and obtain payment for his real property interests in accordance with other applicable law.

§ 42.117 Notice of determination not to acquire.

If the State agency has issued a preliminary acquisition notice or a firm offer to acquire, and later determines not to acquire the real property, it shall so notify the owner and any person who is occupying the property or has received a preliminary relocation notice (described at § 42.207). The notice shall be served in writing within 10 days after the determination not to acquire and shall appropriately notify those who will not be eligible for relocation assistance. However, if a notice of displacement (described at § 42.209) has already been issued, it may not be cancelled, unless the person has not yet moved and the State agency agrees to reimburse him for any expenses incurred to satisfy any binding contractual relocation obligations entered into during the period the notice of displacement was in effect.

§ 42.119 Expenses incidential to transfer of title.

(a) *Eligible costs.* The State agency shall reimburse the owner for all reasonable expenses he necessarily incurred for—

(1) Recording fees, transfer taxes, documentary stamps, and similar expenses incidential to conveying the real property to the State agency. However, the State agency is not required to pay costs solely required to perfect the owner's title to the real property;

(2) Penalty costs and other charges for prepayment of any preexisting re-

corded mortgage entered into in good faith encumbering the real property; and

(3) The pro rata portion of any prepaid real property taxes and other charges for public services such as water, sewerage and trash collection, which are allocable to the period subsequent to the date the State agency obtains title to, or effective possession of the property, whichever is first.

(b) *Method of payment.* Whenever possible, the State agency shall pay for costs eligible for reimbursement under this section directly and minimize the need for an owner to pay any such costs from his own finances and then claim reimbursement from the State agency. If the real property is acquired by direct purchase, reimbursement of documented settlement costs shall be made at settlement. If the property is acquired by condemnation, such reimbursement shall be made as soon as possible after the deposit of funds to satisfy the court award.

(c) *Claims after acquisition.* A claim by the owner for reimbursement of settlement costs shall be submitted to the State agency within 6 months after the acquisition of the property or the court award in a condemnation proceeding. However, the State agency may extend this time period.

(d) *Appeals.* An owner who believes that he has been denied the full amount of a payment to which he is entitled under paragraph (a) of this section may appeal that denial under Subpart J (Appeals) of the regulations in this part.

§ 42.121 Statement of settlement cost.

A statement of settlement cost shall be prepared and furnished to the owner at the settlement of the acquisition, or as soon as feasible after the award of the judgment in a condemnation proceeding. The statement shall include an identification of all known incidental costs for which the owner has been reimbursed or may be entitled to reimbursement under § 42.119 (Expenses incidental to transfer of title). The statement shall be dated and certified as true and correct by the closing attorney or other person handling the transaction.

§ 42.123 Certain litigation expenses.

(a) *General.* The State agency shall reimburse the owner of the real property for the owner's reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees, actually and necessarily incurred because of a condemnation proceeding, if—

(1) The final judgment of the court having jurisdiction over the condemnation proceeding is that the State agency cannot acquire the real property by condemnation; or

(2) The condemnation proceeding is abandoned by the State agency other than under an agreed-upon settlement of the proposed acquisition of the property by direct purchase; or

(3) A court of competent jurisdiction renders a judgment in favor of the owner as plaintiff in an inverse condemnation proceeding or the State agency effects a settlement of such proceeding.

(b) *Time for filing claim.* A claim for payment under paragraph (a) of this section shall be submitted within 6 months after final judgment in the condemnation proceeding, or the abandonment of the proceeding by the State agency, whichever is applicable. However, the State agency may extend this time period.

(c) *Documentation of claim.* A claim for payment under paragraph (a) of this section shall be supported by such reasonable documentation as may be required by the State agency.

(d) *Appeals.* Any owner who believes that he has been denied the full amount of a payment to which he is entitled under paragraph (a) of this section may appeal the denial under Subpart J (Appeals) of the regulations in this part.

§ 42.125 Donations.

Nothing in these regulations shall prevent a person from donating real property or any of the compensation payable for such real property, if prior to the donation—

(a) The State agency informs the owner in writing as to the amount it has established as just compensation for the real property as described at § 42.111; and

(b) The owner indicates in writing that although he understands that he cannot be required to donate the property or sell it to the State agency at less than the amount determined to be just compensation, he voluntarily agrees to do so.

§ 42.127 Acquisition recordkeeping.

The State agency shall maintain a separate acquisition file for each real property acquisition for at least three years after completion of the project, final settlement of the acquisition, or the disposition of the applicable relocation records, whichever is later. All data shall be readily accessible and available to HUD on request. Except as otherwise specified, each separate acquisition file shall include—

(a) The applicable HUD project number, date of project approval, and the State agency's parcel number for the real property;

(b) Copy of the preliminary acquisition notice and evidence, including date, of receipt by owner;

(c) Evidence that owner was invited to accompany each appraiser on his inspection of the real property;

(d) Copy of any appraisal report, including any review appraiser's report on which the determination of just compensation was based. However, such appraisal report(s) may be filed separately with an appropriate reference in the acquisition file;

(e) Copy of document establishing just compensation;

(f) Copy of the written purchase offer, including all basic terms and conditions, and citation of date of delivery to owner;

(g) Copy of the statement of the basis for the determination of just compensation and citation of date of delivery to owner;

(h) Copy of any purchase agreement, deed, declaration of taking, waiver, or related document involving the conveyance;

(i) Copy of the statement of settlement cost;

(j) Evidence that owner received purchase price; and

(k) Copy of any appeal concerning a payment under § 42.119 or § 42.123, together with a copy of all pertinent determinations and other relevant documentation.

§ 42.129 Effect of these regulations on acquisition.

(a) The provisions of §§ 42.103, 42.107, 42.109, 42.111, 42.113, and 42.125 create no rights or liabilities and shall not affect the validity of any property acquisition by purchase or condemnation.

(b) Nothing in these regulations shall be construed as creating in any condemnation proceedings brought under the power of eminent domain, any element of value or of damage not in existence immediately prior to January 2, 1971.

Subpart C—General Relocation Requirements

§ 42.201 Purpose.

This Subpart prescribes general requirements governing the provision of relocation payments and other relocation assistance under the regulations in this part.

§ 42.203 Applicability of relocation requirements.

(a) *General.* These regulations apply to the relocation of any displaced person as defined at § 42.49 that occurs on or after the effective date of these regulations. Except as provided in paragraphs (b), (c), (d), and (e) of this section, any displacement in connection with a project shall be considered to be displacement for the project and to be subject to the regulations in this part, if it occurs on or after the date of—

(1) The applicable contract for Federal financial assistance for the project; or

(2) HUD approval of a budget for project execution activities resulting

in displacement, if the pertinent contract for Federal financial assistance is later executed.

(b) *Community development block grant program.* Any displacement which results from the acquisition of real property shall be considered to be for an activity assisted under the community development block grant program and subject to the regulations in this part, if—

(1) It occurs on or after the date of the submission of the application requesting the Federal financial assistance which is granted for an activity in connection with which the acquisition has been or will be undertaken; or

(2) It occurs within three years prior to the date of the submission of the application requesting such Federal financial assistance for an activity in connection with which the displacement has been undertaken and the assisted activity includes demolition on the real property or the construction or rehabilitation on the real property of a facility or other improvement that has the same or similar use as that planned for construction or rehabilitation on the real property at the time of the displacement. For example, if the assisted activity includes construction of a neighborhood facility and an order to vacate the site for construction of such facility was issued within three years prior to submission of the application, such displacement may be considered to be subject to the regulations in this part. However, this provision does not apply to any displacement which occurs prior to the effective date of these regulations.

(c) *Low-income public housing program.* Displacement that results from the acquisition of real property by a State agency, or by a private developer under turnkey procedures, in connection with a low-income public housing project (see § 42.61(b)), shall be considered to be for the project and to be subject to the regulations in this part, if it occurs on or after the date of the annual contributions contract or the date of tentative site approval by HUD, whichever is later. For purposes of providing relocation assistance or a notice of right to continue in occupancy (described at § 42.211) under turnkey new construction or turnkey acquisition of existing housing procedures, the execution of the contract of sale between the private developer and the State agency is deemed to be both the "initiation of negotiations" and the "acquisition" of the property.

(d) *Section 8 housing assistance payments program.* Displacement resulting from acquisition by a State agency in connection with a project assisted under the Section 8 housing assistance payments program (see § 42.61(c)) shall be considered displacement for the project and to be subject to the regulations in this part, if it occurs on or after the date HUD notifies the State agency that its final proposal is approved.

(e) *Model cities program.* (1) Displacement resulting from acquisition in connection with a model cities program (see § 42.61(o)) shall be considered displacement for the project, if it occurs on or after—

(i) The date of the applicable contract for Federal financial assistance for the project; or

(ii) The date approved by HUD for a specific undertaking upon the request of the State agency, if the displacement occurs prior to the approval of the pertinent contract for Federal financial assistance, and such contract for Federal financial assistance is later executed and the comprehensive city demonstration program thereafter identifies the undertaking as one being carried out in connection with such program.

(2) In any case in which a comprehensive city demonstration program is amended to incorporate a displacement causing activity which was carried out prior to the date of such amendment and to recognize the eligibility of persons displaced by reason of any such activity, the displacement shall be considered displacement for the project and the date of displacement for such person shall be considered to be the date on which the comprehensive city demonstration program was amended to include the displacement causing activity.

§ 42.205 Displacement for code enforcement, demolition, or rehabilitation under certain programs.

(a) *General.* If a person moves as a direct result of code enforcement, demolition, or rehabilitation under the urban renewal, neighborhood development, code enforcement, model cities, demolition or interim assistance programs (see paragraphs (j), (k), (o), (r), and (s) of § 42.61), he shall be deemed to have been displaced as a result of acquisition and shall be eligible as a displaced person for relocation assistance under the regulations in this part.

(b) *Code enforcement and demolition.* If the State agency has determined that code enforcement or demolition that is in accordance with the approved plan for the project cannot reasonably be undertaken without the vacating of the real property (other than for a temporary period in accordance with § 42.49(c)(6) or § 42.211), it shall issue a written notice to vacate to each person occupying the real property. The issuance of the notice to vacate shall be deemed to be both the "initiation of negotiations" and the "acquisition" of the real property. The notice to vacate may be consolidated with the notice of displacement (described at § 42.209).

(c) *Rehabilitation.* If the State agency has (1) entered into a written agreement with the owner of the real property under which rehabilitation activities will be undertaken in accordance with HUD policies and requirements and the approved plan for the project and (2) determined that such activities cannot be undertaken without the vacating of the real property (other than for a temporary period in accordance with § 42.49(c)(4) or § 42.211), the execution of such written agreement or the approval of the permanent financing for the rehabilitation, whichever is later, is deemed to be both the "initiation of negotiations" and the "acquisition" of the real property. The notice of displacement (described at § 42.209) issued to each tenant shall inform him of the owner's agreement to undertake the rehabilitation.

§ 42.207 Preliminary relocation notice.

(a) *General.* As soon as feasible, but not later than 30 days after the date of the initiation of negotiations, the State agency shall issue a preliminary relocation notice to each person occupying the real property. The notice shall—

(1) In the case of a tenant, inform him that the State agency has initiated (or intends to initiate) negotiations to acquire the real property and the applicable or estimated date; and

(2) Insofar as possible, inform the person whether or not he will be required to relocate permanently as a result of the State agency's acquisition of the real property;

(3) Explain that such preliminary relocation notice is not a notice to vacate the real property and that if the person moves from the property, except after being issued a notice of displacement (described at § 42.209), he will not be entitled to relocation payments or other relocation assistance under the Uniform Act.

(4) Indicate that as soon as practical, but not later than 10 days after the acquisition (or the period specified in applicable program regulations), the person will receive a notice of displacement (described at § 42.209) or a notice of right to continue in occupancy (described at § 42.211), as the case may be. The provisions of the notice or notices to which reference is made shall be generally described;

(5) Inform the person of the applicable policies contained in paragraphs (b), (c)(2), and (c)(3) of § 42.209 (notice of displacement); and

(6) Include a copy of either (i) the applicable HUD information brochure(s), "Relocation Assistance to Displaced Homeowners and Tenants", or "Relocation Assistance to Displaced Businesses, Farms, and Nonprofit Organizations", or (ii) statement(s) containing substantially the same infor-

mation, modified as necessary to conform to the requirements of State law.

