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FRIDAY, MARCH 23, 1979

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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
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DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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

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

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

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

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SEC—Promotion of the reliability of financial information and prevention of the concealment of questionable or legal corporate payments and practices 10964; 2-23-79

List of Public Laws

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

[Last Listing Mar. 9, 1979]

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rules and regulations

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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-M]

Title 5—Administrative Personnel

CHAPTER I—OFFICE OF PERSONNEL MANAGEMENT

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

AGENCY: Office of Personnel Management.

ACTION: Correction to final rule.

SUMMARY: This amendment corrects the title of a position excepted under Schedule C in the document published in 43 FR 58540 on December 15, 1978.

EFFECTIVE DATE: November 15, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3318(b)(8) is corrected as set out below:

§ 213.3318 Environmental Protection Agency.

* * * * *

(b) *Office of Legislation.* * * *

(8) Two Special Assistants and one Congressional Liaison Specialist (Congressional Affairs).

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

OFFICE OF PERSONNEL MANAGEMENT,
BEVERLY M. JONES,
Issuance System Manager.

[FR Doc. 79-8756 Filed 3-22-79 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment reestablished a position under Schedule C because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: February 23, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3304(h)(3) is amended as set out below:

§ 213.3304 Department of State.

* * * * *

(h) *Bureau of International Organization Affairs.* * * *

(3) One Supervisory Foreign Affairs Officer.

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

OFFICE OF PERSONNEL MANAGEMENT
BEVERLY M. JONES,
Issuance System Manager.

[FR Doc. 79-8755 Filed 3-22-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: One position of Special Representative of the Director, National Park Service, is excepted under Schedule A because it is impracticable to examine for it.

EFFECTIVE DATE: February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3112(f)(3) is added as set out below:

§ 213.3112 Department of the Interior.

* * * * *

(f) *National Park Service.* * * *

(3) One Special Representative of the Director.

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

OFFICE OF PERSONNEL MANAGEMENT,
BEVERLY M. JONES,
Issuance System Manager.

[FR Doc. 79-8753 Filed 3-22-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

International Communication Agency

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment shows that two Schedule A positions of Liaison Officer (Congressional), GS-14, which were located in the Office of the General Counsel are now located in the Office of Congressional and Public Liaison. Also, this amendment shows that the Schedule A authority for one chief of religious information is revoked because the position is no longer needed.

EFFECTIVE DATE(S): October 4, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3128(a) is amended and (b) is revoked, as follows:

§ 213.3128 International Communication Agency.

(a) *Office of Congressional and Public Liaison.*

(1) Two positions of Liaison Officer (Congressional), GS-14.

(b) (Revoked).

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

OFFICE OF PERSONNEL MANAGEMENT,
BEVERLY M. JONES,
Issuance System Manager.

[FR Doc. 79-8754 Filed 3-22-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Small Business Administration, Federal Communications Commission

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Small Business Administration and the Federal Communications Commission because they are confidential in nature. Appointments may be made without examination by the Office of Personnel Management.

EFFECTIVE DATES: SBA—February 15, 1979; FCC—February 16, 1979.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3332(t) is amended and 213.3338(d) is added as set out below:

§ 213.3332 Small Business Administration.

* * * * *

(t) Four Special Assistants to the Deputy Administrator.

* * * * *

§ 213.3338 Federal Communications Commission.

* * * * *

(d) One Director, Office of Public Affairs.

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

OFFICE OF PERSONNEL MANAGEMENT
BEVERLY M. JONES,
Issuance System Manager.

[FR Doc. 79-8752 Filed 3-22-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Labor, Department of Transportation

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the titles of certain positions (1) at the Department of Labor from Confidential Assistant to the Director, Women's Bureau to Special Assistant to the Director, Women's Bureau to more appropriately reflect the duties of the position and (2) at the Department of Transportation from two Intergovernmental Liaison Specialists to the Director, Office of Intergovernmental Affairs to two Intergovernmental Liaison Specialists to the Deputy Assistant Secretary for Intergovernmental Affairs to reflect the current title of the superior.

EFFECTIVE DATE: February 6, 1979.

Accordingly, 5 CFR 213.3315(f)(2) and 213.3394(a)(51) are amended as set out below:

§ 213.3315 Department of Labor.

* * * * *

(f) *Women's Bureau.* * * *

(2) Four Special Assistants and Two Executive Assistants to the Director.

* * * * *

§ 213.3394 Department of Transportation.

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

(51) Two Intergovernmental Liaison Specialists to the Deputy Assistant Secretary for Intergovernmental Affairs.

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

OFFICE OF PERSONNEL MANAGEMENT,
BEVERLY M. JONES,
Issuance System Manager.

[FR Doc. 79-8785 Filed 3-22-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C (1) one position of Director, Office of Industrial Mobilization, Industry and Trade Administration and (2) one position of Deputy Director, Bureau of Trade Regulation, Industry and Trade Administration, because the duties of the positions are confidential in nature.

EFFECTIVE DATE: January 30, 1979.

FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:

Ronald K. Artley, Office of Personnel Management, 202-632-7676.

FOR FURTHER INFORMATION ON POSITION CONTENT CONTACT:

David Harrington, Department of Commerce, 202-377-3453.

Accordingly, 5 CFR 213.3314(w)(2) and (w)(3) are added as set out below:

§ 213.3314 Department of Commerce

* * * * *

(w) Industry and Trade Administration * * *

(2) Director, Office of Industrial Mobilization

(3) Deputy Director, Bureau of Trade Regulation

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

OFFICE OF PERSONNEL MANAGEMENT,
BEVERLY M. JONES,
Issuance System Manager.

[FR Doc. 79-8911 Filed 3-22-79; 8:45 am]

[6325-01-M]

PART 213—EXCEPTED SERVICE

Small Business Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment (1) revokes the Schedule C exceptions for the positions of Associate Administrator for Operations and Associate Administrator for Procurement Assistance and (2) excepts from the competitive service under Schedule C the positions of Associate Deputy Administrator for Program Management and Associate Deputy Administrator for Policy and Support because both positions require that the incumbents must maintain a close and confidential relationship with the Administrator.

EFFECTIVE DATE: February 14, 1979.

FOR FURTHER INFORMATION:

On Position Authority Contact: Ronald K. Artley, Office of Personnel Management, 202-632-7676.

On Position Content Contact: Joe Maas, Small Business Administration, 202-653-6780.

Accordingly, 5 CFR 213.3332(a) is changed as set out below:

§ 213.3332 Small Business Administration.

(a) One Deputy Administrator, Associate Deputy Administrator for Program Management, Associate Deputy Administrator for Policy and Support, Associate Administrator for Finance and Investment and the Associate Administrator for Minority Small Business.

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

OFFICE OF PERSONNEL MANAGEMENT
BEVERLY M. JONES,
Issuance System Manager.

[FR Doc. 79-8912 Filed 3-22-79; 8:45 am]

[3410-34-M]

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 73—SCABIES IN CATTLE

Areas Quarantined and Released

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Fresno County in California because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed from specimens collected from cattle in this area by the National Veterinary Services Laboratories in Ames, Iowa. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the infested area.

Also, these amendments release portions of San Luis Obispo County, California; a portion of Fresno County, California; and a portion of Johnson County, Kansas; from areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in these quarantined areas.

EFFECTIVE DATE: March 14, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goat, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Federal Building Room 737, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8322.

SUPPLEMENTARY INFORMATION: These amendments quarantine a portion of Fresno County in California because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas, contained in 9 CFR Part 73, as amended, apply to the quarantined area.

Also, these amendments release portions of San Luis Obispo County, California; a portion of Fresno County, California; and a portion of Johnson County, Kansas; from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas, contained in 9 CFR Part 73, as amended, no longer apply to these released areas. However, the restrictions pertaining to the interstate movement of cattle from nonquarantined areas, contained in said Part 73 will apply to those areas of the counties released from quarantine.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, is hereby amended in the following respects:

1. In § 73.1a, in paragraph (c), relating to the State of California, a new paragraph (c)(2) is added to read:

§ 73.1a Notice of quarantine.

* * * * *

(c) * * *

(2) The premises of Calvin Sample, Sanger, Fresno County, California, Secs. 4, 5, and 8, T. 13 S., R. 23 E.

* * * * *

2. In § 73.1a, paragraphs (c)(2), (c)(4), (c)(5), and (c)(7) relating to the State of California; and paragraph (d)(6) relating to the State of Kansas are deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendments quarantining the area impose certain further restrictions necessary to prevent the interstate spread of cattle scabies from such area and must be made effective immediately to accomplish their purpose in the public interest.

The amendments releasing areas from quarantine relieve restrictions no longer deemed necessary to prevent the spread of cattle scabies from such free areas, and should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions. 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 in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are contrary to the public interest, and good cause is found for making them effective on or before April 23, 1979.

Done at Washington, D.C., this 14th day of March 1979.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044 and Secretary's Memorandum 1955. It has been determined by J. K. Atwell, Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of the quarantine and release of quarantine, as indicated above, warrants the publication of this document without waiting for public comment. These amendments to the regulations covering cattle scabies will be scheduled for review under provisions of E.O. 12044 and Secretary's Memorandum 1955. The review will include preparation of an Impact Analysis Statement which will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8695.

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

[FR Doc. 79-8367 Filed 3-22-79; 8:45 am]

[3410-34-M]

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this amendment is to quarantine an additional portion of Riverside County in California, an additional portion of Los Angeles County in California, and a portion of Clark County in Nevada because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such areas on March 12, 1979. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine additional portions of Riverside County and Los Angeles County in California, and a portion of Clark County in Nevada.

EFFECTIVE DATE: March 16, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. M. A. Mixson, USDA, APHIS, VS, Federal Building, Room 748, Hyattsville, Maryland 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: This amendment quarantines additional portions of Riverside County and Los Angeles County in California, and a portion of Clark County in Nevada, because of the existence of exotic Newcastle disease in such areas. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah, and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 82.3(a)(1), relating to the State of California, a new paragraph

(x) relating to Riverside County, and a new paragraph (xi) relating to Los Angeles County are added to read as set forth below and the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Nevada and a new paragraph (a)(3) relating to the State of Nevada is added to read:

§ 82.3 Exotic Newcastle disease; and psittacosis or ornithosis in poultry.

(a) * * *

(1) *California.*

* * * * *

(x) The premises of the Fleming Bird Farm, 5881 Peach Street, Pedley, Riverside County.

(xi) The premises of the Teller Bird Farm, 12102 Gurley Avenue, Downey, Los Angeles County.

* * * * *

(3) *Nevada.* The premises of Birds of the World, 4601 Sahara Boulevard, Las Vegas, Clark County.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, from the quarantined areas, and, therefore, must be made effective immediately to accomplish its purpose in the public interest. 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 in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and contrary to the public interest, and good cause is found for making the amendment effective on or before April 23, 1979.

Done at Washington, D.C., this 16th day of March 1979.

NOTE.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044 and Secretary's Memorandum 1955. It has been determined by M. A. Mixson, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the possibility of the spread of exotic Newcastle disease into other States or Territories of the United States from the quarantined areas is severe enough to constitute an emergency which warrants the publication of this quarantine without waiting for public comment. This amendment, as well as the complete regulations, will be scheduled for review under provisions of E.O. 12044 and Secretary's Memorandum 1955. The review will include preparation of an Impact Analysis Statement which will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782, 301-436-8695.

PIERRE A. CHALOUX, V.M.D.,
Deputy Administrator,
Veterinary Services.

[FR Doc. 79-8580 Filed 3-22-79; 8:45 am]

[3410-34-M]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. H. L. Arnold, USDA, APHIS, VS, Federal Building, Room 867, Hyattsville, MD 20782, 301-436-8684.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1978 ed.), as amended May 5, 1978 (43 FR 19350), and October 31, 1978 (43 FR 50672), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are hereby amended by adding to the respective lists therein as follows:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

WITHIN METROPOLITAN AREA

ONE HOUR

Add: Ames, Iowa.
Add: Anchorage, Alaska.

* * * * *

OUTSIDE METROPOLITAN AREA

ONE HOUR

Add: Brownsville and Brownsville International Airport, Texas (served from Harlingen and San Benito, Texas).

TWO HOURS

Add: Hidalgo, Texas (served from Edinburg, Mission and McAllen, Texas).
Add: Hidalgo, Texas (served from Rio Grande City, Texas).

THREE HOURS

Add: Brownsville and Brownsville International Airport, Texas (served from Edinburg, McAllen and Mission, Texas).
Add: Hidalgo, Texas (served from Harlingen and San Benito, Texas).

FOUR HOURS

Add: Laredo, Texas (served from Rio Grande City, Texas).

FIVE HOURS

Delete: Brownsville, Texas (served from Laredo and San Antonio, Texas).
Delete: Laredo, Texas (served from Brownsville and San Antonio, Texas).

SIX HOURS

Add: Brownsville and Brownsville International Airport, Texas (served from Laredo, Kenedy and San Antonio, Texas).
Add: Hidalgo, Texas (served from Kenedy, Laredo, and San Antonio, Texas).
Add: Laredo, Texas (served from Brownsville, Edinburg, Harlingen, McAllen, Mission, San Antonio, and San Benito, Texas).

(64 Stat. 561 (7 U.S.C. 2260).)

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest and good cause is found for making them effective on or before April 23, 1979.

Done at Washington, D.C., this 13th day of March 1979.

Note.—This final rulemaking is being published under emergency procedures as authorized by E.O. 12044 and Secretary's Memorandum No. 1955. It has been determined by Dr. G. V. Peacock, Director, National Program Planning Staffs, Veterinary Services, Animal and Plant Health Inspection Service, that the emergency nature of these commuted traveltime allowances warrant the publication of this rule without waiting for public comment. This amendment as well as the complete regulation, will be scheduled for review under provisions of E.O. 12044 and Secretary's Memorandum No. 1955. The review will include preparation of an Impact Analysis Statement which will be available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

M. T. GOFF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 79-8366 Filed 3-22-79; 8:45 am]

[6320-01-M]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATIONAL REGULATION

[Regulation OR-149; Amdt. No. 82]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION NONHEARING MATTERS

Chief, Legal Analysis Division, Bureau of Pricing and Domestic Aviation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. March 19, 1979.

AGENCY: Civil Aeronautics Board.

ACTION: Editorial Amendment.

SUMMARY: This amendment clarifies the Board's intent to continue the delegated authority of the Chief of the Legal Analysis Division of the Bureau of Pricing and Domestic Aviation to approve changes in the wording of airlines' notices to passengers about denied boarding compensation.

DATES: Effective: April 22, 1979. Adopted: March 19, 1979.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: In revising its oversales regulations (ER-1050, 43 FR 24277, June 5, 1978), the Board moved the text of the notice required to be given to passengers from the tariff rules at 14 CFR 221.177(d) to 14 CFR Part 250, *Oversales.* Before that action, the Chief of the Legal Division, Bureau of Fares and Rates (now Chief of the Legal Analysis Division, Bureau of Pricing and Domestic Aviation) had delegated authority to approve changes in the wording of the notice. When ER-1050 was issued, a conforming change in the Board's delegations of authority was inadvertently omitted. This amendment makes that change.

This editorial amendment is issued under the authority delegated by the CAB to its General Counsel in 14 CFR 385.19. Procedures for review of this amendment are found in Subpart C of Part 385 of the Board's Organization Regulations (14 CFR 385.50-385.54).

Accordingly, the Board amends Part 385 of its Organization Regulations (14 CFR Part 385) as follows:

In § 385.16a, paragraph (b) is amended to read:

§ 385.16a Delegation to the Assistant Director, Legal Analysis Division, Bureau of Pricing and Domestic Aviation.