(b) *Notice not required.* The State agency is not required to issue any preliminary relocation notice if a notice of displacement (described at § 42.209) or a notice of right to continue in occupancy (described at § 42.211) is issued within 30 days after the initiations of negotiations.

§ 42.209 Notice of displacement.

(a) *General.* Within 10 days after the acquisition (or the period specified in applicable program regulations), the State agency shall issue a written notice of displacement to each person to be displaced (see definition of displaced person at § 42.49). The notice shall explain that in order to carry out the project it will be necessary for the person to move and that to assist him in moving (assuming he moves on or after the specified effective date of the notice) he will be entitled to certain relocation payments and other assistance under the Uniform Act. The notice shall generally describe such relocation assistance, including the maximum allowable dollar amount or range of each payment for which he will apparently be eligible, any conditions of eligibility, the procedures for obtaining the payment(s), and the services and other assistance that will be available to aid in his relocation. If a preliminary relocation notice (described at § 42.207) was not previously issued, the notice of displacement shall also include the information described at § 42.207(a)(6). The notice of displacement shall be effective not later than the date of acquisition nor earlier than the date of the initiation of negotiations.

(b) *Occupant request for notice.* At any time after the initiation of negotiations, a person occupying the real property may request the State agency to issue him a notice of displacement. Within 30 days after receiving his request, the State agency shall consider the person's stated reasons for making the request and either issue a notice of displacement or a written statement denying the request and stating its reasons for denial. If a tenant, who is in occupancy of the property as of the initiation of negotiations, requests a notice of displacement after being required to vacate the real property by the property owner for any reason other than for cause, the State agency shall grant his request.

(c) *Automatic notice of displacement.* A person shall be deemed to have been issued a notice of displacement, effective immediately or on the date of acquisition, whichever is earlier, if—

(1) He is not issued a preliminary relocation notice (described at § 42.207) within 30 days after the date of the initiation of negotiations. However, if the State agency later issues a preliminary relocation notice to a person who has not yet moved and agrees to reimburse him for any expenses incurred to satisfy any binding contractual relocation obligations which he entered into during the period in which the automatic notice of displacement was in effect, such automatic notice of displacement is cancelled;

(2) He is not issued a written notice of displacement under this section or a notice of right to continue in occupancy (described at § 42.211) within ten (10) days after the acquisition (or the period specified in applicable program regulations); or

(3) The commitments to him under a notice of right to continue in occupancy (described at § 42.211) are not fulfilled. To obtain relocation assistance if the State agency does not immediately acknowledge his right to relocation assistance as a displaced person, the person must file an appeal under Subpart J (Appeals) within six months after (i) his permanent move from the property, or (ii) the end of the 4-year occupancy period, whichever is earlier.

(d) *Installment purchase contracts.* For purposes of this section, if the State agency enters into a contract to purchase real property through installment payments, the execution of such contract is deemed to be the "acquisition".

§ 42.211 Notice of right to continue in occupancy.

(a) *General.* If a tenant of a dwelling (not an owner-occupant) is permitted to continue in occupancy of a dwelling in accordance with the provisions of this section, he is not considered a displaced person under the Uniform Act or the regulations in this part. Within (10) days after the acquisition (or the period specified in applicable program regulations), the State agency shall issue to each residential tenant who will not be displaced a written notice of his right to continue in occupancy, which contains the following conditions—

(1) The tenant shall have the right to lease and occupy a decent, safe, and sanitary dwelling which is either his current dwelling or a comparable replacement dwelling located within the same building or nearby building located on the real property, for a continuous period of at least four years. The four-year period shall being on the date of acquisition, or the date the dwelling is placed in decent, safe, and sanitary condition, or the termination date of any required temporary relocation, whichever is later.

(2) The tenant's monthly housing cost (defined at § 42.67) for the four-year period shall not exceed twenty-five percent of his gross income, or the fair market rent for the dwelling, whichever is lesser;

(3) The tenant shall not be required to move from his dwelling, other than for cause, unless the move is necessary to permit rehabilitation or demolition. If any such move is required, (i) not more than one temporary relocation by the tenant shall be required, (ii) the temporary relocation, if any, shall not exceed twelve months in duration, (iii) a decent, safe, and sanitary dwelling shall be available to the tenant for the period of any temporary relocation, and (iv) the State agency shall pay actual reasonable out-of-pocket expenses, including any moving costs or increase in monthly housing costs, incurred by the tenant in connection with the move and/or temporary relocation; and

(4) If the tenant is required to vacate the dwelling during the four-year period for any reason, other than for cause, or if any of the other commitments to him under this notice are not met, the tenant shall automatically be deemed to have been issued a notice of displacement (described as § 42.209) and to be entitled as a displaced person to relocation payments and other relocation assistance under the Uniform Act and the regulations in this part, which assistance shall be generally described. If the State agency does not immediately acknowledge the tenant's right to such relocation assistance, he may file an appeal under Subpart J (Appeals).

(b) *Special condition.* The State agency shall take such steps as may be necessary to insure that no person who continues in occupancy under the provisions of this section is subjected to an unreasonable change in the character of his immediate environment without being given the opportunity to move and qualify for relocation assistance as a displaced person. For example, an elderly person shall not be subjected without alternative choices to a sharp increase in the number of children occupying nearby units.

(c) *Recordkeeping.* The State agency shall maintain a separate file for each tenant issued a notice in accordance with this section. All data shall be readily available to HUD on request. Each file shall be retained for at least three years after the termination of the four-year guarantee period and shall contain—

(1) A copy of the notice of right to continue in occupancy issued to the tenant;

(2) Documentation of the determination(s) of the rent to be paid by the tenant during the four-year guarantee period;

(3) If a temporary relocation is required, evidence of compliance with paragraph (a)(3) of this section;

(4) An inspection certificate indicating that the dwelling was decent, safe, and sanitary at the beginning of the

four-year period and the date that period began; and

(5) A copy of any appeal filed in accordance with Subpart J and all pertinent determinations thereunder.

§ 42.213 Availability of comparable replacement dwelling prior to displacement.

(a) *General.* No person to be displaced shall be required to move from his dwelling, unless he has been given a reasonable choice of opportunities to relocate to a comparable replacement dwelling (defined at § 42.45). No minority or low-income person shall be required to move unless he has been given reasonable opportunities to relocate to a comparable replacement dwelling that is not located in an area of low-income and/or minority concentration. These requirements shall be considered satisfied if the person is offered and refuses without justification specifically identified opportunities to relocate to a comparable replacement dwelling that meets applicable criteria. However, if a person must be required to move because he refuses to accept any of the opportunities provided to him to enable him to relocate to a comparable replacement dwelling and refuses to move to a decent, safe, and sanitary dwelling of his own choice, the State agency shall include in the case file a full justification for its action. That justification shall describe in detail the specific opportunities and assistance (see § 42.215) provided to the person prior to his displacement to enable him to relocate to a comparable replacement dwelling.

(b) *Circumstances permitting waiver.* The provisions of pararaph (a) of this section implement Section 205(c)(3) of the Uniform Act. These provisions will not be waived, unless it is necessary for the State agency to require a person to move because of—

(1) A major disaster as defined in Section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or

(2) A Presidentially declared national emergency; or

(3) Another extraordinary or emergency situation requires immediate vacation of the real property, such as when continued occupancy of the dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

(c) *Request for waiver.* If the State agency believes that a waiver of the provisions of paragraph (a) of this section is necessary, it shall request HUD approval for the waiver as soon as possible. The request shall be submitted to the HUD Area Office and shall include—

(1) An explanation of the necessity for a waiver of the provisions of paragraph (a) of this section;

(2) An estimate of the duration of the resulting temporary relocation; and

(3) A copy of the notice sent or to be sent in accordance with paragraph (e) of this section.

(d) *Conditions of temporary relocation.* Whenever a person to be displaced is required to relocate for a temporary period, the State agency shall—

(1) Assure that a decent, safe, and sanitary dwelling is made available to the person for the period of the temporary relocation;

(2) Assure that, at the earliest possible time, but in no event later than 12 months after the date of such move, the person is given reasonable opportunities to relocate permanently to a comparable replacement dwelling in accordance with the regulations in this part; and

(3) Pay actual reasonable out-of-pocket expenses, including any moving costs or increase in monthly housing cost (defined at § 42.67), incurred in connection with the temporary relocation.

(e) *Notice to affected persons.* As soon as possible, the State agency shall furnish a notice to each affected person informing him of the requirements of paragraph (d) of this section and also that his eligibility to receive relocation payments and other assistance under the regulations in this Part to assist him in making a permanent move will not be affected by the temporary relocation or any related payments. A copy of the notice shall be placed in the relocation case file.

§ 42.215 Relocation assistance advisory services.

(a) *General.* The State agency shall carry out a relocation assistance advisory program which satisfies the requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), and Executive Order 11063 (27 FR 11527), and offers the services described in paragraphs (b) and (c) of this section. If the State agency determines that a person occupying property adjacent to the real property acquired for the project is caused substantial economic injury because of such acquisition, it may offer such services to such person.

(b) *Services to be provided.* The advisory program shall include such measures, facilities, and services as may be necessary or appropriate in order to—

(1) Personally interview each person to be displaced, determine his relocation needs and preferences, and explain to him the relocation payments and other assistance for which he may be eligible, the related eligibility requirements, and the procedures for obtaining such payments and assistance;

(2) Provide current and continuing information on the availability, purchase prices, and rentals of comparable replacement dwellings and comparable commercial and farm properties and locations, as the case may be. If any referral is made to a decent, safe, and sanitary dwelling which is not a comparable replacement dwelling or to a comparable replacement dwelling for which the cost exceeds that to be used as the upper limit for establishing a replacement housing payment, as determined under § 42.457(a), the State agency shall inform the person of his right to a comparable replacement dwelling and identify the particular dwelling(s) and estimated purchase price or rental cost used as the basis for establishing the upper limit of the replacement housing payment. The State agency shall not make referrals on the basis of listings provided by a broker who has not certified his compliance with applicable antidiscrimination laws;

(3) Assure that comparable replacement dwellings are available to all persons to be displaced as described at § 42.213(a);

(4) Assist any person displaced from his business or farm operation to obtain and become established in a suitable replacement location;

(5) Supply persons to be displaced with appropriate information concerning Federal and State housing programs, disaster loan and other programs administered by the Small Business Administration, and other Federal or State programs offering assistance to persons to be displaced;

(6) Insure that the relocation process does not result in different or separate treatment on account of race, color, religion, national origin, sex, or source of income;

(7) Assure that during the period between acquisition and displacement, property occupied by a person to be displaced is maintained in a safe and habitable condition; and

(8) Minimize hardships to persons in adjusting to relocation.

(c) *Affirmative action for low-income and minority persons.* In carrying out its relocation activities, the State agency shall provide additional assistance in order to assure that full choice and real opportunities exist for low-income and minority families and individuals to select replacement dwellings from the total housing market, thereby facilitating desegregation and racially and economically inclusive patterns of occupancy. All low-income and minority persons shall be informed through personal interview (see § 42.215(b)(1)) of housing opportunities outside of low-income and minority neighborhoods, and of the full scope of additional assistance available, and shall be encouraged to take advantage of these opportunities. The State agency shall provide, or secure through contract with fair housing or civil rights groups, additional assis-

tance which shall include, but not to be limited to—

(1) All services necessary to familiarize low-income and minority persons with non-impacted neighborhoods including transportation, escort services to brokers or rental offices, and counseling and help to obtain whatever services and sources of assistance may be available both before and after relocation (e.g., schools, transportation, food stamps, medicare, jobs).

(2) All services necessary to insure that in securing replacement housing persons are not discriminated against by brokers, rental agents, or mortgagees on the basis of race, color, religion, creed, sex or national origin. Discriminatory acts include, but are not limited to, refusal to rent or sell, offering a unit on different terms, racial steering by directing minorities and whites to different neighborhoods, and requiring different minimum standards of income, payments, deposits, or other financial requirements or standards. Services to be provided by the State agency include, but are not limited to: (i) A description in lay language (bilingual if appropriate) of varying types of discrimination and of the displaced person's rights to remedy under Title VIII of the Civil Rights Act of 1968; (ii) follow-up testers or auditors if discrimination is suspected, and (iii) assistance in filing for administrative and judicial relief if discrimination is alleged.