The Board delegates to the Assistant Director, Legal Analysis Division, Bureau of Pricing and Domestic Aviation, the authority to:

* * * * *

(b) Grant or deny applications for relief under § 250.11 of this chapter.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board:

PHILIP J. BAKES,
General Counsel.

[FR Doc. 79-8987 Filed 3-22-79; 8:45 am]

[4810-22-M]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

PART 159—LIQUIDATION OF DUTIES

Certain Fasteners From Japan, Suspension of Liquidation and Estimated New Net Amount of Bounty or Grant

AGENCY: United States Customs Service, Treasury Department.

ACTION: Suspension of Liquidation and Estimated New Net Amount of Bounty or Grant.

SUMMARY: This notice is to advise the public that a new net amount of the bounty or grant bestowed is being estimated with respect to certain industrial fasteners from Japan and that liquidation is being suspended. This action is the result of a determination by the Department of the Treasury that additional benefits which are considered bounties or grants under the countervailing duty law are bestowed upon the manufacture, production or exportation of certain Japanese industrial fasteners.

EFFECTIVE DATE: April 9, 1979.

FOR FURTHER INFORMATION CONTACT:

Donald W. Eiss, Office of Tariff Affairs, U.S. Treasury Department, 15th Street and Pennsylvania Avenue NW., Washington, D.C. 20220 (202-566-8256).

SUPPLEMENTARY INFORMATION: On May 6, 1977, a Countervailing Duty Order was published in the FEDERAL REGISTER with respect to certain industrial fasteners from Japan (T.D. 77-128, 41 FR 23146). As a result of that order, which applied to nuts and bolts entering the United States under item numbers 646.54 and 646.56 of the Tariff Schedules of the United States (TSUS), a countervailing duty of 0.2 percent *ad valorem* was imposed. The programs found to constitute the bestowal of a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act"), were: (1) the deferral of income taxes on export earnings under the Overseas Market Development Reserve (OMDR) and (2) export promotional assistance provided by the Japanese External Trade Organization (JETRO).

It has now been determined by the Treasury Department that the Japanese industrial fastener industry is eligible for, and, in fact, receives, additional benefits which would be considered "bounty or grants" under section 303 of the Act. The program in question was established under the "Temporary Measures Act for Small and Midsize Businesses With Regard to the High Yen Exchange Market" and has been in operation since October 1977. This program established a number of methods by which the Government of Japan can provide assistance to small and midsize Japanese firms which export and whose competitiveness has been adversely affected by the rapid appreciation of the yen. Assistance is provided in form of: (1) low cost loans; (2) the right to carry back current losses related to yen appreciation up to 3 years to offset income, corporate and local taxes paid in prior years; and (3) special government credit guarantees for

firms affected by yen appreciation over and above those otherwise offered to small and midsize businesses.

In light of the eligibility criteria, which limit utilization of the program to firms which export, this program clearly would constitute the bestowal of a bounty or grant within the meaning of the Act. Information was requested from the Government of Japan regarding the degree of utilization of these various forms of assistance. Based upon the information supplied it is apparent that the fastener industry has utilized at least some forms of the assistance; however, the data supplied was inadequate to allow a precise calculation of the benefits bestowed or identify the extent of utilization of the program by individual Japanese fastener manufacturer/exporters.

Accordingly, notice is hereby given that certain fasteners covered under TSUS item numbers 646.54 and 646.56 and covered under Treasury Decision 77-128 are benefiting from additional bounties or grants within the meaning of section 303 of the Act. The aggregate estimated benefit to exports of certain fasteners is 4 percent *ad valorem*. This estimate has been made in the absence of information regarding benefits specifically conferred on manufacturers producing these fasteners. It is at this time expected that the Government of Japan is collecting such data as will be necessary to more accurately ascertain the net amount of bounty or grant.

Accordingly, in accordance with section 303 of the Act, the net amount of the bounty or grant paid or bestowed, directly or indirectly, upon the manufacture, production or exportation of certain fasteners from Japan has been estimated to be 4 percent *ad valorem*. Effective on April 9, 1979 and until further notice, such fasteners, imported directly or indirectly from Japan, which benefit from bounties or grants and which are entered, or withdrawn from warehouse, for consumption on or after April 9, 1979, shall be subject, in addition to any other duties determined or estimated to be due, to payment of countervailing duties in the amount estimated above. Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of such fasteners.

In light of the apparent efforts by the Government of Japan to collect such data as will be necessary to more accurately ascertain the net amount of bounty or grant and in order to permit a determination of the extent to which the program has been utilized, it has been deemed appropriate to suspend liquidation of entries pending receipt of such information and further declaration of the net amount of bounty or grant. Accordingly, the liquidation of all entries, or withdrawals from warehouse, for consumption of certain fasteners which enter the U.S. under TSUS items 646.54 and 646.56, imported directly or indirectly from Japan, shall be suspended as of April 9, 1979. A deposit of estimated countervailing duty shall be required at the time of entry, or withdrawal from warehouse, for consumption. If a manufacturer/exporter can certify to the District Director of Customs, with written confirmation by the Government of Japan, that it is either not eligible for, or has not utilized any of the benefits under the high yen measures program, the deposit of an estimated duty of 0.2 percent, rather than 4 percent will be required.

The table is § 159.47(f) of the Customs Regulation (19 CFR 159.47(f)) is amended by inserting after the last entry for Japan under the Commodity reading "Certain Fasteners" the number of this Treasury Decision in the column headed "Treasury Decision" and the words "Estimated New Rate" in the column headed "Action."

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, and the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and § 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the amendment of a countervailing duty determination by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

MARCH 19, 1979.

[FR Doc. 79-8921 Filed 3-22-79; 8:45 am]

[4110-07-M]

Title 20—Employee's Benefits

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

[Reg. No. 4, 16]

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

Subpart P—Rights and Benefits Based on Disability

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—Determination of Disability or Blindness

SUBSTANTIAL GAINFUL ACTIVITY GUIDELINES FOR 1978 AND 1979

AGENCY: Social Security Administration, HEW.

ACTION: Interim Regulations.

SUMMARY: The interim regulations increase the money amounts used as guidelines to determine whether persons with impairments other than blindness are able to do substantial gainful activity. For calendar year 1978, we are increasing the amount at the upper level from $240 per month to $260 per month and at the lower level from $160 to $170 per month. For calendar years 1979 and later, we are increasing the upper level from $260 to $280 per month and the lower level from $170 to $180 per month. These increases reflect general increases in average earning levels of workers in the national labor market. Under the new guidelines, we will ordinarily consider a person's monthly earnings from work activity averaging more than the upper level amount as showing that he or she has the ability to do substantial gainful activity. Similarly, we will ordinarily consider an employee's monthly earnings from work activity averaging less than the lower level amount as showing that he or she does not have the ability to do substantial gainful activity.

DATES: The regulations will be effective on an interim basis starting March 23, 1979. We must receive your comments no later than (insert 60th day after publication) to consider them in establishing the final rule.

ADDRESSES: Send your written comments to: Social Security Administration, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Maryland 21203.

Copies of all comments we receive can be seen at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

James MacDonald, Office of Policy

and Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-7341.

SUPPLEMENTARY INFORMATION: The interim regulations increase the earnings guidelines we use to evaluate the work activity of claimants and beneficiaries with impairments other than blindness under titles II and XVI of the Social Security Act. We use these guidelines to determine whether an individual has the ability to do substantial gainful activity (SGA).

Under the increased guideline amounts, we will consider a person's earnings from work activity averaging more than $260 a month in calendar year 1978 (over $280 a month effective calendar year 1979) as showing that he or she is able to do SGA, unless there is other evidence that the person is not able to do SGA. The present dollar amounts at the upper level of the guidelines for calendar years before 1978 contained in §§ 404.1534(b)(1) and 416.934(b)(1) will continue to be applied in evaluating earnings for those periods.

Under the increased guideline amounts, we will consider an employee's earnings from work activity averaging less than $170 a month in calendar year 1978 (less than $180 a month effective calendar year 1979) as showing he or she is not able to do SGA, unless there is other evidence to the contrary. The present dollar amounts at the lower level of the guidelines for calendar years before 1978 contained in §§ 404.1534(b)(2) and 416.934(b)(2) will continue to be applied in evaluating earnings for those periods.

Where a person's monthly earnings from work activity average between the upper and lower levels, inclusively, other circumstances concerning the person's work and medical restrictions will be evaluated together with the amount of earnings to determine whether he or she is able to do SGA.

The increased guideline amounts reflect the general rise in earnings levels of workers in the national economy. The new amounts also maintain the same relationship to earnings levels which has existed in the past. The 1978 upper guideline amount was determined by multiplying $240 (the 1977 upper guideline amount) by 1.069003 (the ratio of average taxable wages reported for the first quarter of 1976 to those reported for the first quarter of 1975). This produced the amount of $256.56, which was rounded to $260, the nearest multiple of $10. The 1978 lower guideline amount was determined by multiplying $160 (the 1977 lower guideline amount) by the same ratio. This produced the amount of $171.04, which was rounded to $170. Similarly, we determined the upper and lower guideline amounts for 1979 by multiplying the 1978 guideline amounts by 1.0599318 (the ratio of average taxable wages reported for the first quarter of 1977 to those reported for the first quarter of 1976) and rounding the result to the nearest $10. This produced the 1979 guideline amounts of $280 and $180, respectively.

We will use the new guideline amounts to determine whether work for 1978 and for 1979 and subsequent calendar years is substantial gainful activity. Any claim involving earnings for those years will be considered on the basis of the the increased guideline amounts. Any case in which disability benefits were denied or terminated on the basis of the present guideline amounts because of earnings in 1978 and 1979 will be reevaluated under the increased guideline amounts for 1978 and 1979, as appropriate.

To reflect the increased guideline amounts in the regulations, we are amending § 404.1534 applicable to the Federal Old-Age, Survivors and Disability Benefits program and § 416.934 applicable to the Supplemental Security Income program. In § 404.1534, we are revoking paragraphs (c) and (d) and incorporating the material in these paragraphs with paragraph (b). We are revising the heading of paragraph (e). In § 416.934, we are revoking paragraphs (c) and (d) and incorporating the material in these paragraphs with paragraph (b). We are revising the heading of paragraph (e).

We are publishing these rules as interim regulations because it would be impracticable and contrary to the public interest to publish them as a Notice of Proposed Rulemaking. The guidelines are for the past year (1978) and the current year (1979) and we must have current rules for evaluating earnings of disabled applicants and beneficiaries. The reference in the Notice of Decision to Develop Regulations, published November 3, 1978 (43 FR 51410) to "proposed regulations" was in error.

The interim regulations are to be issued under the authority in sections 205, 223, 1102, 1614, and 1631 of the Social Security Act; 53 Stat. 1368, as amended, 70 Stat. 815, as amended, 49 Stat 647, as amended, and 86 Stat. 1471, 1475, as amended; 42 U.S.C. 405, 423, 1302, 1382c, and 1383.

(Catalog of Federal Domestic Assistance Program Nos. 13802 Social Security-Disability Insurance; 13807 Supplemental Security Income.)

Dated: January 23, 1979.

STANFORD G. ROSS,
Commissioner of Social Security.

Approved: March 6, 1979.

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

Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Section 404.1534 is amended by revising paragraph (b), revoking and reserving paragraphs (c) and (d), and revising the heading of paragraph (e) to read as follows:

§ 404.1534 Evaluation of earnings from work.

* * * * *

(b) *Earnings guidelines.* Except for paragraph (f) of this section, we will use the following guidelines in paragraphs (b) (1), (2), and (3) of this section to determine whether a person's earnings show the ability to do substantial gainful activity.

(1) *Earnings that will ordinarily show that a person has done substantial gainful activity.* We will ordinarily consider that a person's earnings from work activity show that he or she has done substantial gainful activity if—

(i) Earnings averaged more than $200 a month in calendar years prior to 1976;

(ii) Earnings averaged more than $230 a month in calendar year 1976;

(iii) Earnings averaged more than $240 a month in calendar year 1977;

(iv) Earnings averaged more than $260 a month in calendar year 1978; or

(v) Earnings averaged more than $280 a month in calendar years after 1978; and

(vi) There is no evidence that the person was unable to do substantial gainful activity under the rules in §§ 404.1532 and 404.1533 and paragraph (a) of this section.

(2) *Earnings that will ordinarily show that a person has not done substantial gainful activity.* We will ordinarily consider that a person's earnings from work activity as an employee show that he or she has not done substantial gainful activity if—

(i) Earnings averaged less than $130 a month in calendar years prior to 1976;

(ii) Earnings averaged less than $150 a month in calendar year 1976;

(iii) Earnings averaged less than $160 a month in calendar year 1977;

(iv) Earnings averaged less than $170 a month in calendar year 1978; or

(v) Earnings averaged less than $180 a month in calendar years after 1978; and

(vi) There is no evidence that the person was able to do substantial gainful activity under the rules in §§ 404.1532 and 404.1533 and paragraph (a) of this section.

(3) *Earnings that are not high or low enough to show whether a person has done or has not done substantial gain-*

ful activity. If a person's earnings from work activity do not show whether he or she has done or has not done substantial gainful activity under paragraph (b)(1) or (b)(2) of this section, we will consider other information in addition to earnings. We will look at the circumstances surrounding the work activity (see §§ 404.1532 and 404.1533 and paragraph (a) of this section) together with the medical evidence of the impairment or impairments and other factors (see § 404.1502 about evaluating impairments). We will ordinarily consider the earnings of a person working in a sheltered workshop or comparable facility especially set up for severely impaired persons as showing he or she is not doing substantial gainful activity if—

(i) The work activity is restricted by his or her impairment; and

(ii) The average monthly earnings for the particular calendar year are not more than the dollar limits contained in paragraphs (b)(1)(i) through (b)(1)(v) of this section.

(c) [Reserved]

(d) [Reserved]

(e) *Persons who are self-employed.*

* * *

* * * * *

2. Section 416.934 is amended by revising paragraph (b), revoking and reserving paragraphs (c) and (d), and revising the heading of paragraph (e) to read as follows:

§ 416.934 Evaluation of earnings from work.

* * * * *

(b) *Earnings guidelines.* We will use the following guidelines in paragraphs (b) (1), (2), and (3) of this section to determine whether a person's earnings show the ability to do substantial gainful activity.

(1) *Earnings that will ordinarily show that a person has done substantial gainful activity.* We will ordinarily consider that a person's earnings from work activity show that he or she has done substantial gainful activity if—

(i) Earnings averaged more than $200 a month in calendar years prior to 1976;

(ii) Earnings averaged more than $230 a month in calendar year 1976;

(iii) Earnings average more than $240 a month in calendar year 1977;

(iv) Earnings averaged more than $260 a month in calendar year 1978; or

(v) Earnings averaged more than $280 a month in calendar years after 1978; and

(vi) There is no evidence that the person was unable to do substantial gainful activity under the rules in §§ 416.932 and 416.933 and paragraph (a) of this section.

(2) *Earnings that will ordinarily show that a person has not done substantial gainful activity.* We will ordinarily consider that a person's earnings from work activity as an employee show that he or she has not done substantial gainful activity if—

(i) Earnings averaged less than $130 a month in calendar years prior to 1976;

(ii) Earnings averaged less than $150 a month in calendar year 1976;

(iii) Earnings averaged less than $160 a month in calendar year 1977;

(iv) Earnings averaged less than $170 a month in calendar year 1978; or

(v) Earnings averaged less than $180 a month in calendar years after 1978; and

(vi) There is no evidence that the person was able to do substantial gainful activity under the rules in §§ 416.932 and 416.933 and paragraph (a) of this section.

(3) *Earnings that are not high or low enough to show whether a person has done or has not done substantial gainful activity.* If a person's earnings from work activity do not show whether he or she has done or has not done substantial gainful activity under paragraph (b)(1) or (b)(2) of this section, we will consider other information in addition to earnings. We will look at the circumstances surrounding the work activity (see §§ 416.932 and 416.933 and paragraph (a) of this section) together with the medical evidence of the impairment or impairments and other factors (see § 416.902 about evaluating impairments). We will ordinarily consider the earnings of a person working in a sheltered workshop or comparable facility especially set up for severely impaired persons as showing he or she is not doing substantial gainful activity if—

(i) The work activity is restricted by his or her impairment; and

(ii) The average monthly earnings for the particular calendar year are not more than the dollar limits contained in paragraphs (b)(1)(i) through (b)(1)(v) of this section.

(c) [Reserved]

(d) [Reserved]

(e) *Persons who are self-employed.*

* * *

* * * * *

[FR Doc. 79-8087 Filed 3-22-79; 8:45 am]

[4510-27-M]

Title 20—Employee Benefits

CHAPTER VI—EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER A—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

PART 702—ADMINISTRATION AND PROCEDURES

OFFICE OF WORKERS' COMPENSATION PROGRAMS; LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION

Transfer of Districts

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The area and states formerly served by the Longshoremen's and Harbor Workers' Compensation Act District Office in Cleveland, Ohio are transferred to the Chicago District Office. This action is taken to better serve the public and provide improved administration of the Longshoremen's and Harbor Workers' Compensation Act.

DATE: This amendment shall be effective April 2, 1979.

FOR FURTHER INFORMATION CONTACT:

John E. Stocker, Associate Director for Longshore and Harbor Workers' Compensation, U.S. Department of Labor, Washington, D.C. 20210 (202) 523-8721.

SUPPLEMENTARY INFORMATION: This document changes compensation districts under § 702.101 of Part 702, Title 20 of the Code of Federal Regulations, establishing compensation districts pursuant to section 39(b) of the Longshoremen's and Harbor Workers' Compensation Act and its extensions.

The boundaries of existing district 10 are revised as follows: the States of Indiana, Michigan and Ohio are transferred from the heretofore existing district 9, with headquarters in Cleveland, Ohio, to the jurisdiction of district 10. All functions performed in district 9 are hereby transferred to district 10. Chicago remains the headquarters city of district 10. As of this date, district 10 is comprised of the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin.

The regulations at 20 CFR 704.101, 704.201, 704.301 and 704.401 are unchanged by this amendment.

Accordingly, Part 702 is amended as follows:

Section 702.101 is amended to show elimination of district 9 from the list as follows:

§ 702.101 Establishment of compensation districts.

Pursuant to section 39(b) of the Longshoremen's and Harbor Workers' Compensation Act, the following compensation districts have been established:

* * * * *

District No. 8. Comprises the States of Texas, Oklahoma, and New Mexico, with headquarters in Houston, Texas. District No. 10. Comprises the States of Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin, with headquarters at Chicago, Illinois.

* * * * *

Signed at Washington, D.C. the 14th day of March 1979.

DONALD ELISBURG,
Assistant Secretary of Labor.

[FR Doc. 79-8990 Filed 3-22-79; 8:45 am]

[4110-03-M]

Title 21—Food and Drugs

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

SUBCHAPTER F—BIOLOGICS

ZIP CODE CHANGE

AGENCY: Food and Drug Administration.

ACTION: Editorial amendments.

SUMMARY: The agency is amending 21 CFR Subchapter F (Parts 600 through 680) to change the zip code number.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Albert Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: The zip code for the Bureau of Biologics has been changed. Because the zip code appears throughout the biologics regulations in 21 CFR Subchapter F, the agency is amending the Code of Federal Regulations in 21 CFR Parts 600 through 680 to reflect this change.

Accordingly, Title 21, Chapter I, of the Code of Federal Regulations is amended in Subchapter F, Parts 600 through 680 by changing the zip code number "20014" wherever it appears, to read "20205."

Dated: March 16, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-8618 Filed 3-22-79; 8:45 am]

[4110-03-M]

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

[Docket No. 76N-0400]

NONCLINICAL LABORATORY STUDIES

Good Laboratory Practice Regulations; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: In FR Doc. 78-35272 appearing at page 59986 in the FEDERAL REGISTER of Friday, December 22, 1978, the corrections set forth below are made.

FOR FURTHER INFORMATION CONTACT:

Paul D. Lepore, Bureau of Veterinary Medicine (HFV-102), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md., 301-443-4313.

CORRECTIONS

1. On page 59996, paragraph 71 of the preamble is corrected in the 3rd line by changing "responses to" read "responses of."

2. On page 59998, in the right column, paragraph 91 of the preamble is corrected in the 9th and 10th lines by changing "Although the Commissioner is deleting the requirement" to read "Accordingly, the Commissioner is requiring."

3. On page 60008, paragraph 196 of the preamble is corrected by changing "§ 58.185(a)(12)" to read "§ 58.185 (a)(10)."

4. On page 60009, paragraph 207 of the preamble is corrected in the 17th line by changing "marketed-sense" to read "mark-sense."

5. In Part 58, § 58.33 *Study director* is corrected in paragraph (b) by changing "responses to" to read "responses of."

6. In Part 601, § 601.2 *Application for establishment and product licenses; procedures for filing* is corrected in paragraph (a) by adding before the last sentence the sentence "The applicant shall also include an environmental impact analysis report analyzing the environmental impact of the manufacturing process and the ultimate use or consumption of the biological product pursuant to § 25.1 of this chapter."

7. On page 60024, amendment 18b is corrected to read as follows:

b. In § 1010.5, by revising the introductory text of paragraph (c) and by adding new paragraph (c)(13) to read as follows:

§ 1010.5 Exemptions for products intended for United States Government use.

* * * * *

(c) *Application for exemption.* An application for exemption, or for amendment or extension thereof, shall be submitted in quintuplicate to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857. For an exemption pursuant to the criteria prescribed in paragraph (a)(1) of this section, the application shall include the information prescribed in paragraph (c)(1) through (13) of this section. For an exemption pursuant to the criteria prescribed in paragraph (a)(2) of this section, the application shall include the information prescribed in paragraph (c)(3) through (13) of this section. An application for exemption, or for amendment or extension thereof, and correspondence relating to such application shall be made available for public disclosure in the office of the Hearing Clerk, except for confidential or proprietary information submitted in accordance with Part 4 of this chapter. Information classified for reasons of national security shall not be included in the application. Except as indicated above, the application for exemption shall include the following:

* * * * *

(13) With respect to each nonclinical study contained in the application, either a statement that the study was conducted in compliance with the good laboratory practice regulations set forth in Part 58 of this chapter, or, if the study was not conducted in compliance with such regulations, a statement that describes in detail all differences between the practices used in the study and those required in the regulations.

* * * * *

FOR FURTHER INFORMATION CONTACT:

Paul D. Lepore, Bureau of Veterinary Medicine (HFV-102), Food and Drug Administration, Department of

Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD., 301-443-4313.

Dated: March 19, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-9094 Filed 3-22-79; 8:45 am]

[4110-03-M]

SUBCHAPTER A—GENERAL

SUBCHAPTER F—BIOLOGICS

EDITORIAL AMENDMENTS

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: The Food and Drug Administration is making three editorial amendments to its regulations contained in Parts 74, 80, and 640.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

John Richards, Federal Register Writer (HFC-11), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: The agency is amending the Code of Federal Regulations in Parts 74, 80, and 640 as follows:

1. In Part 74, § 74.705 *FD&C Yellow No. 5* is amended in paragraph (b) in its list of specifications by changing in the 3d item "0.2 percent" to read "0.1 percent."

2. In Part 80, § 80.21 *Request for certification* is amended in paragraph (j)(1) by changing "Batch weighs" to read "Batch weights."

3. In Part 640, § 640.33 *Testing the blood* is amended in paragraph (a) by changing "§ 640.5(a), (b), and (e)" to read "§ 640.5(a), (b), and (c)."

Effective date: March 23, 1979.

Dated: March 19, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-8997 Filed 3-22-79; 8:45 am]

[6560-01-M]

[FRL 1080-8; FAP 6H5126/R45]

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 193—TOLERANCES FOR PESTICIDES IN FOOD ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER E—ANIMAL FEEDS, DRUGS, AND RELATED PRODUCTS

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

Glyphosate

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

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the herbicide glyphosate in sugarcane molasses. The regulations were requested by Monsanto Co. This rule establishes maximum permissible levels for residues of glyphosate in sugarcane molasses.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-7013).

SUPPLEMENTARY INFORMATION: On December 5, 1978, the EPA published in the FEDERAL REGISTER (43 FR 57005) a notice of proposed rulemaking to amend 21 CFR 193.235 and 561.253 by establishing regulations permitting combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on sugarcane molasses resulting from the application of the herbicide to growing sugarcane with a tolerance limitation of 2 parts per million (ppm). This notice was published in connection with a petition (FAP 6H5126) submitted by Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166. (A related document establishing a tolerance for residues of glyphosate on sugarcane appears elsewhere in today's FEDERAL REGISTER.) No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

For purposes of clarification, the Agency has determined that the regulations should specify that the residues result from the herbicide application of the isopropylamine salt of glyphosate.

The data submitted in the petition and other relevant material have been evaluated, and it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). Therefore, the regulations are being established.

Any person adversely affected by this regulation may, on or before April 23, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW, Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on March 23, 1979, 21 CFR 193 and 561 are amended as set forth below.

(Section 409(c)(1) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 348(c)(1)].)

Dated: February 24, 1979.

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

1. Part 193, Subpart A, § 193.235, is amended by revising paragraph (e) to read as follows:

§ 193.235 Glyphosate.

* * * * *

(e) Tolerances are established for combined residues of glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in the following processed foods when present therein as a result of herbicide application of the isopropylamine salt of glyphosate in palm tree culture and to growing sugarcane:

2 parts per million in sugarcane molasses.

0.1 part per million in palm oil.

2. Part 561, § 561.253, is amended by revising paragraph (f) to read as follows:

§ 561.253 Glyphosate.

* * * * *

(f) Tolerances are established for combined residues of glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the following processed feeds when present therein as a result

of herbicide application of the isopropylamine salt of glyphosate to growing crops:

Feed	Parts per million
Citrus pulp, dried	0.4
Soybean hulls	20
Sugarcane molasses	2

[FR Doc. 79-8977 Filed 3-22-79; 8:45 am]

[4710-06-M]

Title 22—Foreign Relations

CHAPTER 1—DEPARTMENT OF STATE

[Dept. Reg. 108.766]

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Exchange Visitors

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: Department regulations are amended to require exchange visitors, coming to the United States for the purpose of receiving graduate medical education or training, to meet the requirements of the Immigration and Nationality Act.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Cornelius D. Scully III, 202-632-1980.

SUPPLEMENTARY INFORMATION: Pub. L. 94-484 and Pub. L. 95-83 amended Sections 101(a)(15)(J), 212(e) and 212(J) of the Immigration and Nationality Act, as amended, to provide special requirements for exchange visitors coming to the United States to participate in programs under which they will receive graduate medical education and training. As amended by these two laws Section 101(a)(15)(J) now requires exchange visitors coming to the United States for the purpose of receiving graduate medical education or training to meet the requirements of section 212(J) prior to visa issuance. Section 212(J) as added to the Act requires that; a medical school must have agreed in writing to provide an exchange visitor graduate medical education or training under the program for which the alien is coming to the United States or to arrange for the provision thereof; the alien must have passed Parts I and II of the National Board of Medical Examiners Examination or an equivalent and have demonstrated competency in oral and written English; the alien must have made a commitment to return to the country of nationality or last residence upon completion of the training; the government of the alien's country of nationality or last residence must have provided a satisfactory written assurance that there is a need in that country for persons with the skills being acquired by the alien; and, except in certain limited circumstances, the duration of the alien's program must be limited to not more than two years.

In addition, Section 212(e), as amended, provides that all exchange visitors who acquire graduate medical education or training in the United States are subject to the two year residency requirement in their country of nationality or last residence before they may apply for an immigrant visa, or for permanent residence or for nonimmigrant visas under sections 101(a)(15)(H) or (L). As further amended, section 212(e) makes it impossible for such exchange visitors to obtain a waiver of the two year residence requirement on the basis of a "no objection" statement from the government of their nationality or last residence.

Since the amendments herein are made in conformity with those laws, compliance with section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance. The provisions of these amendments are issued under the authority contained in Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104).

In § 41.65, paragraph (a)(3) is revised, a new paragraph (a)(4) is added and the present paragraph (a)(4) is redesignated as paragraph (a)(5) without changes. Also, paragraph (b) is amended by substituting the period at the end of subparagraph (1)(ii) with "; or " and by adding subparagraph (1)(iii).

§ 41.65 Exchange Visitors.

(a) * * *

(3) He has sufficient knowledge of the English language to enable him to undertake the program for which he has been selected, or, except for an alien coming to participate in a program under which he will receive graduate medical education or training, the organization sponsoring him is aware of his deficiency in this respect and has indicated its willingness to accept him regardless of that deficiency;

(4) He meets the requirements of section 212(j) of the Immigration and Nationality Act, as amended, if coming to participate in a program under which he will receive graduate medical education or training; or that,

(5) The alien is the spouse or minor child of such an exchange-visitor program participant.

(b) * * *

(ii) * * *; or

(iii) He acquires exchange visitor status in order to receive graduate medical education or training in the United States.

* * * * *

For the Secretary of State.

Dated: February 9, 1979.

BARBARA M. WATSON,
Assistant Secretary for Consular Affairs.

[FR Doc. 79-8917 Filed 3-22-79; 8:45 am]

[4710-06-M]

[Dept. Reg. 108.767]

PART 42—DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Application for Immigrant Visa

AGENCY: Department of State.

ACTION: Final Rule.

SUMMARY: Title 22 CFR 42.111(e) is amended to require that color photographs, where available, be furnished with an alien's application for an immigrant visa.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Gerald M. Brown, Chief, Regulations and Legislation Division, Visa Services, Bureau of Consular Affairs, Department of State, Washington, D. C. 20520. (202) 632-1900.

SUPPLEMENTARY INFORMATION: This amendment is to support the Immigration and Naturalization Service's requirement that a color photograph be attached to the new Form I-551 ADIT (Alien Documentation Identification and Telecommunications) Alien Registration Receipt Card, which is processed for arriving immigrants by INS at ports of entry. By requiring that color photographs be furnished at the time of visa application for both the alien's visa and his Form I-551, the Service and the alien are spared the necessity of having new photographs taken when the alien applies for admission. Accordingly, compliance with section 553 of Title 5 of the United States Code as to notice of proposed rulemaking and delayed effective date is unnecessary in this instance because the amendment to § 42.111(e) is an internal administra-

tive change having no adverse effect upon the public.

Paragraph (e) of § 42.111 is amended to read:

§ 42.111 Supporting documents.

* * * * *

(e) *Photographs.* Each alien shall furnish color photographs with his or her application for an immigrant visa, the number and specifications of which are as prescribed by the Department, except that, in countries where facilities for producing color photographs are unavailable as determined by the consular officer, black and white photographs may be furnished.

AUTHORITY: This amendment is issued pursuant to the authority contained in section 104 of the Immigration and Nationality Act (Sec. 104, 66 Stat; 8 U.S.C. 1104).

Dated: March 7, 1979.

BARBARA M. WATSON,
Assistant Secretary for Consular Affairs.