(d) *Coordination of relocation activities.* The State agency shall coordinate its relocation activities with project work and other local governmental actions to the extent necessary to enable it to carry out its relocation assistance advisory program, while giving due regard to the relocation needs of other local programs. The State agency shall cooperate with other local displacing agencies to insure that, to the extent possible, persons displaced receive consistent treatment.

§ 42.217 Fair rental charges.

The amount charged a former owner or tenant for the use of the real property between the date of acquisition and the date of displacement for the project shall not exceed the fair market rent or the fair rental value for a short-term occupier, whichever is less. The monthly rental charge for a dwelling so occupied shall not exceed 25 percent of the person's monthly gross income.

§ 42.219 Ninety-day notice.

(a) *General.* Except as provided in paragraph (d) of this section, the State agency shall not require any person lawfully occupying the real property to move from his dwelling (see also § 42.213, availability of comparable replacement dwellings prior to displacement) or to move his business or farm operation, without at least 90 days' advance written notice of the earliest date by which he must vacate the property. The notice must include a specific date by which the property must be vacated or include a statement indicating that the occupant will be given a further written notice indicating, at least 30 days in advance, the specific date by which he must vacate.

(b) *Timing of notice.* The 90-day notice shall not be given before the notice of displacement is issued and in no event shall a lawful occupant be required to vacate the property before 30 days after the date on which the State agency obtains title to the property or the legal right of possession of the property, whichever is earlier.

(c) *Rehabilitation.* Whenever displacement results from rehabilitation as specified in § 42.205(c), the State agency shall require the owner of the real property to give notice to each tenant in accordance with this section.

(d) *Urgent need.* An occupant may be required to vacate the property on less than 90 days' advance notice if the State agency determines that a 90-day notice is impracticable, such as when the person's continued occupancy of the property would constitute a substantial danger to his health or safety. A copy of the State agency's determination shall be sent to HUD within three days after its issuance.

(e) *Agreement in negotiated purchase contract.* An agreement as to the time for delivering possession of the real property specified in a negotiated purchase contract fulfills the requirement for a 90-day notice to the owner. However, such agreement does not fulfill the requirement for a 90-day notice to a tenant who is not a party to the purchase contract.

(f) *Notice not required.* The provisions of this section do not apply in any case where—

(1) The real property is vacant land;

(2) The occupant initially occupies the property after acquisition by the State agency; or

(3) The occupant voluntarily moves prior to receiving a notice to vacate from the State agency.

§ 42.221 General requirements—claims for relocation payments.

(a) *Documentation.* Any claim for a relocation payment under Subparts D, E, F, G, or H shall be submitted to the State agency on the appropriate HUD form and supported by such documentation as may reasonably be required by the State agency or HUD to demonstrate expenses incurred, such as bills, certified prices, appraisals or other evidence of such expenses. However, the State agency must assure that the required HUD form is available to the displaced person and must provide whatever assistance is necessary to enable the person to complete the form and file his claim for payment.

(b) *Time for filing.* All claims for a relocation payment shall be filed with the State agency within 18 months after the move is completed, unless this time period is waived by the State agency. However, a person may appeal under Subpart J (Appeals) the refusal of the State agency to waive the 18-month time limit.

(c) *Multiple occupants of one acquired dwelling.* If two or more occupants, whether or not they are members of the same family, lived together in the acquired dwelling but moved to separate replacement dwellings, each such occupant is entitled to his reasonable prorated share, as determined by the State agency, of any payment(s) under Subparts E, F, G, and H, that would apply if such occupants together acquired, or rented, as the case may be, and moved to a comparble replacement dwelling.

(d) *Direct payment of claim.* The State agency shall not withhold any part of a relocation payment to a displaced person to satisfy an obligation to the State agency. The full amount of a relocation payment shall be made payable to the eligible claimant, unless the claimant designates in writing that a specific amount shall be paid to another party.

§ 42.223 Relocation payments not considered as income.

No relocation payment received by a displaced person under the regulations in this part shall be considered as income for the purposes of the Internal Revenue Code of 1954, or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

§ 42.225 Relocation recordkeeping.

The State agency shall maintain a separate relocation file for each displaced person for at least three years after the project has been completed or the person has received his final relocation payment, whichever is later. All data shall be readily available to HUD on request. The State agency shall also maintain a management control system that includes regular reports to State agency officials as to the size and composition of the estimated, active, and completed relocation workloads. Each separate relocation file shall include—

(a) A relocation record form indicating—

(1) Name of person displaced or to be displaced;

(2) Address and census tract of dwelling or location from which displacement has or will take place;

(3) Date person first occupied this dwelling or location;

(4) Characteristics of person, including age and sex of members of residential household, type of enterprise for nonresidential unit, minority-group classification, etc.;

(5) Relocation needs of person to be displaced;

(6) Services and assistance provided, including nature and dates, beginning with the initial contact and/or referral;

(7) Referrals made to replacement dwelling or location, including date of referral, address, sale or rental price, etc.:

(8) Type and amount of each relocation payment;

(9) Address and census tract of the replacement dwelling or facility, and the date of the relocation; and

(10) In the case of a low-income or minority person, an indication as to whether or not the replacement and referral dwellings are located in an area of low-income and/or minority concentration;

(b) A copy of the preliminary relocation notice (described at § 42.207), and evidence, including date, of receipt by person to be displaced;

(c) A copy of the notice of displacement described at § 42.209 and evidence, including date, of receipt by person to be displaced;

(d) A copy of any lease or other occupancy agreement between the State agency and the occupant and a statement identifying the basis for the State agency's determination of the rental;

(e) If relocation has not been completed within 6 months following the acquisition of the property, an explanation of the reasons for the delay and a plan for timely relocation;

(f) A copy of the 90-day notice required under § 42.219 or a statement as to why no such notice was required;

(g) A record of the inspection, including a description, of the replacement dwelling;

(h) A copy of each relocation payment claim form and supporting documentation submitted by the displaced person, a copy of each worksheet or other document used to determine eligibility for or the amount of the payment made, a copy of each check or voucher evidencing payment, and a copy of all correspondence relating to the claim;

(i) A copy of any appeal filed by the displaced person under Subpart J (Appeals), a description of the action taken to resolve it, and a copy of all pertinent determinations; and

(k) Any other pertinent information, such as the referral of a discrimination complaint or information detailing the circumstances and resolution of any required temporary relocation.

Subpart D—Moving and Related Expenses—Actual Costs

§ 42.301 Eligibility.

(a) *General.* All displaced persons are eligible for moving and related expenses as prescribed in this subpart. A displaced person who lives on his business or farm property may be eligible for both a payment as a dwelling occupant and a payment with respect to the business or farm operation.

(b) *Least costly approach.* The amount of payment for an eligible expense under this subpart shall not exceed the least costly method, as determined by the State agency, of accomplishing the objective of the payment without causing undue hardship to the displaced person.

§ 42.303 Actual reasonable moving and related expenses—residential moves.

Subject to the limitations contained in this subpart, a displaced owner-occupant or tenant of a dwelling is entitled to actual reasonable expenses for—

(a) Transportation of the displaced person and personal property from the acquired site to the replacement site. Transportation costs for a distance beyond 50 miles are not eligible, unless the State agency determines that relocation beyond 50 miles is justified:

(b) Packing, crating, unpacking and uncrating of the personal property;

(c) Disconnecting, dismantling, removing, reassembling and reinstalling relocated household appliances, and other personal property;

(d) Storage of the personal property, as the State agency determines to be necessary;

(e) Insurance of the personal property in connection with the move and necessary storage; and

(f) Other moving-related expenses that are not listed as ineligible under § 42.313, as the State agency determines to be reasonable and necessary.

§ 42.305 Actual reasonable moving and related expenses—nonresidential moves.

(a) *Eligible costs.* Subject to the limitations of this subpart, a displaced business, farm operation or nonprofit organization is entitled to payment for actual reasonable expenses for—

(1) Transportation of personal property from the acquired site to the replacement site. Transportation costs for a distance beyond 50 miles are not eligible, unless the State agency determines that relocation beyond 50 miles is justified;

(2) Packing, crating, unpacking, and uncrating the personal property;

(3) Disconnecting, dismantling, removing, reassembling and installing relocated and substitute machinery, equipment, and other personal property, including connection to utilities available nearby and modifications necessary to adapt such property to the replacement structure or to utilities available nearby or to adapt such utilities to the personal property;

(4) Storage of the personal property, as the State agency determines to be necessary;

(5) Insurance of personal property in connection with the move and necessary storage;

(6) Any license, permit or certification required by the displaced person, to the extent such cost is, (i) necessary to its reestablishment at the replacement location and, (ii) does not exceed either the cost for one year or for the remaining useful life of the existing license, permit, or certification, whichever is less;

(7) Professional services, including architect's, attorney's and engineer's fees, and consultant's charges, necessary for (i) planning the move of the personal property, (ii) moving the personal property, or (iii) installing the relocated personal property at the replacement location; and

(8) Relettering signs and printing replacement stationery made obsolete as a result of the move;

(9) Actual direct loss of tangible personal property as described at § 42.307;

(10) Purchase of substitute personal property as described at § 42.309;

(11) Searching for a replacement location as described at § 42.311;

(12) Other moving-related expenses that are not listed as ineligible under § 42.313, as the State agency determines to be reasonable and necessary.

(b) *Self-move.* If the displaced person self-moves his business, farm operation, or nonprofit organization, the State agency may approve a payment for his moving expenses in an amount not to exceed the lowest acceptable bid obtained by the State agency, without documentation of moving expenses actually incurred.

(c) *Notification to State agency and inspection.* To be eligible for a payment under this section, the displaced person shall—

(1) Provide the State agency at least 30 days' advance written notice of the approximate date of the start of the move or disposition of the personal property, which property shall be generally described in the notice, except that the State agency may waive this notice requirement; and

(2) Permit the State agency to make reasonable and timely inspections of the personal property at the displacement and replacement sites.

(d) *Exception for certain projects.* When relocation activities are taking place in connection with a project receiving Federal financial assistance under Title I of the Housing Act of 1949, as amended (42 U.S.C. 1450 et seq.) (see § 42.61 (j) and (k)) that has not been financially closed out by HUD, the State agency may, with

prior HUD concurrence, make payments to businesses and arm operations in accordance with the provisions of § 42.65 (actual reasonable moving expenses), 40 FR 7607, effective March 31, 1975. A request for HUD concurrence shall be supported by written evidence that the governing body of the State agency and the chief executive of the locality approve the request and that all claims submitted by businesses or farm operations displaced by the project will be computed on the same basis. No funds used for payments to cover costs incurred in accordance with § 42.65(b)(2) of the regulations effective March 31, 1975, will be included in a calculation of funding need in connection with a request for urgent needs funds pursuant to section 103(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

§ 42.307 Payment for direct losses—nonresidential moves.

(a) *General.* A displaced person is entitled to payment for actual direct loss of an item of tangible personal property incurred as a result of moving or discontinuing his business, farm operation, or nonprofit organization. The payment shall consist of the reasonable costs incurred in attempting to sell the item plus the lesser of—

(1) The fair market value of the item for continued use at the acquired site, less the proceeds from its sale; or

(2) The estimated cost of moving the item as determined under § 42.305, but with no allowance for storage. (If the business, farm operation or nonprofit organization is discontinued, the estimated cost shall be based on a moving distance of 50 miles.)

(b) *Advertising sign.* The amount of a payment for direct loss of an advertising sign, which is personal property, shall be the lesser of—

(1) The depreciated reproduction cost of the sign as determined by the State agency, less the proceeds from its sale, if any; or

(2) The estimated cost of moving the sign.

(c) *Sales effort.* To be eligible for payment for direct loss of personal property, the claimant must make a good faith effort to sell the personal property, unless the State agency determines that no such effort is necessary.

(d) *Transfer of ownership.* To be eligible for payment for direct loss of personal property, the claimant shall transfer ownership of the personal property to the State agency.

§ 42.309 Substitute personal property—nonresidential moves.

(a) *General.* If an item of personal property, which is used as part of a business, farm operation or nonprofit organization, is not moved but is promptly replaced with a comparable substitute item at the replacement site, the displaced person is entitled to payment of the lesser of—

(1) The cost of the substitute item, including installation cost at the replacement site, minus any proceeds from the sale or trade-in of the replaced item, if any; or

(2) The estimated cost of moving the replaced item, based on the lowest acceptable bid obtained by the State agency for eligible moving and related expenses (described at § 42.305), but with no allowance for storage.