[FR Doc. 79-8919 Filed 3-22-79; 8:45 am]

[4710-06-M]

[Dept. Reg. 108.765]

PART 42—DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

Refusal and Revocation of Immigrant Visas

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department's regulations establishing procedures for refusals of immigrant visas and for review of such refusals, are amended to (1) eliminate the authority to defer, in certain cases, review of the refusal for up to 120 days, and provide for a more timely review, and (2) provide that payment of a new visa application fee is not required if the basis for the refusal is overcome within one year, rather than within 120 days, as has previously been the case.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Cornelius D. Scully III, Visa Services Director, Bureau of Consular Affairs, Department of State, Washington, D.C. 20520. 202-632-1980.

SUPPLEMENTARY INFORMATION: The previous regulations (promulgated in 1963) authorized deferral of review of an immigrant visa refusal in cases in which the basis for refusal could be overcome by further action on the part of the applicant. Experience indicated that, in many such cases, the applicant took the necessary action within a 120-day period and, thus, this period was adopted as the maximum permissible deferral period. At the time, it was believed that immediate review of refusals of this kind was a waste of time since many would be overcome within a short time in any event.

The Department has now reconsidered this subject and has concluded that the authority to defer review of a refusal carries with it the risk that the refusals may not be reviewed at all in many cases.

The amended regulations provide that a review shall be made in these cases without delay. The Department intends this to mean that the review will be made on the same day of the refusal or as soon as administratively possible after refusal. It is also intended that this review procedure will apply to any subsequent refusal by a consular officer after presentation by an applicant of new or additional evidence to overcome a prior refusal. Elimination of the authority to defer review or refusals in any case may have the effect of increasing the work of consular officers in supervisory positions, but the Department believes that this review is of sufficient substantive importance to outweigh administrative considerations of this kind.

The proposal to extend to one year the period during which a refusal may be overcome without payment of a new application fee is a part of a series of measures designed to standardize various time limits involved in immigrant visa processing so that all time limits are standardized at one year. These measures derive from the amendment of section 203(e) of the Act by Public Law 95-471 which established a requirement that an immigrant visa applicant make formal application for an immigrant visa within one year following notification that an immigrant visa had become available for his use.

In light of the foregoing it is found that compliance with the notice of proposed rulemaking and public participation procedure is unnecessary in this instance because the amendments confer a benefit upon a visa applicant.

§ 42.130 [Amended]

Section 42.130 is amended as follows:

1. In paragraph (a), fifth sentence, and paragraph (d) the words "120 days" are changed to read "one year".

2. Paragraph (b), as amended by deletion of part of the first sentence and the entire second sentence, reads:

* * * * *

(b) *Review of refusals at consular offices.* The principal consular officer at a post, or an alternate whom he may specifically designate, shall review without delay the case of each applicant who has been refused a visa and shall record his decision over his signature and the date on a form prescribed by the Department. If the principal consular officer, or his alternate, does not concur in the refusal, he shall (1) refer the case to the Department for an advisory opinion, or (2) assume responsibility for the case himself.

* * * * *

AUTHORITY: These amendments are issued pursuant to the authority contained in Section 104 of the Immigration and Nationality Act (8 U.S.C. 1104).

Dated: February 24, 1979

For the Secretary of State.

BARBARA M. WATSON,
Assistant Secretary for Consular Affairs.

[FR Doc. 79-8918 Filed 3-22-79; 8:45 am]

[4210-01-M]

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI 5297]

PART 1914—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box

34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, DC 20410. (202) 755-5581 or Toll Free Line 800-424-8872.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), administered by the Federal Insurance Administration, enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administration has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 1914.6 is amended by adding in alphabetical sequence new entries to the table.

§ 1914.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Pennsylvania	Northampton	West Easton, borough of	420733-B	July 9, 1973, emergency, Mar. 1, 1979, regular, Mar. 1, 1979, suspended, Mar. 9, 1979, reinstated.	Dec. 28, 1973 and June 18, 1976.
Do	Delaware	Middletown, township of	420422-B	Dec. 1, 1972, emergency, Feb. 15, 1979, regular, Feb. 15, 1979, suspended, Mar. 12, 1979, reinstated.	Apr. 12, 1974 and May 28, 1976.
Nebraska	Nemaha	Unincorporated areas	310460	Mar. 8, 1979, emergency.	

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969) as amended 39 F.R. 2787, Jan. 24, 1974.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8742 Filed 3-22-79; 8:45 am]

[4210-01-M]

[Docket No. FI 5254]

PART 1915—IDENTIFICATION AND MAPPING OF SPECIAL HAZARD AREAS

List of Communities With Special Hazard Areas

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program (NFIP). The identification of such areas is to provide guidance to communities on the reduction of property losses, by the adoption of appropriate flood plain management, or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or April 23, 1979, whichever is later.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, requires the purchase of flood insurance as a condition of Federal financial assistance of insurable property if such assistance is:

(1) for acquisition and construction of buildings as defined in Part 1909 of Title 24 of the Code of Federal Regulations and

(2) for buildings located in a special flood hazard area identified by the

Secretary of Housing and Urban Development

For communities participating in the NFIP, (see the fifth column in the table for a community's program status), this requirement applies on the date listed in the eighth column. For communities not participating in the program, Section 202 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area effective one year from the hazard identification date (the date in the eighth column of the table).

This 30 day period before the map action becomes effective does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the FEDERAL REGISTER or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 1915 of Title 24 of the Code of Federal Regulations as authorized by the National Flood Insurance program (42 U.S.C. 4001-4128).

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table:

§ 1915.3 List of communities with special hazard areas (FHBM's in effect).

State	County	Community name and No. of panels	Community No. and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Florida	Lake	Town of Howey-In-The-Hills, 0001A.	120585	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	C. Fletcher Bishop, Jr., Mayor, P.O. Box 67, Howey-In-The-Hills, FL 32737, Phone: (904) 324-2290.
Illinois	Sangemon	City of Auburn, 0001A.	170944	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	Loren Boesdorfer, Mayor, 108 S. 5th Street, Auburn, IL 62615, Phone: (217) 438-6151.
	Edgar	Edgar County,[1] 0001A-0006A.	170985	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	Max Carrington, Ch. Co. Bd., R.R. #5, Paris, IL 61944, Phone: (217) 465-5102.
	Marshall	Marshall County,[1] 0001A-0006A.	170994	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	Joe Monier, Ch. Co. Bd., RFD, Sparland, IL 61565, Phone: (309) 469-4632.
	Macon	Village of Mount Zion, 0001A.	170962	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	J. A. Larson, V. Pres., 400 Main Street, Mount Zion, IL 62549, Phone: (217) 864-2211.
Michigan	Ottawa	Township of Holland, 0001B-0002B.	260492	E-11, 12, 14.	I	F	Aug. 12, 1977	Mar. 2, 1979	Donald Nicewater, Attorney, P.O. Box 454, Grand Haven, MI 49417, Phone: (616) 842-3030.
Minnesota	Todd	City of Hewitt, 0001B.	270478	E-11, 12, 14.	I	F	Aug. 9, 1974 July 16, 1976	Mar. 2, 1979	Ronald Hamann, City Hall, Hewitt, MN 56453, Phone: (218) 924-4617.
North Carolina	Pamlico	Town of Minnesott Beach, 0001A.	370418	N-5	I	F	Mar. 2, 1979	Mar. 2, 1979	Ottis H. Peele, Mayor, Town Hall, Arapahoe, NC 28510, Phone: (919) 249-0048.
Ohio	Richland	City of Mansfield, 0001B-0003B.	390477	E-8, 11, 12, 14.	I	F	May. 17, 1974 Oct. 17, 1975	Mar. 2, 1979	Richard Porter, Mayor, 30 North Diamond, Mansfield, OH 44902, Phone: (419) 526-2600.
Wisconsin	Crawford	Village of Bell Center, 01.	550068B	E-11, 12, 14.	I	F	Jan. 9, 1974 Apr. 16, 1976	Mar. 2, 1979	Hallis Campbell, V. Pres., Village Hall, Bell Center, WI 54631, Phone: (608) 735-4796.
New Hampshire	Rockingham	Town of Kingston, 0001A-0002A.	330217A	N-11, 12	I	F	Jan. 17, 1975	Mar. 6, 1979	Mr. Ralph Southwick, Selectman, Board of Selectmen, Town Office, Kingston, NH 03848, (603) 642-3112.
Oregon	Unincorporated area	Benton County, 0001B-0010B.	410008B	E-8, 11, 12.	I	F	Dec. 27, 1974 Apr. 8, 1977	Mar. 6, 1979	Mr. Dale D. Schrock, Commissioner, Board of Commissioners, Benton County Courthouse, Corvallis, OR 97330, (503) 757-6800.
South Dakota	Brown	Town of Westport, 0001A.	460011A	E-5	I	F	Mar. 6, 1979	Mar. 6, 1979	Mr. Archie Clifford, Town President, Office of Town President, Westport, SD 57481, (605) 225-0250 Ext. 483.
Wyoming	Carbon	Town of Elk Mountain, 0001A.	560093A	E-5	I	F	Mar. 6, 1979	Mar. 6, 1979	Honorable Norman Palm, Mayor, P.O. Box 17, Elk Mountain, WY 82324, (307) 348-7771.
Alabama	Montgomery	City of Montgomery, 01-19.	010174C	E-8, 11, 12, 14.	I	F	June 28, 1974 Jan. 9, 1976 May 13, 1977	Mar. 9, 1979	Emory Folmar, Mayor, P.O. Box 1111, Montgomery, AL 36102, Phone: (205) 262-4421.

State	County	Community name and No. of panels	Community No. and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Illinois	Kendall	Village of Oswego, 0001B.	170345	E-8, 11, 12, 14.	I	F	Nov. 23, 1973 Oct. 31, 1975	Mar. 9, 1979	Milton Penn, V. Pres., 113 Main Street, Oswego, IL 60543, Phone: (312) 554-3618.
Indiana	Grant	Town of Jonesboro, 0001B.	180076	E-8, 11, 12, 14.	I	F	Dec. 7, 1973 July 23, 1976	Mar. 9, 1979	Lester Lewis, Town Pres., 210 North Water Street, Jonesboro, IN 46938, Phone: (317) 674-2604.
	Washington	Town of New Pekin, 0001A.	180463	N-5	I	F	Mar. 9, 1979	Mar. 9, 1979	Lloyd Sullivan, Town Bd. Pres., Rt. 1, New Pekin, IN 47165, Phone: (812) 967-3457.
Minnesota	Wabasha	City of Hammond, 01.	270485B	E-11, 12, 14.	I	F	Aug. 2, 1974 Sept. 10, 1976	Mar. 9, 1979	Jerry Kuehn, Mayor, P.O. Box 543, Hammond, MN 55938, Phone: (507) 753-2360.
	Wabasha, Goodhue	City of Lake City, 0001B.	270486	E-8, 11, 12, 14.	I	F	Mar. 15, 1974 Apr. 9, 1976	Mar. 9, 1979	Donald Bush, Mayor, 205 West Center Street, Lake City, MN 55041, Phone: (612) 345-5383.
Ohio	Wyandot	Village of Carey, 01.	390590B	E-11, 12, 14.	I	F	May 31, 1974 Aug. 20, 1976	Mar. 9, 1979	Charles W. Mabey, V. Admn., 127 North Vance Street, Carey, OH 43316, Phone: (419) 396-7681.
Pennsylvania	Erie	Township of McKean, 0001A-0004A.	422623	E-5	I	F	Mar. 9, 1979	Mar. 9, 1979	Richard East, 4459 North Colonial Parkway, Erie, PA 16509, Phone: (814) 833-0038.
Arkansas	Nevada	Town of Willisville, 0001A.	050571A	N-5	I	F	Mar. 13, 1979	Mar. 13, 1979	Honorable James Pennington, Mayor, Town of Willisville, Office of Mayor, Willisville, AR 71864, (501) 234-4260, Ext. 267.
Montana	Unincorporated area	Sanders County, 0017B.	300072B	N-12	I	F	Dec. 27, 1977	Mar. 13, 1979	Mr. Neil B. Mann, Supervisor, Floodplain Management Section, Engineering Bureau, Department of Natural Resources and Conservation, 32 South Ewing, Helena, MT 59601, (406) 449-2864.
Oregon	Unincorporated area	Yamhill County, 0001B-0011B.	410249B	E-11, 12	I	F	Dec. 27, 1974 July 19, 1977	Mar. 13, 1979	Mr. Ted Lopuszynski, Chairman, Yamhill County, Board of County Commissioners, County Courthouse, McMinnville, OR 97128, (503) 472-9371.
South Dakota	Douglas	City of Armour, 01A-02A.	460234A	N-11, 12	I	F	Aug. 6, 1976	Mar. 13, 1979	Honorable Dennis Sparks, Mayor, City Hall, Main Street, Armour, SD 57313 (605) 724-2157.
Utah	Weber	City of Riverdale, 0001B.	490190B	E-8, 11, 12.	I	F	June 28, 1974 Nov. 28, 1975	Mar. 13, 1979	Honorable Leon Poulsen, Mayor, 4459 South 700 West, Ogden, UT 84403, (801) 394-0529.
Washington	Kittitas	City of Ellensburg, 0001B-0003B.	530234B	E-11, 12	I	F	Dec. 17, 1973 Apr. 16, 1976	Mar. 13, 1979	Honorable Darrel Curtis, Mayor, P.O. Box 1087, Ellensburg, WA 98926, (509) 962-9863.
Alabama	Sumter	Town of Cuba, 0001A.	010379	N-5	I	F	Mar. 16, 1979	Mar. 16, 1979	Charles I. Tate, Mayor, Town Hall, Cuba, AL 36907, Phone: (205) 392-5209.
	Walker	Town of Kansas, 01.	010390A	N-5	I	F	Mar. 16, 1979	Mar. 16, 1979	John Hinds, Mayor, P.O. Box 4206, Kansas, AL 35573, Phone: (205) 924-9561.
Illinois	McLean	City of Bloomington, 0001B-0002B.	170490	E-8, 11, 12, 14.	I	F	Sept. 24, 1976	Mar. 16, 1979	Richard Buchanan, Mayor, 109 East Olive Street, Bloomington, IL 61701, Phone: (309) 828-7361.
Indiana	Tippecanoe	Town of Battle Ground, 0001B.	180252	E-11, 12, 14.	I	F	May 24, 1974 June 25, 1976	Mar. 16, 1979	William D. Rogers, T. Pres., Town Hall, Battle Ground, IN 47920, Phone: (317) 567-2603.
	Madison	City of Elwood, 0001B.	180152B	E-8, 11, 12, 14.	I	F	Dec. 28, 1973 Oct. 24, 1975	Mar. 16, 1979	Lynn Chase, Mayor, 1601 Main Street, Elwood, IN 46036, Phone: (317) 552-5076.
	Tipton	Tipton County,[1] 0001A-0004A.	180475	N-5	I	F	Mar. 16, 1979	Mar. 16, 1979	Genevieve Morris, Sec., Courthouse, Tipton, IN 46072, Phone: (317) 675-2794.