(b) *Transfer of ownership.* To be eligible for a payment under this section, the claimant shall transfer ownership of the personal property to the State agency.

§ 42.311 Expenses in searching for replacement location—nonresidential moves.

A displaced business, farm or nonprofit organization is entitled to an amount not to exceed $500, as determined by the State agency, for actual reasonable expenses incurred in searching for a replacement location, including—

(a) Transportation;

(b) Meals and lodging away from home;

(c) Time spent searching, based on reasonable salary or earnings;

(d) Fees paid to a real estate agent or broker to locate a replacement site.

§ 42.313 Ineligible moving and related expenses.

A displaced person is not entitled to payment for—

(a) The cost of moving any structure or other real property improvement in which the displaced person reserved ownership; or

(b) Interest on a loan to cover moving expenses; or

(c) Loss of goodwill; or

(d) Loss of profits; or

(e) Loss of trained employees; or

(f) Physical changes at replacement location of business, farm or nonprofit organization, except as provided at § 42.305(d); or

(g) Any additional expense of a business, farm, or nonprofit organization incurred because of operating in a new location; or

(h) Personal injury; or

(i) Any legal fee or other cost for preparing a claim for a relocation payment or for representing the claimant before the State agency or HUD; or

(j) Expenses for searching for a replacement dwelling.

§ 42.315 Additional documentation for claims over $1,500.

Except in the case of claim for a self-move under § 42.305(b) or for substitute property under § 42.309, any claim for moving expenses totalling more than $1,500 shall be supported by bids obtained from three reputable firms or, if it is not feasible to obtain three bids, a written justification satisfactory to the State agency explaining why three bids were not obtained. When such bid requirement cannot be complied with under State law, or when estimates in an amount less than $1,500 were obtained in good faith by the displaced person, the claim shall be supported by estimates in lieu of bids.

Subpart E—Moving and Related Expenses—Fixed Payment

§ 42.351 Eligibility.

A displaced person (other than an outdoor advertising display business (see § 42.43(c)) who is eligible for a payment for his actual moving and related expenses under Subpart D of these regulations, is entitled to receive a fixed payment in lieu of a payment for such actual moving and related expenses.

§ 42.353 Fixed payment for moving expenses—residential moves.

The fixed payment for moving and related expenses of a person displaced from a dwelling consists of—

(a) A moving expense allowance not to exceed $300 which shall be determined in accordance with the approved Federal Highway Administration schedule applicable to the displacement (49 CFR 25.153, Appendix A); and

(b) A dislocation allowance of $200.

§ 42.355 Fixed payment for moving expenses—nonresidential moves.

(a) *General.* The fixed payment for moving and related expenses of a displaced business or farm operation that meets the applicable requirements under this section is an amount equal to its average annual net earnings as computed in accordance with § 42.357, but not less than $2,500 nor more than $10,000. A nonprofit organization which meets the applicable requirements under this section is entitled to a payment of $2,500.

(b) *Business.* A business qualifies for payment under this Section if the State agency determines that—

(1) The business cannot be relocated without a substantial loss of its existing patronage. A business is assumed to meet this test, unless the State agency demonstrates that it will not suffer a substantial loss of its existing patronage;

(2) The business is not part of a commercial enterprise having another establishment, which is not being acquired by the State agency, and which is under the same ownership and engaged in the same or similar business activities. For purposes of this rule, no remaining business facility which had

average annual gross receipts of less than $2,000 and average annual net earnings of less than $1,000, during the two taxable years prior to displacement, shall be considered "another establishment"; and

(3) The business had (i) average annual gross receipts of at least $2,000 during the two taxable years prior to displacement, or (ii) average annual net earnings of at least $1,000 as determined in accordance with § 42.357. However, the State agency may waive this test in any case in which it determines that its use would cause a substantial hardship.

(c) *Determining number of businesses acquired.* In determining whether two or more legal entities, all of which have been acquired, constitute a single business, which is entitled to only one fixed payment, all pertinent factors shall be considered, including the extent to which—

(1) The same premises and equipment are shared;

(2) Substantially identical or interrelated business functions are carried out and business and financial affairs are commingled;

(3) The entities are held out to the public, and to those customarily dealing with them, as one business, and

(4) The same person or closely related persons own, control or manage the affairs of the entities.

(d) *Farm operation.* A farm operation qualifies for a payment under this section if the State agency determines that it meets the criteria set forth in paragraph (b)(3) of this section. In the case of a partial acquisition, the fixed payment shall be made only if the State agency determines that—

(1) The part acquired was a farm operation before the acquisition; or

(2) The acquisition of part of the land caused the operator to be displaced from the farm operation on the remaining land; or

(3) The partial acquisition caused a substantial change in the nature of the farm operation.

(e) *Nonprofit organization.* A nonprofit organization qualifies for a $2,500 payment under this Section, if the State agency determines that it—

(1) Cannot be relocated without a substantial loss of existing patronage (membership and clientele). A nonprofit organization is assumed to meet this test, unless the State agency demonstrates otherwise; and

(2) Is not part of an enterprise having at least one other establishment engaged in the same or similar activity which is not being acquired by the State agency.

§ 42.357 Average net earnings of business or farm.

(a) *Computing net earnings.* For purposes of this subpart, the average annual net earnings of a business or farm operation is one-half of its net earnings before Federal, State and local income taxes, during the two taxable years immediately prior to the taxable year in which it was displaced. However, average annual net earnings may be based upon a different period of time when the State agency determines it to be more equitable. Net earnings include any compensation obtained from the business or farm operation by its owner, his spouse, or dependents.

(b) *Documentation.* A displaced person who elects to receive a fixed payment in lieu of actual expenses incurred in moving his business or farm shall furnish the State agency proof of his net earnings through income tax returns, certified financial statements or other reasonable evidence.

Subpart F—Replacement Housing Payments for 180-Day Homeowner-Occupants

§ 42.401 Eligibility.

(a) *Basic eligibility requirements.* A displaced person is eligible for the replacement housing payment specified at § 42.403 if he—

(1) Has actually owned and occupied an acquired dwelling for not less than 180 days prior to the initiation of negotiations; and

(2) Purchases and occupies a decent, safe, and sanitary replacement dwelling within 1 year after the date he receives final payment for the acquired dwelling or the date he moves from the acquired dwelling, whichever is later.

(b) *Other rules and requirements.* A payment under this Subpart F is subject to the other applicable rules and requirements of these regulations. See in particular, § 42.221(c) (Multiple occupants of one acquired dwelling) and § 42.457 (Additional rules governing replacement housing payments under Subparts F and G).

§ 42.403 Determination of replacement housing payment.

(a) *Amount of payment.* The replacement housing payment for a 180-day homeowner-occupant who meets the eligibility requirements of § 42.401 is an amount, not to exceed $15,000, which represents the combined cost of—

(1) The amount, if any, by which the cost of replacement housing exceeds the State agency's "acquisition cost" for the acquired dwelling, as determined in accordance with § 42.405 (Differential amount);

(2) The amount, if any, necessary to compensate the displaced person for any increased interest costs and other debt service costs to be incurred in connection with the mortgage(s) on the replacement dwelling, as determined under § 42.407 (Increased interest costs); and

(3) The amount of the reasonable expenses, as determined in accordance with § 42.409 (Incidental expenses), that are incidental to the purchase of the replacement dwelling, but not including prepaid expenses.

(b) *Conversion of payment.* A 180-day owner-occupant, who initially rents a replacement dwelling and receives a rental assistance payment under § 42.453, is eligible to receive a payment under this section if he meets the eligibility criteria described at § 42.401, including purchase and occupancy within the prescribed one-year period. The amount of the rental assistance payment shall be deducted from the amount computed under this section.

(c) *Determination pending condemnation award.* If the exact amount of a replacement housing payment cannot be determined because of a pending condemnation suit, an advance payment may be made to the claimant, if the State agency and claimant agree in writing to recompute the payment on the basis of the acquisition price determined by the court and to make any necessary adjustment. For purposes of the advance payment, the fair market value of the property, as determined by the State agency, shall be considered its "acquisition cost."

§ 42.405 Differential amount.

(a) *General.* The differential amount to be paid under § 42.403(a)(1) is the amount, if any, which must be added to the acquisition cost of the acquired dwelling to provide a total amount equal to the lesser of—

(1) The reasonable cost of a comparable replacement dwelling as determined in accordance with § 42.457(a); or

(2) The purchase price of the decent, safe, and sanitary replacement dwelling actually acquired and occupied by the displaced person.

(b) *Mixed-use and multifamily properties acquired.* If the acquired dwelling was part of a property that contained another dwelling unit and/or space used for nonresidential purposes, only that portion of the acquisition payment which is actually attributable to the acquired dwelling shall be considered its "acquisition cost" when computing the differential amount.

(c) *Certain dwellings not acquired.* If an owner-occupant is deemed to have been displaced as a result of acquisition in accordance with § 42.205 (Displacement for code enforcement, demolition or rehabilitation under certain programs), the fair market value of the dwelling, including site, shall be considered its "acquisition cost" when computing the differential amount.

(d) *Disaster-related insurance proceeds.* To the extent necessary to avoid

duplicate compensation, the amount of any insurance proceeds received by a person in connection with a disaster related loss to the acquired dwelling shall be included in the "acquisition cost" of the acquired dwelling when computing the differential amount.

(e) *Owner retention of acquired dwelling.* If the owner retains his dwelling, moves it from the acquired site, and reoccupies it on a replacement site (see also § 42.109(d), Owner retention of improvements), the purchase price of the replacement dwelling shall be considered to be the sum of—

(1) The moving and restoration expenses;

(2) The cost, if any, of making the dwelling decent, safe, and sanitary; and

(3) The cost of the replacement site (or its fair market value if not purchased recently), not to exceed the cost of an available replacement site comparable to the acquired site. However, no allowance shall be made for a replacement site if the owner of the dwelling did not own the acquired site.

§ 42.407 Increased interest costs.

The amount to be paid for increased mortgage interest costs under § 42.403(a)(2) is the sum of the present value of any increase in interest costs resulting because the interest rate on the mortgage on the replacement dwelling exceeds that on the acquired dwelling, and other debt service costs, all computed on the basis of the following rules—

(a) The payment shall only be based on bona fide mortgages that were a valid lien on the acquired dwelling for at least 180 days prior to the initiation of negotiations. All such mortgages on the acquired dwelling shall be used to compute the payment;

(b) The payment shall be based on the unpaid mortgage balance on the acquired dwelling or the new mortgage amount, whichever is less;

(c) The payment shall be based on the remaining term of the mortgage on the acquired dwelling or the actual term of the new mortgage, whichever is shorter;

(d) The interest charge on the new mortgage shall not exceed the prevailing interest rate currently charged by mortgage lending institutions in the area in which the replacement dwelling is located;

(e) The present value of the increased cost shall be computed at the prevailing interest rate paid on savings deposits by commercial banks in the area in which the replacement dwelling is located; and

(f) Purchaser's points and origination fees, but not seller's points, shall be paid to the extent (1) they are not paid as incidental expenses, (2) they do not exceed rates normal to similar real estate transactions in the area, and (3) the State agency determines them to be necessary. The computation of such points and fees shall be based on the unpaid mortgage balance on the acquired dwelling or the new mortgage amount, whichever is less.

§ 42.409 Incidental expenses.

(a) *Eligible costs.* Subject to the limitation in paragraphs (b) and (c) of this section, the incidental expenses to be paid under § 42.403(a)(3) or § 42.455 are those actually incurred by the displaced person incident to the purchase of the replacement dwelling, including—

(1) Legal, closing, and related costs, including those for title search, preparing conveyance istruments, notary fees, preparing plats, and recording fees;

(2) Lender, FHA or VA appraisal fees;

(3) FHA or VA application fee;

(4) Certification of structural soundness when required by the lender;

(5) Credit report;

(6) Owner's and mortgagee's evidence or assurance of title;

(7) Escrow agent's fee;

(8) State revenue or documentary stamps, sales or transfer taxes.

(b) *Limitation.* If the purchase price of the replacement dwelling exceeds the price of a comparable replacement dwelling, the amount payable for an expense under paragraph (a) of this section shall not exceed the cost that would have been incurred if the displaced person purchased a comparable replacement dwelling.

(c) *Truth in lending charge.* Any expense, which is determined to be part of the debt service or finance charge under 15 U.S.C. 1631-1641 and Regulation Z (12 CFR Part 226) issued thereunder by the Board of Governors of the Federal Reserve System, is not eligible for reimbursement as an incidental expense.

Subpart G—Replacement Housing Payments for Tenants and Certain Others

§ 42.451 Basic eligibility requirements.

A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed $4,000 for rental assistance, as computed in accordance with § 42.453, or downpayment assistance, as computed in accordance with § 42.455, if such displaced person—

(a) Has actually and lawfully occupied the acquired dwelling for at least 90 days prior to the initiation of negotiations; and

(b) Is not eligible to receive a replacement housing payment for 180-day homeowner-occupants under Subpart F; and

(c) Has rented, or purchased, and occupied a decent, safe, and sanitary replacement dwelling within 1 year after—

(1) In the case of a tenant, the date he moves from the acquired dwelling; or

(2) In the case of an owner-occupant, the date he receives final; payment for the acquired dwelling or the date he moves from the acquired dwelling, whichever is later.

§ 42.453 Replacement housing payment for rental assistance.

(a) *Amount of payment.* A displaced person who rents the replacement dwelling and qualifies for a payment under § 42.451 is entitled to a payment up to but not to exceed, $4,000 for rental assistance. Such payment shall be 48 times the amount, if any, which must be added to the base monthly housing cost for the acquired dwelling, as determined under paragraph (b) or (c) of this section, to equal the lesser of—

(1) The monthly housing cost (defined at § 42.67) for a comparable replacement dwelling; or

(2) The monthly housing cost for the decent, safe, and sanitary dwelling actually occupied by the displaced person.

(b) *Base monthly housing cost.* Except as provided in paragraph (c) of this section, the base monthly housing cost for the acquired dwelling is the lesser of—

(1) The monthly housing cost as defined at § 42.67; or

(2) Twenty-five percent of the displaced person's gross monthly income.

(c) *Students and other dependents.* The base monthly housing cost for a person who derives 51 percent or more of his income in the form of private gifts or academic scholarship or stipend is the monthly housing cost for the acquired dwelling as defined at § 42.67. A full-time student or an individual residing in a hospital, sanitarium, or similar institution is assumed to be such a dependent person, unless he provides evidence to the State agency which demonstrates that 50 percent or more of his income is derived from sources other than gifts, scholarships, or stipends.

(d) *Manner of disbursement.* The payment under this section shall be disbused in a lump sum amount, unless the displaced person requests the payment to be made in installments.

§ 42.455 Replacement housing payment for downpayment assistance.

(a) *Amount of payment.* A displaced person who purchases the replacement dwelling and qualifies for a payment under § 42.451 is entitled to a payment for downpayment assistance up to, but not to exceed, $4,000. Such payment shall be the full amount of the first $2,000 of the required downpayment

and incidental expenses computed under § 42.409 plus one-half of any amount required over $2,000. The displaced person must provide the other half of the amount over $2,000. However, the total payment by the State agency shall not exceed $4,000.

(b) *Required downpayment.* For purposes of this section, the term "required downpayment" means the downpayment ordinarily required to obtain conventional loan financing for the decent, safe, and sanitary dwelling actually purchased and occupied. However, if the downpayment actually required of a displaced person for the purchase of the replacement dwelling exceeds the amount ordinarily required, the amount of the "required downpayment" shall be the amount which the State agency determines is necessary for the downpayment.

(c) *Application of payment.* The full amount of any replacement housing payment for downpayment assistance must be applied to the purchase price of the replacement dwelling and related incidental expenses.

§ 42.457 Additional rules governing replacement housing payments under Subparts F and G.

The rules in this section apply to replacement housing payments under Subparts F and G of the regulations in this part.

(a) *Determining reasonable cost of comparable replacement dwelling.* The reasonable purchase or rental cost of a comparable replacement dwelling, which is used as the basis for establishing the upper limit of a replacement housing payment, shall be determined by an examination of the probable selling price or actual rental cost of one or more dwellings which meet the definition of a comparable replacement dwelling as set forth at § 42.45 and which are most representative of the acquired dwelling. Such dwelling(s) shall be selected from the neighborhood in which the acquired dwelling was located. However, to the extent that representative comparable replacement dwellings are not available in such neighborhood, dwelling(s) shall be selected from adjacent or nearby neighborhoods in ascending order of housing costs. Neighborhoods in which housing costs are generally lower than those of the neighborhood of the acquired dwelling shall not be used for the selection. The determination shall be made on a case-by-case basis and be based on the findings of a qualified individual who is familiar with real property values in the area. Although schedules of typical dwelling costs may serve for preliminary identification purposes, the case-by-case comparison set forth in this paragraph is mandatory. Any deviation from this method requires prior HUD concurrence.

(b) *Inspection of replacement dwelling.* Before making a replacement housing payment or releasing a payment from escrow, as the case may be, the State agency or its designated representative shall inspect the replacement dwelling and determine whether or not it meets the definition of a decent, safe, and sanitary dwelling as set forth at § 42.47.

(c) *Purchase requirement.* A displaced person is considered to have met the requirement to purchase a dwelling, if he—

(1) Acquires a dwelling; or

(2) Acquires and rehabilitates a substandard dwelling; or

(3) Relocates a dwelling which he owns or acquires; or

(4) Constructs a dwelng on a site he owns or acquires; or

(5) Contracts for the purchase or construction of a dwelling on a site provided by a builder or on a site he owns or acquires.

(d) *Delay in occupancy after purchase of replacement dwelling.* If the displaced person initially occupies the replacement dwelling after the date by which occupancy is required, but the delay beyond such date is caused by reasons beyond his control, the date of occupancy shall be established as follows—

(1) If construction, rehabilitation or relocation of a replacement dwelling is the cause of the delay, the date the displaced person enters into the contract for such construction, rehabilitation or relocation, or for the purchase of the replacement dwelling upon completion of the construction or rehabilitation, shall be considered to be the date of occupancy; or

(2) If the delay is caused by hardship, the date the displaced person became entitled to possession of the dwelling shall be considered to be the date of occupancy.

(e) *Presidentially declared disaster.* No person shall be denied eligibility for a replacement housing payment solely because he is unable, because of a major disaster as determined by the President, to meet the occupancy requirements set forth in the regulations in this part.

(f) *Payment after death.* A replacement housing payment is personal to the displaced person and upon his death the undisbursed portion of any such payment shall not be paid to his heirs or assigns, except that—

(1) The amount attributable to the displaced person's actual occupancy of the replacement housing shall be paid;

(2) The full payment shall be disbursed in any case in which a member of a displaced family dies and the other family members continue to occupy the replacement dwelling selected in accordance with the regulations in this Part; and

(3) That portion of a replacement housing payment necessary to satisfy the legal obligation of an estate in connection with the selection of a replacement dwelling by or on behalf of a deceased person shall be disbursed to the estate.

Subpart H—[Reserved]

§ 42.501—599 [Reserved]

Subpart I—Last Resort Replacement Housing

§ 42.601 Applicability.

The provisions of this subpart apply only when the State agency determines that, unless it acts under the provisions of this Subpart, there is a reasonable likelihood that the project will not be able to proceed to actual construction because comparable replacement dwelling(s) will not be available on a timely basis to person(s) to be displaced.

§ 42.603 Basic rights and rules.

(a) *General.* The provisions of this subpart do not deprive any displaced person of any rights described elsewhere in this part. The State agency shall not require any displaced person, without his written consent, to accept a dwelling provided by the State agency under the procedures in this subpart in lieu of any acquisition payment or any relocation payment for which he may otherwise be eligible under these regulations. However, the State agency may meet its obligation to provide persons with reasonable opportunities to relocate to a comparable replacement dwelling as described at § 42.213(a) by offering such opportunities developed or to be developed under this subpart.

(b) *Documentation.* The State agency shall include in the applicable relocation case file documentation that demonstrates that, to the maximum extent feasible, it has accommodated the displaced person's preferences.

§ 42.605 Methods of providing replacement housing.

(a) *General.* It is intended that State agencies shall have broad latitude in their methods for implementing this subpart. The methods of providing last resort housing include, but are not limited to—

(1) Rehabilitation of, and/or additions to, an existing replacement dwelling to the extent that the total cost of acquisition and rehabilitation does not exceed the estimated cost of constructing a new comparable replacement dwelling on a timely basis;

(2) A replacement housing payment in excess of the limits set forth in Subparts F and G or the provision of direct State agency mortgage financing;

(3) The construction of a new replacement dwelling;

(4) The relocation and, if necessary rehabilitation of a replacement dwelling;

(5) The purchase of land and/or a replacement dwelling by the State ageny and subsequent sale or lease to, or exchange with, a displaced person; and

(6) The removal of barriers to the handicapped as may be necessary to meet the requirements of § 42.47(a)(5).

(b) *Compliance with regulations.* In acquiring real property for last resort housing or causing the displacement of occupants of a last resort housing site, the State agency shall comply with applicable provisions of the regulations in this part.

§ 42.607 Construction of housing with project funds.

(a) *Preliminary study.* If it appears necessary to use project funds for the construction of replacement housing in order to satisfy the requirements of this part, the State agency shall—

(1) Prepare an inventory of the characteristics and housing needs and desires of persons to be displaced;

(2) Determine the quantities and types of comparable replacement dwellings that can reasonably be expected to be available to displaced persons; and

(3) Coordinate with other displacing agencies to ensure that their plans for displacement are taken into account.

(b) *Replacement housing plan for new construction.* If the preliminary study indicates the need for the State agency to use project funds to provide last resort replacement housing through new construction, the State agency shall develop and request HUD approval of its replacement housing plan before implementing it. The plan shall indicate—

(1) How, when, and where the housing will be provided;

(2) How the housing will be financed, including the amount of project funds to be used;

(3) The prices or rentals at which the housing will be sold or rented to displaced persons, and the arrangements for maintaining rent levels appropriate for the persons to be rehoused;

(4) The arrangements for rental housing management and social services, as appropriate;

(5) The environmental suitability of the housing project and any information that may be required under HUD Handbook 1390.1, Departmental Policies, Responsibilities, and Procedures for Protection and Enhancement of Environmental Quality (38 FR 19182, as amended, 41 FR 23878);

(6) The planned disposition of the proceeds from the rental or sale of the housing and any subsequent resale of the housing by displaced persons; and

(7) The State agency's assurances that the housing will be developed in compliance with the requirements of this part and can be legally accomplished in accordance with State law; and

(8) If the last resort housing project includes more than 25 dwelling units, the comments, if any, of the State and Areawide Clearinghouses designated under OMB Circular No. A-95 and the advisory committee established in accordance with paragraph (c) of this section. However, if any of these organizations fails to comment within the specified reasonable time period provided, it shall be considered as having no comments. At least 30 days shall be provided for comment, unless the State agency determines that a shorter but reasonable period is necessary to permit timely implementation of the plan.

(c) *Advisory committee—26 units or more.* If a last resort housing project involves the construction of 26 or more new units, the State agency shall appoint an advisory committee to provide advice and assistance on the development of the replacement housing plan. The advisory committee shall include representatives of the State agency, the chief executive officer of the locality, the local housing authority, central relocation agency, the persons to be displaced, and other appropriate groups knowledgeable about housing and the problems of housing discrimination. The failure of any person to participate on the committee shall not preclude the committee from satisfying the requirements of this section. Having afforded the committee the opportunity to provide advice and assistance in the development of the plan, the State agency shall have full authority for the recommendation of a plan to HUD and for carrying out the approved last resort housing project.

§ 42.609 Compliance with other laws and regulations.

The implementation of this subpart shall be in compliance with the following, include regulations issued thereunder—.

(a) Section 1 of the Civil Rights Act of 1866 (42 U.S.C. 1982 et seq.);

(b) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.);

(c) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.);

(d) The National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347);

(e) Executive Order 11063 (Equal Opportunity in Housing) 3 CFR Comp. 1959-1963, page 652;

(f) Executive Order 11246 (Equal Employment Opportunity) 3 CFR Comp. 1964-1965, page 339; and

(g) Executive Order 11625 (Minority Business Enterprise) 3 CFR Comp. 1971, page 213.

Subpart J—Appeals

§ 42.701 Purpose.

The purpose of this subpart is to prescribe HUD requirements governing appeals of certain State agency actions.