State	County	Community name and No. of panels	Community No. and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Kentucky	Pike	City of Elkhorn City, 0001A.	210356	N-5	I	F	Mar. 16, 1979	Mar. 16, 1979	Charles Cantrell, Mayor, P.O. Box 681, Elkhorn City, KY 41522, Phone: (606) 754-5080.
Minnesota	Clearwater	City of Bagley, 0001A.	270087	E-8, 10, 11, 12, 14.	I	F	Mar. 29, 1974	Mar. 16, 1979	Earl Swenson, Mayor, Box 178, Bagley, MN 56621, Phone: (218) 694-2300.
	Winona	City of Goodview, 0001A.	270528	E-8, 11, 12, 14.	I	F	Mar. 19, 1979	Mar. 16, 1976	Daryl K. Zimmer, Box 212, Winona, MN 55987, Phone: (507) 452-1630.
Tennessee	Wayne	Wayne County,[1] 0001A-0010A.	470199	N-5	I	F	Mar. 16, 1979	Mar. 16, 1979	James R. Martin, Judge, Courthouse, Waynesboro, TN 38485, Phone: (615) 722-5620.
Virginia	Page	Town of Shenandoah, 0001B.	510248	E-8, 11, 12, 14.	I	F	Nov. 1, 1974 May 28, 1976	Mar. 16, 1979	Barrett R. Bryant, Mayor, 416 First Street, Shenandoah, VA 22849, Phone: (703) 652-3328.
	Sussex	Town of Stony Creek, 0001B.	510159	E-11, 12, 14.	I	F	Aug. 9, 1974 Apr. 30, 1976	Mar. 16, 1979	Thomas W. Baley, Jr., Mayor, P.O. Box 65, Stony Creek, VA 23882, Phone: (804) 246-6601.
Wisconsin	Barron	City of Rice Lake, 0001B.	550016	E-8, 11, 12, 14.	I	F	Dec. 7, 1973 July 30, 1976	Mar. 16, 1979	David Burner, Mayor, 111 East Marshall Street, Rice Lake, WI 54868, Phone: (715) 234-4611.
Arkansas	Clark	Town of Caddo Valley, 0001A.	050567A	N-5	I	F	Mar. 20, 1979	Mar. 20, 1979	Honorable Allyn Bert Cox, Mayor, Office of Mayor, Route 2, Box 447, Arkadelphia, AR 71923, (501) 246-5789.
Connecticut	Litchfield	Town of Colebrook, 0001A-0004A.	090180A	E-5, 15	I	F	Mar. 20, 1979	Mar. 20, 1979	Mr. Frederick I. Wilber, First Selectman, Board of Selectmen, Colebrook Center, Colebrook, CT 06021, (203) 379-2922.
Kansas	Anderson	City of Greeley, 0001A.	200006A	N-8, 11	I	F	Nov. 22, 1974	Mar. 20, 1979	Honorable Lee J. Clevenger, Sr., Mayor, City Hall, Greeley, KS 66033, (913) 867-2410.
Montana	Unincorporated area	Garfield County, 0026A.	300150A	N-5	I	F	Mar. 20, 1979	Mar. 20, 1979	Mr. Kenneth A. Coulter, Chairman, County of Garfield, Office of County Commissioners, County Courthouse, Jordan, MT 59337, (406) 557-2760.
North Dakota	Stutsman	City of Spiritwood Lake, 0001A.	380315A	E-5	I	F	Mar. 20, 1979	Mar. 20, 1979	Mr. Donald Wanner, City of Spiritwood Lake, Office of the Auditor, P.O. Box 642, Jamestown, ND 58401, (701) 252-7188.
Oregon	Multnomah	City of Troutdale, 0001B.	410184B	E-8, 11, 12.	I	F	Dec. 7, 1973 June 4, 1976	Mar. 20, 1979	Honorable Robert M. Sturges, Mayor, 104 Kibling Street, Troutdale, OR 97060, (503) 665-5175.
Illinois	Cumberland	Cumberland County,[1] 0001A-0006A.	170987	N-5	I	F	Mar. 23, 1979	Mar. 23, 1979	Elwood Hawes, Clerk, Box 146, Toledo, IL 62468, Phone: (217) 849-2631
	Calhoun	Village of Hardin, 0001B.	170738	E-8, 11, 12, 14.	I	F	June 28, 1974 Jan. 23, 1976	Mar. 23, 1979	William C. Harman, Village President, Village Hall, Hardin, IL 62407, Phone: (618) 576-2231.
	Jackson	Village of Makanda, 0001B.	170301	N-11, 12, 14.	I	F	Aug. 23, 1974 Dec. 26, 1975	Mar. 23, 1979	B. C. Ross, Village Pres., P.O. Box 1, Makanda, IL 62958, Phone: (618) 549-6392.
	Carroll	Village of Thomson, 01.	170778A	N-12, 14	I	F	Oct. 17, 1975	Mar. 23, 1979	Fay D. Ashby, Village Pres., P.O. Box 134, Thomson, IL 61285, Phone: (815) 259-3384.
Indiana	Wayne	City of Fountain City, 01.	180282C	N-8, 11, 12, 14.	I	F	May 10, 1974 Apr. 16, 1976 Apr. 15, 1977	Mar. 23, 1979	John Keller, City Pres., 312 W. Main St., Fountain City, IN 47341, Phone: (317) 847-2412.
	Sullivan	Sullivan County,[1] 0001A-0006A.	180410	N-5	I	F	Mar. 23, 1979	Mar. 23, 1979	Dennis Southwood, Ch. Co. Bd., Courthouse, Sullivan, IN 47882, Phone: (812) 268-5677.
Tennessee	Jackson	Jackson County,[1] 0001A-0006A.	470370	N-5	I	F	Mar. 23, 1979	Mar. 23, 1979	C. C. Norton, Judge, Courthouse, Gamesboro, TN 38562, Phone: (615) 268-9888.

State	County	Community name and No. of panels	Community No. and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Wisconsin	Clark, Marathon	City of Colby, 01	550049B	E-8, 11, 12, 14.	I	F	May 31, 1974 Mar. 19, 1976	Mar. 23, 1979	Lloyd Scidmore, Mayor, 503 W. Adam St., Colby, WI 54421, Phone: (715) 223-2000.
Colorado	Fremont	City of Canon City, 0001C.	080068C	E-8, 11, 12.	I	F	May 24, 1974 Feb. 28, 1975 Mar. 21, 1978	Mar. 27, 1979	Honorable Charles Fry, Mayor, P.O. Box 711, Canon City, CO 81212, (303) 275-2366.
Louisiana	Beauregard Parish	City of De Ridder, 0001B.	220027B	E-8, 11	I	F	Feb. 1, 1974 July 16, 1976	Mar. 27, 1979	Honorable Creighton Pugh, Mayor, P.O. Box 392, De Ridder, LA 70634, (318) 462-2461.
Montana	Yellowstone	City of Laurel, 01B-02B.	300086B	E-8, 11, 12.	I	F	Mar. 29, 1974 Dec. 19, 1975	Mar. 27, 1979	Mr. Murr S. Isaacs, City Engineer Technician, P.O. Box 6, Laurel, MT 59044, (406) 698-8791.
New Mexico	Unincorporated area	Taos County, 0001B-0015B; 0017B-0023B; 0025B-0026B.	350078B	E-11, 12	I	F	Aug. 30, 1974 May 31, 1977	Mar. 27, 1979	Mr. Allen Vigil, Planner, Taos County, P.O. Box 1914, Taos, NM 87571 (505) 758-8834.
Illinois	Jasper	Village of Sainte Marie, 01.	170820A	N-8, 11, 12, 14.	I	F	Mar. 21, 1975	Mar. 30, 1979	Ed Stone, Pres. of Bd., Village Hall, Sainte Marie, IL 62459, Phone: (618) 455-3092.
Indiana	Wayne	Town of Spring Grove, 01.	180286B	E-8	I	F	Dec. 13, 1974 Nov. 3, 1978	Mar. 30, 1979	Dr. John H. Mader, Pres. of Bd., 1528 Chester Blvd., Richmond, IN 47374, Phone: (317) 966-7724 office, (317) 966-1831 home.
Minnesota	Sherburne	City of Becker, 0001A-0002A.	270710	N-5	I	F	Mar. 30, 1979	Mar. 30, 1979	Peter Hendrick, Mayor, P.O. Box 155, Becker, MN 55308, Phone: (612) 261-4661.
	Chisago	City of Harris, 0001B-0002B.	2700071	N-11, 12, 14.	I	F	Sept. 20, 1974 Oct. 24, 1975	Mar. 30, 1979	Edward H. Nelson, Sr., Rt. 2, Box 166, Harris, MN 55032, Phone: (612) 674-4914.
Ohio	Logan	City of Bellefontaine, 0001B.	390340	E-8, 11, 12, 14.	I	F	June 7, 1974 May 21, 1976	Mar. 30, 1979	William S. Meyer, Mayor, City Building, 135 North Detroit St., Bellefontaine, OH 43311, Phone; (513) 599-3015.
	Tuscarawas	Village of Dennison, 0001B.	390542	E-8, 11, 12, 14.	I	F	Mar. 15, 1974 May 28, 1976	Mar. 30, 1979	Eugene Hart, Mayor, Box 47, Dennison, OH 44621, Phone: (614) 922-3047.
	Stark, Carroll	Village of Minerva, 01.	390518A	E-8, 11, 12, 14.	I	F	July 23, 1976	Mar. 30, 1979	Wayne Ellis, Mayor, 209 North Market St., Minerva, OH 44657, Phone: (216) 868-5420.
	Muskingum	Village of Philo, 01.	390851A	N-5	I	F	Mar. 30, 1979	Mar. 30, 1979	James B. Brannon, Mayor, Front Street, Philo, OH 43771, Phone: (614) 674-6816.
Tennessee	Clay	Clay County,[1] 0001A-0006A.	470382	N-5	I	F	Mar. 30, 1979	Mar. 30, 1979	Frank Halsell, Judge, Courthouse, Celina, TN 38551, Phone: (615) 243-2161.
	Johnson	Johnson County,[1] 0001A-0006A.	470230	E-5	I	F	Mar. 30, 1979	Mar. 30, 1979	W. D. Hill, Co. Chrmn., Courthouse, Mountain City, TN 37683, Phone: (615) 727-9633.
Wisconsin	Polk	City of Amery, 0001B.	550332	E-8, 11, 12, 14.	I	F	Dec. 28, 1973 Apr. 16, 1976	Mar. 30, 1979	Melvin Hayes, Mayor, 118 Center Street, Amery, WI 54001, Phone: (715) 268-7486.
	Clark	City of Greenwood, 0001B.	550051	E-8, 11, 12, 14.	I	F	Jan. 9, 1974 Apr. 23, 1976	Mar. 30, 1979	Art Christie, Mayor, City Hall, Greenwood, WI 54437, Phone: (715) 267-6205.
	Washington	Village of Jackson, 0001B.	550530	E-8, 11	I	F	Dec. 28, 1973 May 21, 1976	Mar. 30, 1979	Clem Mayer, V. Pres., North 166 West Parkway Dr., Jackson, WI 53037, Phone: (414) 677-3377.
	Columbia	Village of Poynette, 0001B.	550064	E-8, 11, 12, 14.	I	F	May 3, 1974 May 28, 1976	Mar. 30, 1979	Carl Hildinberg, Mayor, P.O. Box 95, Poynette, WI 53955, Phone: (608) 635-2122.

[1] Unincorporated areas.

FINAL LIST CODES

1. Conversion to Regular Program with FIRM (elevations determined).
2. Conversion to Regular Program with FIRM (no elevations determined).
3. Conversion to Regular Program with no Special Flood Hazard Areas—no FIRM.
4. Conversion to Regular Program with no Special Flood Hazard Areas—no FIRM; recission of FHBM effective on same date as conversion.
5. Initial FHBM.
6. Revision—Change of elevation; revised FIRM.
7. Revision—Change of zone designation; revised FIRM.
8. Revision—Corporate limit changes.
9. Revision—Drafting corrections; Printing errors.
10. Revision—Curvilinear.
11. Revision—Add Flood Hazard Area.
12. Revision—Reduce Flood Hazard Area.
13. Revision—Federal Register omission.
14. Revision—Refunds possible.
15. Attention! A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.

R—Regular Program; E—Emergency Program; N—Not in Program.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969) as amended 39 FR 2787, Jan. 24, 1974.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 8, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8394 Filed 3-22-79; 8:45 am]

[4830-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7602]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Investment Credit; Public Utility Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to investment credits for public utility property. Changes to the applicable tax law were made by the Revenue Act of 1971. These regulations provide necessary guidance to the public for compliance with the law, and affect all public utilities that are entitled to investment tax credits.

DATE: The regulations are generally effective with respect to public utility property constructed or acquired by the taxpayer after August 15, 1971.

FOR FURTHER INFORMATION CONTACT:

Geoffrey B. Lanning 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) (202-566-3909) not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On February 17, 1972, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 46 (c) and (e) of the Internal Revenue Code of 1954, 37 FR 3526. The amendments were proposed to conform the regulations to section 105 of the Revenue Act of 1971 (85 Stat. 503). The Act restored the seven percent investment tax credit and section 105 of the Act provided amendments to section 46 of the Code that related to regulated companies. Section 105(a) of the Act amends section 46(c)(3)(A) of the Code to increase the investment credit for public utility property from three percent to four percent. Section 105(b) of the Act amends section 46(c)(3)(B) of the Code to include property used in miscellaneous types of regulated communications services and nonregulated communication property in the definition of public utility property. Section 105(c) of the Act amends section 46 by adding new subsection (e) to provide certain limitations on the treatment of a regulated company's investment tax credit in making rates. Section 46(e) has been redesignated as section 46(f) by the Tax Reduction Act of 1975 (89 Stat. 40). After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

EXPLANATION OF REVISIONS TO PROPOSED REGULATIONS

Section 1.46-3(g) of the regulations relates to the amount of qualified investment for public utility property. That section has been revised to conform to the amendments that increase the amount of qualified investment for public utility property from 3% to 4% and that expand the definition of such property to include property used in miscellaneous regulated communication services and nonregulated communication property. In response to public comments, paragraph (g)(2) of § 1.46-3 of the proposed regulations has been revised to clarify that regulated companies are companies regulated on a rate-of-return basis for purposes of defining public utility property. In response to comments, paragraph (g)(2) of the proposed regulations has also been revised to clarify that nonregulated communication property is property that is the same type of property used to provide regulated telephone or microwave communication services, and additionally is property used for the same type of communication purposes as such regulated communication property.

Section 1.46-6 (originally proposed as § 1.46-5) implements section 46(f). That provision lists the circumstances for disallowing an investment tax credit. Public comments suggested that the definition of "rate base reduc-

tion" contained in § 1.46-6(b)(3) of the proposed regulations was inconsistent with the legislative history of section 46(f). The committee reports accompanying section 105 of the Revenue Act of 1971 indicated that investment tax credits must be treated as capital contributed by the common shareholders of regulated companies and must be assigned the same cost of capital rate as all other capital provided by common shareholders. The proposed regulations merely required that a credit be assigned a cost of capital rate not less that the company's overall rate of return. The committee reports also state that the limitations of section 46(f) were intended to achieve two goals: a sharing of benefits between consumers and investors and a limitation on Federal revenue losses. Under certain circumstances, the common shareholder equity rule would deny consumers any of the benefits of a credit and could force ratemaking authorities to set rates higher than the rates that would have been established had no credit been available. Under such circumstances, Federal revenue losses would not be merely limited to the amount of the credit, but would be reduced to an amount less than the credit. Congress did not intend to force consumers to subsidize the cost of the investment tax credit. The rule of the notice minimizes the possibility of such results. The proposed Treasury decision adopts the rule of the notice as most consistent with congressional intent.

Paragraph (b)(4) of § 1.46-6 of the regulations provides a definition of indirect reductions to cost of service and rate base by reason of a credit, which are treated as direct reductions to cost of service and rate base.

Paragraph (c)(2) of § 1.46-6 of the regulations defines "short supply property", which is property for which an election may be made under the last sentence of section 46(f)(1). This definition is revised so as not to exclude property used in the trade or business of the transportation of steam or gas that is synthetic or from a foreign source.

Section 1.46-6(e) provides rules relating to "flow-through property". As proposed in the notice of proposed rulemaking, such property was defined as certain property for which the benefits of accelerated depreciation are being flowed through to income. This definition is revised to provide that flow-through property is property that is eligible for flow-through treatment of accelerated depreciation tax benefits, whether or not such treatment is used.