§ 42.703 Basic rights and rules.

(a) *Actions which may be appealed.* A person may file an appeal in any case in which be believes that the State agency has failed to—

(1) Properly determine his eligibility for, or the amount of, a payment required under § 42.119 (expenses incidential to transfer of title) or § 42.123 (certain litigation expenses) or any relocation payment required under the regulations in this part. A person may also appeal the refusal of the State agency to waive the time limit for filing a claim; or

(2) Comply with a requirement of § 42.213 (availability of comparable replacement dwellings prior to displacement); or

(3) Comply with a requirement of § 42.211 (notice of right to continue in occupancy).

(b) *Order of appeal.* An appeal must first be filed with the head of the State agency in accordance with the provisions of this subpart. If a person is not satisfied with the results of the State agency's determination on his appeal, he may seek to have his appeal review by HUD in accordance with § 42.707 (HUD review of appeal).

(c) *Joint appeals.* Two or more persons may join in filing a single appeal if each has grounds for an appeal as specified in paragraph (a) of this section.

(d) *Right to representation.* A person has a right to be represented by legal counsel and to be accompanied by an advisory, attorney or other representative in any personal appearance in connection with his appeal, but solely at his own expense.

(e) *Review of files by person making appeal.* The State agency shall permit a person to inspect all files and records pertinent to his appeal, except materials which are confidential. The State agency may, however, impose reasonable conditions on the person's right of inspection.

(f) *Minimum notice to move.* If a person files a written appeal under paragraph (a)(2) or (a)(3) of this section, he shall not be required to move from the real property until at least 20 days after he receives the State agency's written determination on his appeal, or, if he appeals to HUD, the written HUD determination. The person shall be given at least 20 days advance written notice of the date by which he must move.

(g) *Construction of rules and regulations.* In deciding appeals, it is intended that applicable rules and regula-

tions be applied in a manner that best fulfills the objective of providing "fair and equitable treatment" so that displaced persons do "not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole."

§ 42.705 Appeal to State agency.

(a) *Timing for initiating appeal to State agency.* Unless waived by the State agency or HUD, an appeal to the State agency (either oral or written appeal) shall be filed as follows—

(1) An appeal concerning eligibility for, or the amount of, a payment shall be filed within 6 months after the State agency's notification to the person of its determination on the claim. An appeal of the State agency's refusal to waive the time limit for filing a claim shall be filed within 30 days after such refusal;

(2) An appeal alleging failure to comply with § 42.213 (availability of comparable replacement dwellings prior to displacement) shall be filed not later than 6 months after the person's displacement; and

(3) An appeal alleging failure of the State agency to comply with § 42.211 (notice of right to continue in occupancy), shall be filed not later than 6 months after (i) the person's permanent move from the real property, or (ii) the end of the 4-year occupancy period, whichever occurs first.

(b) *Oral appeal to State agency.* If a person, orally or in writing, asks to make an oral appeal to the State agency, the State agency shall give him the opportunity to present his appeal orally to an appropriate State agency official within 15 days. The State agency shall prepare a summary of the matters discussed in the oral presentation and include it as part of its case file. If the State agency does not grant the full relief requested by the person, if shall promptly notify him to that effect, in writing, with a copy to HUD. The notification shall indicate that the person has a right to file a written appeal under this Section. A person's request for an oral presentation shall not entitle him to any postponement of displacement.

(c) *Request for review of written appeal.* A person may file a written appeal to the State agency, whether or not he has made a prior oral presentation. The appeal may include any related statement of fact or other material. If necessary, the applicable time limit for filing an appeal shall be extended to assure that the person has at least 30 days after receiving notification of the decision on his oral appeal in which to file a written appeal.

(d) *Scope of review of written appeal.* The State agency shall consider a person's written appeal, regardless of form. In deciding the appeal, the State agency shall consider—

(1) All applicable rules and regulations;

(2) All pertinent justification and written material submitted by the person making the appeal; and

(3) All material upon which the State agency based the determination(s) being appealed and any other available information that is needed to insure a fair and full review of the appeal.

(e) *Determination and notification after written appeal.* Within 30 days after receipt of all information submitted by a person in support of his appeal, the State agency shall make its written determination on the appeal and furnish the person with a copy. The written determination shall include, but need not be limited to—

(1) The State agency's decision upon review of the appeal;

(2) The factual and legal basis upon which the decision is based, including any pertinent explanation;

(3) If any payment or other relief to the person is granted, a brief statement on how this will be provided; and

(4) If the full relief requested is not granted, a statement of the person's right to appeal to HUD within 30 days and the address of the applicable HUD office.

(f) *Request for additional time.* If a person makes a reasonable request for additional time to gather and prepare information for a written appeal, he must be granted a reasonable amount of additional time.

(g) *Assistance to person making appeal.* If a person is unable to prepare a written appeal, the State agency shall offer him appropriate assistance and notify him of other available sources of assistance.

(h) *Recommendation by third party.* A person making an appeal and the State agency may, by mutual agreement, arrange for a third party to review the appeal and make recommendations to the State agency for its final determination. The agreement may provide for an extension of the 30-day time limit for State agency review. In reviewing the claim and making recommendations, the third party shall be guided by the provisions of paragraph (d) of this section. After receiving the recommendation, the State agency shall comply with the requirements of paragraph (e) of this section.

(i) *State agency official to hear appeal.* The State agency official hearing an oral appeal or conducting the review of a written appeal shall be either the head of the State agency or his authorized designee other than an official directly involved in the action appealed or a subordinate to such an official.

§ 42.707 HUD review of appeal.

(a) *Request for HUD review.* If a person is not satisfied with the State agency's determination on his appeal, he may request HUD to review that appeal. An appeal to HUD, with a copy to the State agency, shall be submitted to the area director of the appropriate HUD area office within 30 days after the person receives the State agency's determination on his appeal. A person may support his appeal to HUD with any related facts or other material. However, he need not repeat any arguments nor submit any information previously provided to the State agency for its review.

(b) *Determination and notification by HUD.* HUD may elect to assign staff from its headquarters or any of its field offices to review or participate in the review of an appeal. When reviewing the appeal, HUD shall consider all relevant and available information, rules, and regulations. Within 30 days after receipt of all information supporting the appeal, HUD shall make its written determination on the appeal and shall furnish a copy to the State agency and the person making the appeal. The determination shall include, but need not be limited to—

(1) The HUD decision on review of the appeal;

(2) The factual and legal basis upon which the decision is based, including any pertinent explanation;

(3) If any payment or other relief to the person is ordered, appropriate directions to the State agency on how this shall be provided and a statement of the person's right to seek further HUD assistance in the event such relief is not provided as directed; and

(4) If the full relief requested is not granted, a statement of the person's right to seek judicial review.

(c) *Submission of State agency's file.* Within 5 days after receiving a copy of a person's appeal to HUD, the State agency shall submit to HUD its complete case file on the appeal.

§ 42.709 State agency dismissal of appeal not based on merits.

(a) *General.* If the State agency dismisses an appeal as being too late or premature or because of any other reason not based on the merits of the issues involved, it shall notify the person in writing, with a copy to HUD, of its reasons for the dismissal. The notification shall be sent to the person within 10 days after he files the appeal and shall indicate that he shall have 30 days to seek HUD review of the dismissal.

(b) *HUD review of dismissal.* If a person seeks HUD review of the dismissal of his appeal within the prescribed 30-day period, HUD shall review the dismissal. If HUD finds the State agency's refusal to decide the appeal on its merits was unreasonable, HUD shall require the State agency to review and determine the appeal on its merits within 15 days in accordance

with § 42.705 (appeal to State agency) and shall so notify the person making the appeal. if HUD does not find the State agency's dismissal of the appeal to be unreasonable, it shall so notify the person making the appeal. The notification shall inform the person that he may have a right to judicial review. If the dismissal was based on the belief that the appeal was premature, the person shall be advised that he may file an appeal at an appropriate later date.

§ 42.711 Judicial review.

Nothing in this subpart shall in any way preclude or limit a person from seeking judicial review of his appeal on its merits after exhaustion of such administrative remedies as are available to him under this subpart.

Issued at Washington, D.C., March 20, 1978,

PATRICIA ROBERTS HARRIS,
Secretary, Housing and Urban Development.

[FR Doc. 78-8500 Filed 3-30-78; 8:45 am]

[4210-01]

Office of Assistant Secretary for Community Planning and Development

[24 CFR Part 570]

[Docket No. R-78-519]

COMMUNITY DEVELOPMENT BLOCK GRANT

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

AGENCY: Office of Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department is proposing that certain acquisitions and resulting displacements which take place in the three-year period before the date of submission of a community development block grant application for related construction, rehabilitation, or demolition assistance be subject to the requirements of Departmental regulations at 24 CFR Part 42 which implement the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act). The Department believes this rule is necessary to assure that persons are not denied the rights and assistance to which they are entitled under the Uniform Act.

DATE: All comments which are received on or before May 30, 1978, will be considered before issuance of a final rule.

ADDRESS: All written comments should be submitted to the Rules Docket Clerk, Room 5218, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All written comments should refer to Docket No. R-78-519. All written comments made in connection with this notice will be available for public inspection during normal business hours at this office.

FOR FURTHER INFORMATION CONTACT:

Harold J. Huecker, Relocation and Development Services Division, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-1871.

SUPPLEMENTARY INFORMATION: This proposed rule would conform Part 570 to the proposed revision of Part 42 published for comment elsewhere in the FEDERAL REGISTER on this same date. The Department believes this rule is necessary to assure that persons are not denied the rights and assistance to which they are entitled under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601). However, this rule would not apply retroactively to any acquisition or displacement occurring prior to the effective date of the final rule.

A "Finding of Inapplicability" as to section 102(2)(e) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1 (38 FR 19182). A copy of that finding is available for inspection in the office of the Rules Docket Clerk, at the address indicated above.

NOTE: The Department of Housing and Urban Development has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular No. A-107.

(Title I of Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

§ 570.602 [Amended]

For the reasons described above, the Department proposes to amend 24 CFR 570.602 (a) and (b) to read as follows:

* * * * *

(a) Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (40 U.S.C. 4601), hereafter referred to as the Uniform Act, and the regulations at 24 CFR Part 42 apply to the displacement of any family, individual, business, nonprofit organization, or farm that results from the acquisition of real property and:

(1) Occurs on or after the date of the submission of the application requesting the Federal assistance which is granted for an activity in connection with which the acquisition has been or will be undertaken; or

(2) Occurs within three years prior to the date of the submission of the application requesting such Federal assistance for an activity in connection with which the displacement has been undertaken and the assisted activity includes demolition on the real property or the construction or rehabilitation on the real property of a facility or other improvement that has the same or similar use as that planned for construction or rehabilitation on the real property at the time of the displacement. For example, if the assisted activity includes construction of a neighborhood facility and an order to vacate the site for construction of such facility was issued within three years prior to submission of the application, such displacement may be considered to be subject to the regulations in this Part. However, this provision does not apply to any displacement which occurs prior to the effective date of this amendment.

(b) Title III of the Uniform Act and the regulations at 24 CFR Part 42 apply to any acquisition of real property, whether or not the acquisition is federally assisted, that:

(1) Occurs on or after the date of the submission of the application requesting the Federal assistance which is granted for an activity in connection with which the acquisition is undertaken; or

(2) Occurs within three years prior to the date of the submission of the application requesting such Federal assistance and the assisted activity includes demolition on the real property or the construction or rehabilitation on the real property of a facility or other improvement that has the same or similar use as that planned for construction or rehabilitation on the real property at the time of the acquisition. For example, if the assisted activity includes construction of a neighborhood facility and acquisition of the site for such facility occurred within three years prior to submission of the application, the acquisition my be considered to be subject to the regulations at 24 CFR Part 42. However, this provision does not apply to any acquisition which occurs prior to the effective date of this amendment.

* * * * *

Issued at Washington, D.C., March 20, 1978.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-8516 Filed 3-30-78; 8:45 am]

federal register

FRIDAY, MARCH 31, 1978
PART IX



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

■

MEDICAL ASSISTANCE PROGRAM

Rural Health Clinic Services

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

[42 CFR Parts 449 and 450]

MEDICAL ASSISTANCE PROGRAM

Rural Health Clinic Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Proposed rule.