Paragraph (g) of § 1.46-6 of the regulations provides rules for determining whether a reduction in cost of service or a restoration to rate base is "ratable". A rule of the proposed regulation permitted the use of a composite annual percentage rate that was determined on the basis of less than the full cost of property. That rule, in § 1.46-6(g)(2), has been revised to provide that the composite annual percentage rate used in a ratable method of restoring rate base or reducing cost of service is determined without reduction for salvage or other items such as over accruals and under accruals. An effective date provision has been added to provide that in certain instances the composite annual percentage rate may be determined by taking salvage value and other items into account.

Amendments Not Covered by This Document

This Treasury decision does not conform the regulations to amendments to section 46 of the Code made by the Tax Reduction Act of 1975 (other than the redesignation or section 46 (f)) or the Tax Reform Act of 1976.

Drafting Information

The principal author of this regulation was Geoffrey B. Lanning of the Legislation and Regulations Divisions 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 regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. Section 1.46 is deleted.

Par. 2. Section 1.46-3 is amended by revising paragraphs (g) (1) and (2) as set forth below, and by adding headings to paragraphs (g) (3), (4), and (5). These revised and added provisions read as follows:

§ 1.46-3 Qualified investment.

* * * * *

(g) *Public utility property*—(1) *In general*—(i) *Scope of paragraph.* This paragraph only applies to property described in section 50. For rules relating to public utility property not described in section 50, see 26 CFR Part 1 § 1.46-3(g) (as revised April 1, 1977). This paragraph does not reflect amendments to section 46(c) made after enactment of the Revenue Act of 1971.

(ii) *Amount of qualified investment.* A taxpayer's qualified investment in section 38 property that is public utility property is ½ of the amount otherwise determined under this section.

(2) *Meaning and uses of certain terms.* For purposes of this paragraph—

(i) *Public utility property.* "Public utility property" is property used by a taxpayer predominantly in a trade or business that is a public utility activity and property that is nonregulated communication property.

(ii) *Public utility activity.* A "public utility activity" is any activity in which the goods or services described in section 46(c)(3)(B) (i), (ii), or (iii) are furnished or sold at regulated rates. If property is used by a taxpayer both in a public utility activity and in another activity, the characterization of such property is based on the predominant use of such property during the taxable year in which it is placed in service.

(iii) *Regulated rates.* A taxpayer's rates are "regulated" if they are established or approved on a rate-of-return basis. Rates regulated on a rate-of-return basis are an authorization to collect revenues that cover the taxpayer's cost of providing goods or services, including a fair return on the taxpayer's investment in providing such goods or services, where the taxpayer's costs and investment are determined by use of a uniform system of accounts prescribed by the regulatory body. A taxpayer's rates are not "regulated" if they are established or approved on the basis of maintaining competition within an industry, insuring adequate service to customers of an industry, or charging "reasonable" rates within an industry since the taxpayer is not authorized to collect revenues based on the taxpayer's cost of providing goods or services. Rates are considered to have been "established or approved" if a schedule of rates is filed with a regulatory body that has the power to approve such rates, even though the regulatory body takes no action on the filed schedule or generally leaves undisturbed rates filed by the taxpayer.

(iv) *Nonregulated communication property.* "Nonregulated communication property" is property that is clearly the same type of property (and is used by the taxpayer predominantly for the same type of communication purposes) as communication property, but it is used by the taxpayer predominantly in a trade or business that is not a public utility activity. For purposes of this subdivision (iv), communication property is property ordinarily used for communication purposes by persons who provide regulated telephone or microwave communication services described in section 46(c)(3)(B)(iii). The determination of whether property is clearly of this same type and is used predominantly for these same communication purposes as communication property is made on the basis of the facts and circumstances of each particular case, including the current state of technology in the communications industry and the range and type of services permitted or required to be provided by the regulated telephone and microwave communication industry. As of 1978, wires or cables used predominantly to distribute to subscribers the signals of one or more television broadcast stations or cablecast stations (such as in a CATV system) are not used for the same type of communication purposes as communication property. Communication property includes microwave transmission equipment, private communication equipment (other than land mobile radio equipment for which the operator must obtain a license from the Federal Communications Commission), private switchboard (PBX) equipment, communications terminal equipment connected to telephone networks, data transmission equipment, and communications satellites. Communication property does not include (as of 1978) computer terminals or facsimile reproduction equipment that is connected to telephone lines to transmit data. It also does not include office furniture stands for communication property, tools, repair vehicles, and similar property, even if such property is exclusively used in providing regulated telephone or microwave communication services.

(3) *Leased property.* * * *

(4) *Property used in both the production or transmission of gas and the local distribution of gas.* * * *

(5) *Certain submarine cable property.* * * *

* * * * *

PAR. 3. The following new section is added immediately after § 1.46-4:

§ 1.46-6 Limitation in case of certain regulated companies.

(a) *In general*—(1) *Scope of section.* This section does not reflect amendments made to section 46 after enactment of the Revenue Act of 1971, other than the redesignation of section 46(e) as section 46(f) by the Tax Reduction Act of 1975.

(2) *Disallowance of credit.* Under section 46(f), a credit otherwise allowable under section 38 ("credit") will be disallowed in certain cases with respect to "section 46(f) property" as defined in paragraph (b)(1) of this section. Paragraph (f) of this section describes circumstances under which a determination put into effect by a regulatory body will result in the disallowance of the credit. Such a determination will result in a disallowance only if section 46(f) (1) or (2) applies to such property and such determination affects the taxpayer's cost of service or rate base in a manner inconsistent with section 46(f) (1) or (2) (whichever is applicable).

(3) *General rules.* The provisions of section 46(f) (1) and (2) are limitations on the treatment of the credit for ratemaking purposes and for purposes of the taxpayer's regulated books of account only. Under the provisions of section 46(f)(1), the credit may not be flowed through to income (*i.e.*, used to reduce taxpayer's cost of service) but in certain circumstances may be used to reduce rate base (provided that such reduction is restored not less rapidly than ratably). If an election is made under section 46(f)(2), the credit may be flowed through to income (but not more rapidly than ratably) and there may not be any reduction in rate base. If an election is made under section 46(f)(3), none of the limitations of section 46(f) (1) or (2) apply to certain section 46(f) property of the taxpayer. Thus, under the provisions of section 46(f)(3), no credit is disallowed if the credit is treated in any manner for ratemaking purposes, including any manner of treatment permitted under the limitations of section 46(f) (1) or (2).

(4) *Elections.* For rules relating to the manner of making, on or before March 9, 1972, the three elections listed in section 46(f) (1), (2), and (3), see 26 CFR 12.3. For rules relating to the application of such elections, see paragraph (h) of this section.

(5) *Cross references.* For rules with respect to the treatment of corporate reorganizations, asset acquisitions, and taxpayers subject to the jurisdiction of more than one regulatory body, etc., see paragraph (j) of this section.

(6) *Nonapplication of prior law.* Under section 105 (e) of the Revenue Act of 1971, section 203 (e) of the Revenue Act of 1964, 78 Stat. 35, does not apply to section 46(f) property.

(b) *Definitions.* For purposes of this section, the following definitions apply:

(1) *Section 46(f) property.* "Section 46(f) property" is property described in section 50 that is—

(i) Public utility property within the meaning of section 46(c)(3)(B) (other than nonregulated communication property described in § 1.46-3(g)(2)(iv)) or

(ii) Property used predominantly in the trade or business of the furnishing or sale of steam through a local distribution system or of the transportation of gas or steam by pipeline, if the rates for the trade or business are regulated within the meaning of § 1.46-3(g)(2)(iii).

For purposes of determining whether property is used predominantly in the trade or business of transportation of gas by pipeline (or of transportation of gas by pipeline and of furnishing or sale of gas through a local distribution system), the rules prescribed in § 1.46-3(g)(4) apply except that accounts 365 through 371 inclusive (Transmission Plant) are added to the accounts listed in § 1.46-3(g)(4)(i).

(2) *Cost of service.* (i) For purposes of this section, "cost of service" is the amount required by a taxpayer to provide regulated goods or services. Cost of service includes operating expenses (including salaries, cost of materials, etc.) maintenance expenses, depreciation expenses, tax expenses, and interest expenses. For purposes of this section, any effect on a taxpayer's permitted return on investment that results from a reduction in the taxpayer's rate base does not constitute a reduction in cost of service, even though, as a technical ratemaking term, "cost of service" ordinarily includes a permitted return on investment.

(ii) In determining whether, or to what extent, a credit has been used to reduce cost of service, reference shall be made to any accounting treatment that affects cost of service. Examples of such treatment include reducing by all or a portion of the credit the amount of Federal income tax expense taken into account for ratemaking purposes and reducing the depreciable bases of property by all or a portion of the credit for ratemaking purposes.

(3) *Rate base.* (i) For purposes of this section, "rate base" is the monetary amount that is multiplied by a rate of return to determine the permitted return on investment.

(ii) In determining whether, or to what extent, a credit has been used to reduce rate base, reference shall be made to any accounting treatment that affects rate base. In addition, in those cases in which the rate of return is based on the taxpayer's cost of capital, reference shall be made to any accounting treatment that affects the permitted return on investment by treating the credit in any way other than as though it were capital supplied by common shareholders to which a "cost of capital" rate is assigned that is not less than the taxpayer's overall cost of capital rate (determined without regard to the credit). What is the overall cost of capital rate depends upon the practice of the regulatory body. Thus, for example, an overall cost of capital rate may be a rate determined on the basis of an average, or weighted average, of the costs of capital provided by common shareholders, preferred shareholders and creditors.

(4) *Indirect reductions to cost of service or rate base.* (i) Cost of service or rate base is also considered to have been reduced by reason of all or a portion of a credit if such reduction is made in an indirect manner.

(ii) One type of such an indirect reduction is any ratemaking decision in which the credit is treated as operating income (subject to ratemaking regulation) or as capital provided by anyone other than common shareholders. For example, if a credit is accounted for as nonoperating income on a company's regulated books of account but a ratemaking decision has the effect of treating the credit as operating income in determining rate of return to common shareholders, then cost of service has been indirectly reduced by reason of the credit.

(iii) A second type of indirect reduction is any ratemaking decision intended to achieve an effect similar to a direct reduction to cost of service or rate base. In determining whether a ratemaking decision is intended to achieve this effect, consideration is given to all the relevant facts and circumstances of each case, including, but not limited to—

(A) The record of the proceeding,

(B) The regulatory body's orders or opinions (including any dissenting views), and

(C) The anticipated effect of the ratemaking decision on the company's revenues in comparison to a direct reduction to cost of service or rate base by reason of the investment tax credits available to the regulated company.

(iv) This subdivision (iv) describes a situation that is not an indirect reduction to cost of service or rate base by reason of all or a portion of a credit. The ratemaking treatment of credits may affect the financial condition of a company, including the company's ability to attract new capital, the cost

of that capital, the company's future financial requirements, the market price of the company's securities, and the degree of risk attributable to investment in those securities. The financial condition may be reflected in certain customary financial indicators such as the comparative capital structure of the company, coverage ratios, price/earnings ratios, and price/book ratios. Under the facts and circumstances test of paragraph (b)(4)(iii) of this section, the consideration of a company's financial condition by a regulatory body is not an indirect reduction to cost of service or rate base, even though such condition, as affected by the ratemaking treatment of the company's investment tax credits, is considered in the development of a reasonable rate of return on common shareholders' investment.

(c) *General rule*—(1) *In general.* Section 46(f)(1) applies to all of the taxpayer's section 46(f) property except property to which an election under section 46(f) (2) or (3) applies. Under section 46(f)(1), the credit for the taxpayer's section 46(f) property will be disallowed if—

(i) the taxpayer's cost of service for ratemaking purposes is reduced by reason of any portion of such credit, or

(ii) The taxpayer's rate base is reduced by reason of any portion of the credit and such reduction in rate base is not restored or is restored less rapidly than ratably within the meaning of paragraph (g) of this section.

(2) *Insufficient natural domestic supply.* The provisions of paragraph (c)(1)(ii) of this section shall not apply to permit any reduction in taxpayer's rate base with respect to its "short supply property" if it made an election under the last sentence of section 46(f)(1) on or before March 9, 1972.

(3) *Short supply property.* For purposes of this section, section 46(f) property is "short supply property" if—

(i) The property is described in paragraph (b)(1)(ii) of this section,

(ii) The regulatory body described in section 46(c)(3)(B) that has jurisdiction for ratemaking purposes with respect to such trade or business is an agency or instrumentality of the United States, and

(iii) This regulatory body makes a short supply determination and the determination is in effect on the date such property is placed in service.

(4) *Short supply determination.* A short supply determination is made or revoked on the date of its publication in the FEDERAL REGISTER. It is a determination that the natural domestic supply of gas or steam is insufficient to meet the present and future requirements of the domestic economy.

(5) *Dates short supply determination in effect.* (i) A short supply determination is considered to be in effect with respect to section 46(f) property placed in service at any time before the determination is revoked. However, a short supply determination made after [90 days after publication of this T.D.] is not considered to be in effect with respect to section 46(f) property placed in service before such determination was made.

(d) *Special rule for ratable flow-through.* If an election was made under section 46(f)(2) on or before March 9, 1972, section 46(f)(2) applies to all of the taxpayer's section 46(f) property except property to which an election under section 46(f)(3) applies. Under section 46(f)(2), the credit for the taxpayer's section 46(f) property will be disallowed if—

(1) The taxpayer's cost of service, for ratemaking purposes or in its regulated books of account, is reduced by more than a ratable portion of such credit within the meaning of paragraph (g) of this section or

(2) The taxpayer's rate base is reduced by reason of any portion of such credit.

(e) *Flow-through property.* If a taxpayer made an election under section 46(f)(3) on or before March 9, 1972, section 46(f) (1) and (2) do not apply to the taxpayer's section 46(f) property to which section 167(l)(2)(C) applies. In the case of an election under section 46(f)(3), a credit will not be disallowed, notwithstanding a determination by a regulatory body having jurisdiction over such taxpayer that reduces the taxpayer's cost of service or rate base by reason of such credit. In general, section 167(l)(2)(C) applies to property with respect to which a taxpayer may use a flow-through method of accounting (within the meaning of section 167(l)(3)(H)) to take into account the allowance for depreciation under section 167(a). Section 167(l)(2)(C) applies to property even though the taxpayer does not use a flow-through method of accounting with respect to the property. Section 167(l)(2)(C) does not apply to property if the taxpayer can not use a flow-through method of accounting with respect to the property. For example, section 167(l)(2)(C) does not apply to property with respect to which an election under section 167(l)(4)(A) applies. Thus, such property does not qualify for an election under section 46(f)(3).

(f) *Limitations*—(1) *In general.* This paragraph provides rules relating to limitations on the disallowance of credits under section 46(f)(4). Key terms are defined in paragraphs (f) (7), (8), and (9) of this section.

(2) *Disallowance postponed.* There is no disallowance of a credit before the first final inconsistent determination is put into effect for the taxpayer's section 46(f) property.

(3) *Time of disallowance.* A credit is disallowed—

(i) When the first final inconsistent determination is put into effect and

(ii) When any inconsistent determination (whether or not final) is put into effect after the first final inconsistent determination is put into effect.

(4) *Credits disallowed.* A credit is disallowed for section 46(f) property placed in service (within the meaning of § 1.46-3(d)) by the taxpayer—

(i) Before the date any inconsistent determination described in paragraph (f)(2) of this section is put into effect and

(ii) On or after such date and before the date a subsequent consistent determination (whether or not final) is put into effect.

(5) *Barred years.* No amount of credit for a taxable year is disallowed under paragraph (f)(3) of this section if, for such year, assessment of a deficiency is barred by any law or rule of law.