SUMMARY: This proposed regulation governs the coverage and reimbursement of rural health clinic services under State Medicaid programs. Medicaid regulations would be amended to implement the Medicaid amendments of the Rural Health Clinic Services Act of 1977 (Pub. L. 95-210) which become effective July 1, 1978. The purpose of that Act is to expand the availability of medical services in rural areas, by reimbursing the services of physician assistants and nurse practitioners.

DATES: Consideration will be given to written comments and suggestions received on or before May 1, 1978. Please refer to MMB-239-P. Agencies and organizations are requested to submit comments in duplicate.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, P.O. Box 2366, Washington, D.C. 20013. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in room 5225 of the Department's Offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m., 202-245-0950.

FOR FURTHER INFORMATION CONTACT:

Joseph Dougherty, Medicaid Bureau, HCFA, room 2622, 330 C Street SW., Washington, D.C. 20201, 202-245-8990.

SUPPLEMENTARY INFORMATION: The Rural Health Clinic Services Act of 1977 (Pub. L. 95-210, December 13, 1977) extends Medicaid and Medicare benefits to cover health care services furnished by clinics operating in rural areas where access to traditional physician care has been difficult and specially trained primary care practitioners furnish the health care services needed by the community. These specially-trained practitioners are typically called physician assistants and nurse practitioners.

This proposed regulation pertains only to the Medicaid program. It is the third of three regulations implementing Pub. L. 95-210. The first regulation (42 CFR part 481) was published in the FEDERAL REGISTER on February 8, 1978 (43 FR 5373), and specified the certification requirements which rural health clinics must satisfy in order to participate in Medicare and Medicaid. Because of the urgent need to begin certifying these clinics, that regulation was published as a final rule, with an invitation for comments regarding possible revision.

The second regulation (42 CFR part 405, subpart X) governs Medicare coverage and reimbursement. Because the statute is effective for Medicare on March 1, 1978, that regulation also was published on that date as a final rule, with an invitation for comments (43 FR 8258). As discussed more fully below, many of the rules governing coverage and reimbursement under Medicaid will be established through incorporation by reference to the Medicare regulation. (The references in this preamble to the Medicare reimbursement regulation means the one published on March 1.)

Pub. L. 95-210 established July 1, 1978, as the date on which rural health clinic services become a mandatory service (if consistent with State law) for the categorically needy under State Medicaid programs. We expect to have this regulation published in final before that date. In the meantime, a rural health clinic interested in participating in the Medicaid program can contact the State certification agency (which is typically the State Health Department) and the State Medicaid agency to obtain more information and any necessary application or agreement forms.

We believe that simple requirements will contribute to efficient administration. We are aware that many rural health clinics are relatively small operations, furnishing services under unique circumstances warranting flexibility. We intend to implement these regulations in that spirit.

MAJOR PROVISIONS

1. REQUIREMENT FOR COVERAGE OF RURAL HEALTH CLINIC SERVICES

Pub. L. 95-210 adds rural health clinic services to those services for which Federal financial assistance is available under Medicaid by grouping them with "outpatient hospital services." Consequently, any State which permits primary health care services to be furnished by a nurse practitioner or a physician assistant, must also include rural health clinic services for the categorically needy. With respect to the medically needy, the State may exercise its discretion on whether to cover rural health clinic services. If, however, outpatient hospital services are included as a required service for the latter group, rural health clinic services must also be covered. (See 42 CFR 448.1 for an explanation of "categorically needy" and "medically needy" and 42 CFR 449(10)(a) for required services.)

2. COVERED SERVICES: PHYSICIAN, NURSE PRACTITIONER, AND PHYSICIAN ASSISTANT SERVICES

In summary terms, any medical service typically furnished by a physician in an office or as a physician home visit is reimbursable as a rural health clinic service, whether performed by a physician, nurse practitioner, or physician assistant. However, the services of a nurse practitioner or physician assistant must be furnished under the medical supervison of a physician. The nature of this supervision, however, may be indirect—as specified in more detail in the regulations governing certification (See 42 CFR 481.8; 43 FR 5376)—rather than "over the shoulder." Such services must also conform to any State requirements regarding the scope or conditions of their practice. (Coverage of nurse practitioners and physicians assistants as individual practitioners aside from rural health clinic services remains optional with States (42 CFR 449.10(b)(6)).)

It State law permits the practice of nurse midwives or nurse practitioner who specialize in specific primary care services, their services will also be reimbursed under the Medicaid program. It should be noted, however, that in order to be certified for Medicaid participation, a rural health clinic must have a nurse practitioner or physician assistant on the staff. The presence on the staff of a nurse midwife or specialized nurse practitioner will not, by itself, satisfy this requirement. See 42 CFR 481.2 and 481.8 (43 FR 5375, 5376) for the definition of nurse practitioner and for the certification requirement. The definitions for nurse midwife and specialized nurse practitioner are set forth in the Medicare reimbursement regulation at 42 CFR 405.2401 (43 FR 8261).

The rural health clinic services may be furnished at the clinic itself, or may be furnished at the patient's residence or at a hospital or other medical facility.

3. PHYSICIAN REIMBURSEMENT

The issue is whether services furnished by a physician shall be treated as covered rural health clinic services (for which the clinic is reimbursed) or as physicians' services to be reimbursed on a fee-for-service basis directly by the State. In resolving this issue, we have ought to balance two concerns—one, that furnishing rural health clinic services not be made unattractive to a physician interested in doing so and, two, that the program be administered efficiently, with minimum opportunities for potential abuse. Our proposed solution is to treat all physician services which are

furnished at the clinic as clinic services, with reimbursement under Medicaid necessarily made to the clinic. (The physician will then receive his compensation from the clinic.) With respect to physician services furnished away from the clinic, the method of reimbursement will be determined according to whatever agreement the clinic has reached with the physician. The physician and the clinic may agree that services furnished away from the clinic will be included in the clinic's reimbursable costs or they may agree that the physician will be reimbursed by the State on a fee-for-service basis. In either event, we expect there to be a written agreement which deals with this issue in general terms, rather than permitting an ad-hoc or case-by-case determination.

4. SERVICES AND SUPPLIES FURNISHED "INCIDENT TO" PROFESSIONAL HEALTH CARE SERVICES

The clinic will be reimbursed for services and supplies which are furnished incident to the professional services of a physician, physician assistant, nurse practitioner, nurse midwife, or specialized nurse practitioner. For this purpose, we propose to define services and supplies furnished "incident to" a professional service as those which are:

(i) Commonly furnished in a physician's office;

(ii) Commonly furnished by the clinic without additional charge or included in the clinic bill;

(iii) Furnished as an integral, but incidental part of the professional service;

(iv) Furnished under the direct, personal supervision of a health professional; and

(v) Furnished by an employee of the clinic.

5. VISITING NURSE CARE

The statute also provides that a rural health clinic may be reimbursed for intermittent or part-time nursing care, if the clinic is located in an area in which there is a shortage of home health agencies and the nursing care is furnished:

(i) By a registered professional nurse, or a licensed practical or vocational nurse;

(ii) To a homebound individual; and

(iii) Under a written plan of treatment which is established by one of the primary care health professionals on the clinic staff and periodially reviewed by supervisory physician.

In implementing this provision of the statute, the Department proposes to define "homebound" quite flexibly to be any peron who is temporarily or permanently confined to his or her place of residence because of a medical or health condition. We also propose that the requirement for periodic review by a supervising physician be implemented by requiring review at least every 60 days. The Health Care Financing Administration (HCFA) will determine whether the clinic is located in an area with a shortage of home health agencies in accordance with criteria specified in the new Medicare reimbursement regulation at 42 CFR 405.2417 (43 FR 8264). In general terms, HCFA will designate a shortage area if the supply of home health services does not meet the needs of the community or if the climate or terrain make it unreasonable for existing home health agencies to serve the patients who would receive visiting nurse services from the clinic.

The visiting nurse care service available under this provision differs in certain notable respects from the home health services currently provided under Medicaid. (See 42 CFR 449.0(b)(7).) The latter does not require the patient to be homebound. On the other hand, the former is more flexible, in that it permits services to be provided by a licensed practical nurse and does not require the clinic to obtain additional certification as a home health provider.

6. OTHER AMBULATORY SERVICES

In addition to the services described above (which are the same as the rural health clinic services covered under Medicare), a rural health clinic will be reimbursed for any other ambulatory services which are covered under the State Medicaid plan. (Examples of such services include routine physicals, EPSDT (early and periodic screening, diagnosis, and treatment for persons under 21), dental services and prescribed drugs.) With respect to these ambulatory services, the physician supervisory responsibilities specified in the certification regulations at 42 CFR 481.8 (43 FR 5376) are not required by Federal statute or regulation, but the clinic must comply with any required physician arrangements established by State law or the State Medicaid plan.

7. GENERAL REIMBURSEMENT PRINCIPLES

In order the minimize the complexity and administrative burdens imposed on a participating clinic, the Rural Health Clinic Services Act, and its accompanying legislative history, seek to foster close conformity between the reimbursement practices under Medicare and those under Medicaid. Consequently, this proposed regulation essentially incorporates the reimbursement principles and methods specified in detail in the Medicare reimbursement regulation at 42 CFR, subpart X (43 FR 8261). Although a brief summary of these principles and methods is set out below, reference to the Medicare regulation is recommended for anyone seeking a thorough understanding or review.

8. DISTINCTION BETWEEN "PROVIDER CLINICS" AND "INDEPENDENT CLINICS"

The Medicare regulations distinguish "provider clinics (those that operate as an integral part of a hospital, skilled nursing facility, or other institution that is participating under Medicare) from "independent clinics" (those that are not part of a Medicare provider. For purposes of Medicaid reimbursement, a clinic that is part of an institution that does *not* participate in Medicare would be considered an "independent clinic".

"Provider clinics" would be reimbursed on the basis of a fixed rate per clinic visit, calculated by the Medicare fiscal intermediary, in accordance with the cost principles set forth in Subpart D of Part 405 of this chapter. Independent clinics will be reimbursed as explained in the following paragraphs.

9. REIMBURSEMENT OF INDEPENDENT CLINICS

For "independent clinics" we are interested in a fully "prospective" method of reimbursement, with built-in incentives for efficient operation. Since we lack the experience and information necessary to develop a prospective system, we propose, as an interim measure, a cost-based, all-inclusive rate per clinic visit. This rate will be calculated by the Medicare carrier, in accordance with Subpart X of Part 405 of this chapter. It will be used for all or nearly all rural health clinic services.

As we stated in the Medicare reimbursement regulation (43 FR 8260), this interim method of payment will expire for all reporting periods beginning after March 1, 1980. We intend to publish a notice of proposed rulemaking by October 1978, setting forth a new, prospective payment method. We further intend to have the new payment method promulgated as a final rule and in force for all of these clinics no later than March 1, 1980.

10. CALCULATION OF THE ALL-INCLUSIVE RATE

The carriers utilized by HCFA to reimburse clinics for the Medicare benefit will calculate an all-inclusive payment rate for each clinic, based on the clinic's estimated total allowable costs and estimated total patient visits over a given period of time (called the "reporting period"). The rate could be adjusted during the reporting period if the estimates of allowable costs or visits turn out to be inaccurate or if, because of other circumstances, the rate no longer approximates the actual allowable costs of the clinic. (See the Medicare reimbursement regulations at 42 CFR 3405.2426).

11. USE OF THE ALL-INCLUSIVE RATE; TREATMENT OF "NON-MEDICARE" SERVICES

The purpose of the all-inclusive rate is to simplify the reimbursement process by paying the clinic the same fee for each visit by an eligible beneficiary. It appears that this purpose can be readily achieved with respect to Medicare services, which are all quite similar in nature. A complication may arise under Medicaid, however, because the State plan may cover other ambulatory services or supplies not covered under Medicare. Some of these other services or supplies may differ substantially in cost from the services provided under Medicare. To resolve this complication, we have identified six of the "non-Medicare" ambulatory services or supplies which could be covered by the State Medicaid plan and permitted the State to choose from among three alternative payment methods for reimbursing clinics, depending on how the State wishes to treat these six services. The six identified services and supplies are dental services, eyeglasses, hearing aids, prescribed drugs, prosthetic devices, and durable medical equipment. Any other "non-Medicare" services covered by the State plan would be treated in the same fashion as Medicare covered services.