(6) *Notification and other requirements.* The taxpayer shall notify the district director of a disallowance of a credit under paragraph (f)(3) of this section within 30 days of the date that the applicable determination is put into effect. In the case of such a disallowance, the taxpayer shall recompute its tax liability for any affected taxable year, and such recomputation shall be made in the form of an amended return where necessary.

(7) *Determinations.* For purposes of this paragraph, the term "determination" refers to a determination made with respect to section 46(f) property (other than property to which an election under section 46(f)(3) applies) by a regulatory body described in section 46(c)(3)(B) that determines the effect of the credit—

(i) For purposes of section 46(f)(1), on the taxpayer's cost of service or rate base for ratemaking purposes or

(ii) In the case of a taxpayer that made an election under section 46(f)(2), on the taxpayer's cost of service, for ratemaking purposes or in its regulated books of account, or on the taxpayer's rate base for ratemaking purposes.

A regulatory body does not have to take affirmative action to make a determination. Thus, a regulatory body's failure to take action on a rate schedule filed by a taxpayer is a determination if the rates can be put into effect without further action by the regulatory body.

(8) *Types of determinations.* For purposes of this paragraph—

(i) The term "inconsistent" refers to a determination that is inconsistent

with section 46(f) (1) or (2) (as the case may be). Thus, for example, a determination to reduce the taxpayer's cost of service by more than a ratable portion of the credit would be a determination that is inconsistent with section 46(f)(2). As a further example, such a determination would also be inconsistent if section 46(f)(1) applied because no reduction in cost of service is permitted under section 46(f)(1).

(ii) The term "consistent" refers to a determination that is consistent with section 46(f) (1) or (2) (as the case may be).

(iii) The term "final determination" means a determination with respect to which all rights to appeal or to request a review, a rehearing, or a redetermination have been exhausted or have lapsed.

(iv) The term "first final inconsistent determination" means the first final determination put into effect after December 10, 1971, that is inconsistent with section 46(f) (1) or (2) (as the case may be).

(9) *Put into effect.* A determination is put into effect on the latter of—

(i) The date it is issued (or, if a first final inconsistent determination, the date it becomes final) or

(ii) The date it becomes operative.

(10) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). Corporation X, a calendar-year taxpayer engaged in a public utility activity is subject to the jurisdiction of regulatory body A. On September 15, 1971, X purchases section 46(f) property and places it in service on that date. For 1971, X takes the credit allowable by section 38 with respect to such property. X does not make any election permitted by section 46(f). On October 9, 1972, A makes a determination that X must account for the credit allowable under section 38 in a manner inconsistent with section 46(f)(1). The determination, which was the first determination by A after December 10, 1971, becomes final on January 1, 1973, and holds that X must retroactively adjust the manner in which it accounted for the credit allowable under section 38 starting with the taxable year that began on January 1, 1972. Since, under the provisions of paragraph (f)(8) of this section, the determination by A is put into effect on January 1, 1973 (the date it becomes final), the credit is retroactively disallowed with respect to any of X's section 46(f) property placed in service before January 1, 1973, on any date which occurs during a taxable year with respect to which an assessment of a deficiency has not been barred by any law or rule of law. In addition, the credit is disallowed with respect to X's section 46(f) property placed in service on or after January 1, 1973, and before the date that a subsequent determination by A, which as to X is consistent with section 46(f)(1), is put into effect. Thus, X must amend its income tax return for 1971 to reflect the retroactive disallowance of the credit otherwise allowable under section 38 with respect to the section 46(f) property placed in service on September 15, 1971.

Example (2). The facts are the same as in example (1), except that the first inconsistent determination by A becomes final on April 5, 1972, and requires X to account for the credit for all taxable years beginning on or after January 1, 1973, in a manner inconsistent with section 46(f)(1). Under the provisions of paragraph (f)(8) of this section, the determination was put into effect on January 1, 1973 (the date it became operative). The result is the same as in example (1).

Example (3). The facts are the same as in example (1), except that on June 1, 1975, A issues a determination that X shall retroactively account for the credit allowable by section 38 in a manner consistent with the provisions of section 46(f)(1) for taxable years beginning on or after January 1, 1971. The determination becomes final on January 5, 1976, in the same form as originally issued. The result is the same as in example (1) with respect to property X places in service before June 1, 1975. The credit is allowed with respect to property X places in service on or after June 1, 1975 (the date that the consistent determination is put into effect).

(g) *Ratable methods*—(1) *In general.* Under this paragraph (g), rules are prescribed for purposes of determining whether or not, under section 46(f)(1), a reduction in the taxpayer's rate base with respect to the credit is restored less rapidly than ratably and whether or not under section 46(f)(2) the taxpayer's cost of service for ratemaking purposes is reduced by more than a ratable portion of such credit.

(2) *Regulated depreciation expense.* What is "ratable" is determined by considering the period of time actually used in computing the taxpayer's regulated depreciation expense for the property for which a credit is allowed. "Regulated depreciation expense" is the depreciation expense for the property used by a regulatory body for purposes of establishing the taxpayer's cost of service for ratemaking purposes. Such period of time shall be expressed in units of years (or shorter periods), units of production, or machine hours and shall be determined in accordance with the individual useful life system or composite (or other group asset) account system actually used in computing the taxpayer's regulated depreciation expense. A method of restoring, or reducing, is ratable if the amount to be restored to rate base, or to reduce cost of service (as the case may be), is allocated ratably in proportion to the number of such units. Thus, for example, assume that the regulated depreciation expense is computed under the straight line method by applying a composite annual percentage rate to "original cost" (as defined for purposes of computing regulated depreciation expense). If, with respect to an item of section 46(f) property, the amount to be restored annually to rate base is computed by applying a composite annual percentage rate to the amount by which the rate base was reduced, then the restoration is ratable. Similarly, if cost of service is reduced annually by an amount computed by applying a composite annual percentage rate to the amount of the credit, cost of service is reduced by a ratable portion. If such composite annual percentage rate were revised for purposes of computing regulated depreciation expense beginning with a particular accounting period, the computation of ratable restoration or ratable portion (as the case may be) must also be revised beginning with such period. A composite annual percentage rate is determined solely by reference to the period of time actually used by the taxpayer in computing its regulated depreciation expense without reduction for salvage or other items such as over and under accruals. A composite annual percentage rate determined by taking into account salvage value or other items shall be considered to be ratable in the case of a determination (whether or not final) issued before March 22, 1979, and any rate order (whether or not final) that is entered into before June 20, 1979, in response to a rate case filed before April 23, 1979. For this purpose, the term "rate order" does not include an order by a regulatory body that perfunctorily adopts rates as filed if such rates are suspended or subject to rebate.

(h) *Elections*—(1) *Applicability of elections.* (i) Any election under section 46(f) applies to all of the taxpayer's property eligible for the election, whether or not the taxpayer is regulated by more than one regulatory body.

(ii) Section 46(f)(1) applies to all of the taxpayer's section 46(f) property in the absence of an election under either section 46(f) (2) or (3). If an election is made under section 46(f)(2), section 46(f)(1) does not apply to any of the taxpayer's section 46(f) property.

(iii) An election made under the last sentence of section 46(f)(1) applies to that portion of the taxpayer's section 46(f) property to which section 46(f)(1) applies and which is short supply property within the meaning of paragraph (c)(2) of this section.

(iv) If a taxpayer makes an election under section 46(f)(2) and makes no election under section 46(f)(3), the election under section 46(f)(2) applies to all of the taxpayer's section 46(f) property.

(v) If a taxpayer makes an election under section 46(f)(3), such election applies to all of the taxpayer's section 46(f) property to which section 167(l)(2)(C) applies. Section 46(f) (1) or (2) (as the case may be) applies to that portion of the taxpayer's section 46(f) property that is not property to which section 167(f)(2)(C) applies.

Thus, for example, if a taxpayer makes an election under section 46(f)(2) and also makes an election under section 46(f)(3), section 46(f)(3) applies to all of the taxpayer's section 46(f) property to which section 167(l)(2)(C) applies, and section 46(f)(2) applies to the remainder of the taxpayer's section 46(f) property.

(2) *Method of making elections.* See 26 CFR 12.3 for rules relating to the method of making the elections described in section 46(f) (1), (2), or (3).

(i) [Reserved]

(j) *Reorganizations, asset acquisitions, multiple regulation, etc.*—(1) *Taxpayers not entirely subject to jurisdiction of one regulatory body.* (i) If a taxpayer is required by a regulatory body having jurisdiction over less than all of its property to account for the credit under a determination that is inconsistent with section 46(f) (1) or (2) (as the case may be), such credit shall be disallowed only with respect to property subject to the jurisdiction of such regulatory body.

(ii) For purposes of this paragraph (j), a regulatory body is considered to have jurisdiction over property of a taxpayer if the property is included in the rate base for which the regulatory body determines an allowable rate of return for ratemaking purposes or if expenses with respect to the property are included in cost of service as determined by the regulatory body for ratemaking purposes. For example, if regulatory body A, having jurisdiction over 60 percent of an item of corporation X's section 46(f) property, makes a determination which is inconsistent with section 46(f), and if regulatory body B, having jurisdiction over the remaining 40 percent of such item of property, makes a consistent determination (or if the remaining 40 percent is not subject to the jurisdiction of any regulatory body), then 60 percent of the credit for such item will be disallowed. For a further example, if regulatory body A, having jurisdiction over 60 percent of X's section 46(f) property, has jurisdiction over 100 percent of a particular generator, 100 percent of the credit for such generator will be disallowed.

(iii) For rules which provide that the 3 elections under section 46(f) may not be made with respect to less than all of the taxpayer's property eligible for the election, see paragraph (h)(1)(i) of this section.

(2) [Reserved]

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: March 15, 1979.

DONALD C. LUBICK,
Assistant Secretary of the Treasury.

[FR Doc. 79-8800 Filed 3-20-79; 10:45 am]

[4510-23-M]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 40—FARM LABOR CONTRACTOR REGISTRATION

Farm Labor Contractor Registration Act

Exemption of Additional Categories From Coverage

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: The Employment Standards Administration is amending its regulations under the Farm Labor Contractor Registration Act by exempting additional categories from coverage by the Act. The amendment to the regulations is being made to reflect Congressional amendment of the Act.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Solomon Sugarman, Chief, Branch of Farm Labor Law Enforcement, Wage and Hour Division, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone No. 202-523-7531.

SUPPLEMENTARY INFORMATION: Public Law 95-562 amended 7 U.S.C. 2042(b) by adding a new subparagraph 10 thereto. This subparagraph exempts from the coverage of the Act:

(10) any person who would be required to register solely because the person is engaged in any such activity solely for the purpose of supplying full-time students or other persons whose principal occupation is not farmwork to detassel and rogue hybrid seed corn or sorghum for seed and to engage in other incidental farmwork for a period not to exceed four weeks in any calendar year: Provided, That such students or other persons are not required by the circumstances of such activity to be away from their permanent place of residence overnight: Provided further, That such students or other persons, if under 18 years of age, are not engaged in providing transportation in vehicles caused to be operated by the contractor.

By this FEDERAL REGISTER document 29 CFR 40.2(b) is amended to add a new subparagraph (10) which sets out this exemption to the Farm Labor Contractor Registration Act regulations, thereby conforming this Department's regulations to the law. As this amendment to Part 40 merely reflects Congressional amendment of the Act, notice and public comment are unnecessary and this amendment is effective on March 23, 1979.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator, Office of Fair Labor Standards, Wage and Hour Division, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone No. 202-523-8353.

Part 40 of Title 29 is amended by adding to § 40.2(b) a new subparagraph (10) with editorial amendments to subparagraphs (8) and (9), as follows:

§ 40.2 Definitions.

* * * * *

(b) The term "farm labor contractor" means * * *. The term shall not include—

* * * * *

(8) Any custom combine, hay harvesting, or sheep shearing operation;

(9) Any custom poultry harvesting, breeding, debeaking, sexing, or health service operation, provided the employees of the operation are not regularly required to be away from their domicile other than during their normal working hours; or

(10) Any person who would be required to register solely because the person is engaged in any such activity solely for the purpose of supplying full-time students or other persons whose principal occupation is not farmwork to detassel and rogue hybrid seed corn or sorghum for seed and to engage in other incidental farmwork for a period not to exceed four weeks in any calendar year: Provided, That such students or other persons are not required by the circumstances of such activity to be away from their permanent place of residence overnight: Provided further, That such students or other persons, if under 18 years of age, are not engaged in providing transportation in vehicles caused to be operated by the contractor.

* * * * *

Signed at Washington, D.C. on this 20th day of March 1979.

XAVIER M. VELA,
Administrator, Wage and Hour Division.

[FR Doc. 79-8989 Filed 3-22-79; 8:45 am]

[6560-01-M]

Title 40—Protection of Environment

CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

[FRL 1073-9]

PART 2—PUBLIC INFORMATION

TOXIC SUBSTANCES CONTROL

Confidential Business Information

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This rule is a clarification of regulations promulgated September 8, 1978 (43 FR 39997). Under § 2.306(a) of those rules the Environmental Protection Agency (EPA) defined the term "health and safety data" for purposes of implementing the disclosure requirements of section 14(b) of the Toxic Substances Control Act (TSCA). This rule changes the wording of that definition to clarify that only health and safety data concerning chemical substances or mixtures that (1) have been offered for commercial distribution or which are included in the inventory of chemical substances under section 8(b) of TSCA or (2) for which testing is required under section 4 of TSCA or for which notification is required under section 5 of TSCA may be disclosed to the public.

DATE: This rule is effective March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

James Nelson, Office of General Counsel, Grants, Contracts, & General Administration Division (A-134), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone: (202) 426-8830.

SUPPLEMENTARY INFORMATION: On September 8, 1978, the Environmental Protection Agency (EPA) published regulations amending its rules for handling confidential business information. In particular, the regulations contained a new § 2.306 which set forth special rules for information obtained under the Toxic Substances Control Act (TSCA). This amendment clarifies a provision of § 2.306.

As currently written, § 2.306(g) of the regulation (40 CFR 2.306(g), 43 FR 40004) states that EPA will not provide confidential treatment to "health and safety data", as that term is defined for purposes of section 14(b) of the Act in § 2.306(a)(3) of the rule. The term "health and safety data" is defined in part to mean studies of environmental or health effects with respect to "any chemical substance or mixture that has been manufactured or processed for commercial purposes" (§ 2.306(a)(3), 43 FR 40003). This amendment replaces the phrase "manufactured or processed for commercial purposes" in the definition of "health and safety data" with the phrases "offered for commercial distribution" and "any chemical substance included on the inventory of chemical substances under section 8 of the Act."

In general, TSCA section 14(a) prohibits disclosure of any information which is exempt from disclosure under 5 U.S.C. 552(b)(4), the Freedom of Information Act exemption for trade secrets and confidential commercial and financial information. Section 14(b) states that section 14(a) does not prohibit the disclosure of any health and safety study submitted under TSCA with respect to any chemical substance or mixture (1) which on the date of proposed disclosure has been "offered for commercial distribution" or (2) for which testing is required under section 4 or for which notification is required under section 5. Section 14(b) further specifies that it does not authorize disclosure of any information that would disclose confidential processes used in manufacturing or processing of a chemical substance or mixture or, in the case of a mixture, disclose confidential information concerning the portion of a mixture comprised by any of the chemical substances in the mixture.