Thus, reimbursement under Medicaid could be as follows. If the State plan does not include any of the six "non-Medicare" ambulatory services listed above, the clinic will be reimbursed at the Medicare payment rate. (The Medicare rate will be used even if the State plan covers, and the clinic offers, some "non-Medicare" ambulatory services other than the six specificaly identified. Since these other services will be very similar in nature to the services covered by Medicare, we expect the Medicare rate to reflect reasonably accurately the costs for these other services.) Similarly, if the State plan covers one or more of these six services, but the clinic chooses not to offer any of them, the clinic will be reimbursed at the Medicare payment rate.

If the State plan covers any of the six identified services or supplies, the State may choose among the following three options in reimbursing a clinic which offers any such service or supply.

As one option, the State can pay for *all* of the services and supplies offered by a clinic at a single rate per patient visit. The rate for each clinic will be calculated by the Medicare carrier in the manner described above. In calculating the rate, the carrier will simply combine the estimated allowable costs and visits used in calculating the rate to be used for Medicare reimbursement with the estimated allowable costs and visits for all the additional services and supplies offered by the clinic.

The second option permits the State to exclude the six identified, "non-Medicare" ambulatory services from the all-inclusive rate and to reimburse each one on a separate basis. In this instance, the all-inclusive rate being used for Medicare services will be used to reimburse the clinic for all services offered by it, other than dental services, eyeglasses, hearing aids, prescribed drugs, prosthetic devices and durable medical equipment. For each of these six services or supplies, the State may select a fee-for-service method of payment, subject to the upper limits on payments specified in the current Medicaid regulations at 42 CFR 450.30(b). We anticipate that the State will make the same payments it now makes for each such service in other settings.

The third option is simply a variation on each of the first two options described above and gives special treatment to dental services. Because dental services may be substantially more costly than a clinic's other services, the State may wish, for reasons of efficiency or ease of administration, to reimburse dental services according to a set cost rate per beneficiary visit. If the State requests it, the Medicare carrier will calculate such a rate for each clinic, based on an estimate of the total allowable costs and total patient visits for that clinic's dental services. Having chosen to reimburse dental services separately, the State could then either use a single all inclusive rate for all other services and supplies, or it could follow option two by reimbursing the other five identified services on a fee-for-service basis and use the Medicare rate for the remaining services. Thus, under the third option, a clinic will either be reimbursed by two cost rates (one for dental services and another for all other services) or it will be reimbursed by two rates (the Medicare cost rate and the dental services cost rate), plus separate schedules for eyeglasses, hearing aids, prescribed drugs, prosthetic devices and durable medical equipment.

12. RECONCILIATION OF PAYMENTS

At the conclusion of the reporting period an independent clinic will be required to submit a report on its actual allowable costs and the actual number of visits by all patients and by Medicaid beneficiaries. The total amount of Medicaid reimbursement to which the clinic was entitled for the reporting period will be calculated. If this amount differs from the amount paid to the clinic during the reporting period, a reconciliation payment will be made. If the clinic had been paid too much during the reporting period, the reconciliation could be made through several installment payments or through a series of offsets against subsequent reimbursement payments. This procedure is specified in more detail in the Medicare reimbursement regulation at 42 CFR 405.2427 (43 FR 8264).

13. ALLOWABLE COSTS

The costs which are allowable in calculating an independent clinic's reimbursement are also specified in the Medicare reimbursement regulation at 42 CFR 405.2428.

Allowable costs are defined as those costs incurred by the clinic which are reasonable in amount and are necessary for the efficient delivery of health care services. They specifically include compensation for the physicians' supervisory responsibilities required under Pub. L. 95-210 or under State law. These costs will be subject to screening guidelines and other tests of reasonableness established by HCFA and the carriers. Clinic costs in excess of such guidelines and tests will not be allowed unless the clinic can show reasonable justification for the excess.

OTHER STATUTORY PROVISIONS

1. Pub. L. 95-210 amends the so-called "freedom of choice" clause of the Medicaid statute (Section 1902(a)(23) of the Social Security Act, 42 U.S.C., 1396a(a)(23)) by stating that a State Medicaid plan is not out of compliance if "the plan provides for payment of rural health clinic services only if those services are provided by a rural health clinic." In our view, since rural health clinics are the only facilities qualified under Pub. L. 95-210 to furnish rural health clinic services, this provision is adequately implemented by the existing regulation on freedom of choice (42 CFR 449.20) and no amendment to the regulation is proposed.

2. Pub. L. 95-210 does not require that States permit nurse practitioners or physician assistants to furnish primary health care. However, as discussed above, for those states which do permit such practice, the statute does require that Medicaid plans include rural health clinic services. The Congress recognized that this might create a compliance problem for a State which authorizes the practice of nurse practitioners or physican assistants, if State legislation must be obtained in order to amend the State plan to reimburse rural health clinic services.

The Congress dealt with this potential problem by providing that, irrespective of the July 1, 1978 effective date, a State plan cannot be found out of compliance with the Medicaid statute until the State legislature has had an opportunity to resolve the difficulty. Thus, if the Secretary determines that State legislation is necessary in order for a State to comply with Pub. L. 95-210, the State plan will not be regarded as out of compliance with title XIX prior to the first calendar quarter after the close of the first regular ses-

sion of the State legislature that began after the date of enactment of the Act.

The date of enactment of Pub. L. 95-210 is December 13, 1977. Therefore, any State whose current legislative session began after that date should be aware of this provision and should promptly review the statute and its State plan to determine whether legislation is needed.

42 CFR Chapter IV is amended as set forth below:

1. § 449.10(b) is amended by inserting "(i)" after "(2)" and by adding a new subdivision (b)(2)(ii) to read as follows:

§ 449.10 Amount, duration, and scope of medical assistance.

* * * * *

(b) *Federal financial participation.*

* * * * *

(2)(i) *Outpatient hospital services.*

* * * * *

(ii) *Rural health clinic services.* If nurse practitioners or physician assistants (as defined in § 481.1 of this chapter) are permitted under State law to furnish primary health care, "rural health clinic services" are the following services specified in paragraphs (b)(2)(ii) (A) through (E) of this section, when furnished to an outpatient by a rural health clinic that has been certified in accordance with Part 481 of this chapter.

(A) Services furnished by a physician within the scope of practice of his or her profession under State law, if the physician performs the services in the clinic or the services are furnished away from the clinic and the physician has an agreement with the clinic providing that he or she will be paid by the clinic for such services.

(B) Services furnished by a physician assistant, nurse practitioner, nurse midwife or other specialized nurse practitioner (as defined in §§ 405.2401 and 481.2 of this chapter) who is a member of the clinic staff, if the services are within the scope of his or her professional practice, as permitted under State law.

(C) Services and supplies that are furnished as an incident to professional services furnished by a physician, physician assistant, nurse practitioner, nurse midwife, or specialized nurse practitioner. (See §§ 405.2413 and 405.2415 of this chapter for the criteria for determining whether services and supplies are included under this clause.)

(D) Any other ambulatory services offered by a rural health clinic that are otherwise included in a State plan and that meet specific State plan requirements for the furnishing of those services. These services are not subject to the physician supervision requirements specified in § 481.8(b) of this chapter, except as required by State law or the State plan.

(E) Part-time or intermittent visiting nurse care and related medical supplies (other than drugs and biologicals) if:

(*1*) The clinic is located in an area in which the Secretary has determined that there is a shortage of home health agencies (See § 405.2417 of this chapter);

(*2*) The services are furnished by a registered nurse, a licensed practical nurse or a licensed vocational nurse employed by, or otherwise compensated for the services by, the clinic;

(*3*) The services are furnished to a homebound individual; and

(*4*) The services are furnished under a written plan of treatment that is established and reviewed at least every 60 days by a supervising physician of the clinic or that is established by a physician, physician assistant, nurse practitioner, nurse midwife or specialized nurse practitioner and reviewed and approved at least every 60 days by a supervising physician of the clinic.

For purposes of visiting nurse care, a "homebound individual" means an individual who is permanently or temporarily confined to his or her place of residence because of a medical or health condition. The inidividual may be considered home bound if he or she leaves the place of residence infrequently. For this purpose, "place of residence" does not include a hospital or a skilled nursing facility.

* * * * *

2. § 450.30(a) is amended by adding a new paragraph (a)(10) to read as follows:

§ 450.30 Reasonable charges.

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

* * * * *

(10) *Rural health clinic services.* Effective July 1, 1978, provide for payment of rural health clinic services as defined in § 449.10(b) of this chapter.

(i) For "provider clinics", the State plan must provide for reimbursement on the basis of a cost-rate per clinic visit, calculated by the Medicare fiscal intermediary that serves the provider, in accordance with the cost principles and limitations specified in Part 405, Subpart D, of this chapter. A "provider clinic" is a clinic that is an integral part of an institutional provider (hospital, skilled nursing facility, or home health agency) that is participating in Medicare and is operated under common licensure, governance and professional supervision with other departments of the institution.

(ii) For any clinic that is not a "provider clinic", and does not furnish any of the services or supplies listed in paragraph (a)(10)(iv) of this section, the state plan must provide for payment at the reasonable cost rate per visit established for the clinic by the Medicare carrier under § 405.2426 of this chapter.

(iii) For any clinic that is not a "provider clinic", and does offer any of the services or supplies listed in paragraph (a)(10)(iv) of this section, the State plan must provide for reimbursement of those services by one of the following methods:

(A) Payment for all clinic services at a single cost-reimbursement rate per clinic visit, established by the Medicare carrier, that includes the cost of all services furnished by the clinic.

(B) Payment for each service listed in paragraph (a)(10)(iv) of this section at rates or charges established by the State, subject to the upper limits specified in paragraph (b) of this section. Under this option, all other services furnished by the clinic must be paid at the Medicare reimbursement rate per visit, as specified in § 405.2426 of this chapter.

(C) Payment for dental services on the basis of a fixed cost rate per clinic visit, calculated by the Medicare carrier on the basis of the clinic's estimated total allowable costs for dental services and total estimated patient visits for dental services (subject to any screening quidelines or tests of reasonableness established by the Health Care Financing Administration or the Medicare carrier). If the State agency elects this option for dental services, the State plan must provide for payment of all other services by either a single cost reimbursement rate per clinic visit, calculated by the Medicare carrier, or in accordance with paragraph (a)(10)(iii)(B) of this section.

(iv) The services and supplies subject to the payment methods specified in paragraph (a)(10)(iii) of this section are: (A) Dental services; (B) eyeglasses; (C) Hearing aids; (D) Prescribed drugs; (E) Prosthetic devices; and (F) Durable medical equipment.

(v) Payments made according to a cost reimbursement rate per visit will be subject to reconciliation after the close of the reporting period, in accordance with § 405.2427 of this chapter.

(Secs. 1102, 1833, and 1902(a)(13), Social Security Act; 49 Stat. 647, 91 Stat. 1485 (42 U.S.C. 1302, 13951, and 1396a(a)(13).)

(Catalog of Federal Domestic Assistance Program 13.714, Medical Assistance Program).

Dated: February 24, 1978.

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

Approved: March 27, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 78-8570 Filed 3-30-78; 8:45 am]

Advance Orders are now being Accepted for delivery in about 6 weeks

CODE OF FEDERAL REGULATIONS

(Revised as of October 1, 1977)

Quantity	Volume	Price	Amount
_____	Title 45—Public Welfare (Parts 1-99)	$4.25	$_____
_____	Title 46—Shipping (Parts 110-139)	3.00	_____
_____	Title 49—Transportation (Part 1300-End)	4.25	_____
		Total Order	$_____

[A Cumulative checklist of CFR issuances for 1978 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

PLEASE DO NOT DETACH

MAIL ORDER FORM To:

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

Enclosed find $..... (check or money order) or charge to my Deposit Account No. .....

Please send me ..... copies of:

PLEASE FILL IN MAILING LABEL BELOW

Name ----------

Street address ----------

City and State ---------- ZIP Code ----------

FOR USE OF SUPT. DOCS.

----Enclosed

To be mailed

----later

----Subscription

Refund

Postage

Foreign Handling

FOR PROMPT SHIPMENT, PLEASE PRINT OR TYPE ADDRESS ON LABEL BELOW, INCLUDING YOUR ZIP CODE

SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U.S. GOVERNMENT PRINTING OFFICE
375
SPECIAL FOURTH-CLASS RATE
BOOK

Name ----------

Street address ----------

City and State ---------- ZIP Code ----------