To implement the provisions of section 14(b), the regulations promulgated September 8, 1978, used the term "health and safety data" to describe the information referred to in section 14(b). As set forth in those regulations and the preamble, EPA defined "health and safety data" to include studies of any chemical substance or mixture "manufactured or processed for commercial purposes" and any chemical substance or mixture for which testing is required under section 4 or for which notificiation is required under section 5. As explained in the September 8, 1978, preamble, EPA used the phrase "manufactured or processed for commercial purposes" in order to include all substances that would appear in the inventory of chemical substances under section 8(b) of TSCA. The congressional policy behind section 14(b) of TSCA, as interpreted in the September 8, 1978 preamble, is that the public must have access to data about health and safety for those chemicals that are in commerce because the public may be exposed to them. Once a substance is included in the inventory it may be introduced into commerce (if not already in commerce) by any person without notice to EPA, and EPA therefore has no way of knowing whether or not it has been offered for commercial distribution. Under the circumstances, it is reasonable to assume, for purposes of section 14(b), that all substances in the inventory have been offered for commercial distribution. The use of the phrase manufactured or processed for commercial purposes" in the definition of "health and safety data" was intended to implement this interpretation.

In defining the term "health and safety data" in this manner, EPA overlooked the fact that some substances that fit within the phrase "manufactured or processed for commercial purposes" would not be reported for the inventory. The inventory regulations exclude certain substances that are manufactured or processed for commercial purposes, in particular, chemical substances "manufactured, imported, or processed solely in small quantities for research and development" (see 40 CFR 710.4(c)(3) and 710.2(y), 42 FR 64572; December 23, 1977). Accordingly, if EPA's current confidentiality regulations were applied literally they would result in disclosure of health and safety studies in instances where that was not intended by Congress. EPA believes that Congress did not intend health and safety studies on chemicals manufactured, imported or processed solely in small quantities for research and development to be publicly disclosed under section 14(b) *unless* the chemical is (1) offered for commercial distribution or (2) subject to a testing rule under section 4 or the notification requirement of section 5.

Accordingly, EPA is amending § 2.306(a) to clarify the specific coverage of the term "health and safety data." In accordance with the intent expressed in the September 8, 1978, preamble, EPA interprets the disclosure policy of section 14(b) to apply to health and safety studies on (1) any chemical substance or mixture offered for commercial distribution (including those offered for commercial distribution for test marketing purposes and for use in research and development), (2) any chemical substance included in the inventory of chemical substances under section 8(b) of TSCA, and (3) any chemical substance or mixture subject to the requirements of sections 4 or 5. The new language does not change EPA's intent nor EPA's interpretation of congressional intent.

It should be noted that the preamble to the September 8, 1978 rule contains an inadvertent misstatement. On page 39998 of the FEDERAL REGISTER it is stated that "the Agency interprets the term 'offer for commercial distribution' to include the term 'manufactured or processed for commercial purposes' ". This is an overstatement. The term "offer for commercial distribu-

tion" includes the term "manufactured or processed for commercial purposes" *only* to the extent the latter term defines substances included on the section 8(b) chemical inventory. Where a substance is manufactured or processed for commercial purposes but is *not* included in the inventory (and is not commercially distributed), it is not covered by the term "offered for commercial distribution." An example of such a chemical would be a substance manufactured in small quantities for in-house research and development.

EPA interprets the term "for commercial purposes" to be broader in scope than the term "offered for commercial distribution". There are instances, such as the in-house research and development example given above, where a substance may be manufactured "for a commercial purpose" but not "offered for commercial distribution" and where information concerning the substance would therefore be obtainable by EPA but not (unless the substance were subject to a rule under sections 4 or 5) releasable under section 14(b).

The Agency proposed regulations to implement the premanufacture review provisions of section 5 of TSCA on January 10, 1979, 44 FR 2242. Interested persons are referred to those regulations for the Agency's proposed policy on handling health and safety studies submitted as part of a premanufacture notice.

This is published as a final rule because it is only a clarification of the September 8, 1979, regulations. Publishing this change as a proposal and allowing public comment is unnecessary because the rule does not make a substantive change, and the public has had notice and a full opportunity to comment on the rule. This rule is effective immediately because the change is not substantive, and EPA is already receiving health and safety data under TSCA that requires the immediate application of this rule.

Dated: March 9, 1979.

BARBARA BLUM,
Acting Administrator.

Part 2 is amended by revising paragraph (a)(3) and deleting and reserving paragraph (a)(4) of § 2.306(a) to read as follows:

§ 2.306 Special rules governing certain information obtained under the Toxic Substances Control Act.

(a) * * *

(3)(i) "Health and safety data" means the information described in paragraphs (a)(3)(i)(A), (a)(3)(i)(B), and (a)(3)(i)(C) of this section with respect to any chemical substance or mixture offered for commercial distribution (including for test marketing purposes and for use in research and development), any chemical substance included on the inventory of chemical substances under section 8 of the Act (15 U.S.C. 2607), or any chemical substance or mixture for which testing is required under section 4 of the Act (15 U.S.C. 2603) or for which notification is required under section 5 of the Act (15 U.S.C. 2604).

(A) Any study of any effect of a chemical substance or mixture on health, on the environment, or on both, including underlying data and epidemiological studies; studies of occupational exposure to a chemical substance or mixture; and toxicological, clinical, and ecological studies of a chemical substance or mixture;

(B) Any test performed under the Act; and

(C) Any data reported to, or otherwise obtained by, EPA from a study described in paragraph (a)(3)(i)(A) of this section or a test described in paragraph (a)(3)(i)(B) of this section.

(ii) Notwithstanding paragraph (a)(3)(i) of this section, no information shall be considered to be "health and safety data" if disclbsure of the information would—

(A) In the case of a chemical substance or mixture, disclose processes used in the manufacturing or processing the chemical substance or mixture or,

(B) In the case of a mixture, disclose the portion of the mixture comprised by any of the chemical substances in the mixture.

(4) [Reserved.]

* * * * *

[FR Doc. 79-8982 Filed 3-22-79; 8:45 am]

[6560-01-M]

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 1075-3]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Maine Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This notice announces approval of a revision to the Maine State Implementation Plan (SIP) for Air Quality Control by amending Chapter 5—*Air Quality Surveillance*, which updates the ambient air monitoring network, and Chapter 6—*Review of New Sources and Modifications*, which establishes a category of "Lesser Sources" which will be licensed on a five-year basis. The air monitoring network will be considered an interim measure until such time as further revisions are required. No action will be taken at this time on Chapter 2—*Control Strategies* and Chapter 9—*Intergovernmental Cooperation* since the State is to submit additional information.

EFFECTIVE DATE: April 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Ruth Leabman, Air Branch, EPA, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On January 12, 1979 EPA published a Notice of Proposed Rulemaking (44 FR 2615) for revisions to the Air Quality Control Plan for inclusion in the Maine SIP which were submitted by the Governor on March 10, 1978. The revisions described in the Proposed Rulemaking would amend Chapter 5—*State Implementation Plan Air Quality Surveillance*, Chapter 6—*Review of New Sources and Modifications*, Chapter 2—*Control Strategies* and Chapter 9—*Intergovernmental Cooperation*.

The Regional Administrator proposed approval of Chapters 5 and 6. Chapter 5 updates the monitoring network to reflect the present configuration. However, the network is approved as an interim measure since it does not meet all the requirements of EPA monitoring strategies which were proposed in the FEDERAL REGISTER on August 7, 1978 (43 FR 34982). Any further changes or proposed relocations of monitoring instruments are to be approved by EPA. The revision to Chapter 6 establishes a category of "Lesser Sources" which is to be licensed on a five-year basis. "Lesser Sources" are those less than 50 million Btu/hour, and consume less than 500,000 gallons of fuel per year. The revision to Chapter 6 is administrative in nature, and will not interfere with the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS).

No action is being taken at this time on Chapter 2 and Chapter 9. Supplemental information required for approval under the Clean Air Act Amendments of 1977 will be included in a subsequent submittal by the State, at which time an evaluation will be made by EPA as to the approvability of these amendments.

No comments were received during the public comment period.

After evaluation of the State's submittal, the Administrator has determined that the Maine revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Maine Implementation Plan.

(Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7401 and 7601.)

Dated: March 19, 1979.

DOUGLAS M. COSTLE,
Administrator.

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

Subpart U—Maine

1. Section 52.1020, paragraph (c)(8) is added as follows:

§ 52.1020 Identification of plan

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(8) Revisions to Chapter 5—*State Implementation Plan Air Quality Surveillance,* and Chapter 6—*Revision of New Sources and Modifications,* submitted by the Governor on March 10, 1978.

[FR Doc. 79-8980 Filed 3-22-79; 8:45 am]

[6560-01-M]

SUBCHAPTER E—PESTICIDE PROGRAMS

[FRL 1081-1; PP 7F1911/R200]

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

Gibberellins

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

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the plant growth regulator gibberellins A_4 and A_7 on apples at 0.5 part per million (ppm). The regulation was requested by Abbott Laboratories. This rule establishes a maximum permissible level for residues of gibberellins A_4 and A_7 on apples.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC (202/755-7013).

SUPPLEMENTARY INFORMATION: On January 23, 1979, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (44 FR 4740) in response to a pesticide petition (PP 7F1911) submitted to the Agency by Abbott Laboratories, Chemical and Agricultural Products Div., 14th Street and Sheridan Road, N. Chicago, IL 60064. This petition proposed that 40 CFR 180.224 be amended by the establishment of a tolerance for residues of the plant growth regulator gibberellin A_4 and A_7 in or on the raw agricultural commodity apples at 0.5 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.224 should be adopted without change, and it has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before April 23, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on March 23, 1979, Part 180, Subpart C, section 180.224 is amended by adding a tolerance for residues of gibberellin A_4 and A_7 on apples at 0.5 ppm as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)])

Dated: March 19, 1979.

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

Part 180, Subpart C, § 180.224 is revised in its entirety to read as follows:

§ 180.224 Gibberellins; tolerances for residues.

(a) Tolerances are established for negligible residues (N) of the plant growth regulator gibberellin A_3 in or on the following raw agricultural commodities:

Commodity: Parts per million	
Artichokes	0.15 (N)
Blueberries	0.15 (N)
Citrus fruits	0.15 (N)
Grapes	0.15 (N)
Hops	0.15 (N)
Leafy vegetables	0.15 (N)
Stone fruits	0.15 (N)
Sugarcane	0.15 (N)
Sugarcane fodder	0.15 (N)
Sugarcane forage	0.15 (N)

(b) A tolerance is established for combined residues of the plant growth regulator gibberellin A_4 and A_7 in or on the following raw agricultural commodity:

Commodity: Parts per million	
Apples	0.5

[FR Doc. 79-8978 Filed 3-22-79; 8:45 am]

[6560-01-M]

[FRL 1080-7; PP 6F1758/R192]

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

Glyphosate

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

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide glyphosate on sugarcane. The regulation was requested by Monsanto Co. This rule establishes a maximum permissible level for residues of glyphosate on sugarcane.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202-755-7013).

SUPPLEMENTARY INFORMATION: On December 5, 1978, the EPA published a notice of proposed rulemaking in the FEDERAL REGISTER (43 FR 57004) in response to a pesticide petition (PP 6F1758) submitted to the Agency by Monsanto Agricultural Products Co., 800 N. Lindbergh Blvd., St. Louis, MO 63166. This petition proposed that 40 CFR 180.364 be amended by the establishment of a tolerance for combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodity sugarcane at 0.1 part per million (ppm). No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been determined by the Agency that for clarification purposes, the proposed regulation should specify that the residues result from herbicide application of the isopropylamine salt of glyphosate. (A related document concerning the establishment of food and feed additive regulations for residues of glyphosate in sugarcane molasses appears elsewhere in today's FEDERAL REGISTER.)

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.364 should be adopted, and it

has been determined that this regulation will protect the public health.

Any person adversely affected by this regulation may, on or before April 23, 1979, file written objections with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St., SW, Washington, DC 20460. Such objections should be submitted and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Effective on March 23, 1979, Part 180, Subpart C, section 180.364 is amended by adding a tolerance for residues of glyphosate on sugarcane at 0.1 ppm as set forth below.

(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].)

Dated: February 24, 1979.

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

Part 180, Subpart C, § 180.364, is amended by revising the introductory paragraph and by alphabetically inserting sugarcane at 0.1 ppm at the end of the table as follows:

§ 180.364 Glyphosate; tolerances for residues.

Tolerances are established for combined residues of glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid resulting from herbicide application of the isopropylamine salt of glyphosate in or on the following raw agricultural commodities:

Commodity	Parts per million
• • •	• • •
Sugarcane	0.1

[FR Doc. 79-8979 Filed 3-22-79; 8:45 am]

[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—MEDICARE PROGRAM

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart C—Exclusions, Recovery of Overpayments, Liability of a Certifying Officer and Suspension of Payment

REDUCTION IN GRACE PERIOD DAYS WHERE PAYMENT IS MADE FOR CERTAIN NONREIMBURSABLE EXPENSES

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule.

SUMMARY: This regulation sets forth amended rules governing Medicare payments authorized under section 1879 of the Social Security Act for certain otherwise nonreimbursable services. Under the amended rules, payment for services determined to be not medically reasonable and necessary, or to constitute custodial care, is limited to 1 day after the day the beneficiary or provider of the services received notice that the services in question were excluded from program coverage. Payment for up to 2 additional days, for a total of 3 days, is authorized only when it is determined by the fiscal intermediary that more than 1 day is needed to arrange for the beneficiary's postdischarge care. The purpose is to conform Medicare policy to Professional Standards Review policy with regard to grace period payments in cases in which certain services rendered to Medicare beneficiaries are found retroactively to be excluded from Medicare coverage.

EFFECTIVE DATE: This amendment shall be effective on April 23, 1979.

FOR FURTHER INFORMATION, CONTACT:

Mendel J. Kaufman, Medicare Bureau, Room 127, East High Rise Building, Baltimore, Maryland 21235, (301) 594-9232.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 1879 of the Social Security Act, enacted October 30, 1972, authorizes Medicare to pay for items or services not covered because they are found either to be not reasonable and necessary, or to constitute custodial care. Such payment can be made when neither the beneficiary nor the provider of the items or services knew, or could reasonably have been expected to know, that the items or services were not covered by Medicare.

Section 1879 further provides that such payment may be continued for a period of time the Secretary finds will carry out the objectives of the law. The current Medicare regulation (42 CFR 405.330(b)) allows payment for up to 3 days after the day the beneficiary or the provider received notice that the items or services in question were excluded from coverage. However, section 1158 of the Act, as amended by section 22 of P.L. 95-142 (the Medicare-Medicaid Anti-Fraud and Abuse Act of 1977), limits payment for inpatient hospital of posthospital extended care services disapproved by a Professional Standards Review Organization (PSRO) to 1 day after the day the provider receives notice of the disapproval. Payment may be continued for up to 2 additional days, for a total of 3 days, only when the PSRO determines that more time is required to arrange for the beneficiary's postdischarge care. Thus, how a beneficiary, found not in need of inpatient hospital or posthospital extended care services, is treated depends upon whether or not that determination was made by a PSRO. We believe that benefits to Medicare beneficiaries should not vary based on the mere fact that an institution was, or was not, under PSRO review. Therefore, we are changing our rules under section 1879 to conform to the provisions applicable where there is PSRO review.

DISCUSSION OF COMMENTS

A Notice of Proposed Rulemaking was published June 5, 1978 (43 FR 24332). Interested persons were given 45 days from the date of publication of the Notice of Proposed Rulemaking in which to submit data, views, or arguments. Comments and suggestions on the proposed regulation were received from a number of health care organizations, providers, and legal aid groups. Following are our responses to all significant issues raised.

1. *General Expressions of Concern.* Several commenters expressed concern that patients and providers of services will suffer financial loss as a result of the regulatory change. Moreover, they thought that patients, their families and providers would face undue pressure to make hasty postdischarge arrangements.

We expect the change to encourage providers and patients to make more timely arrangements for postdischarge care. However, the Medicare program will continue to make payment for up to the maximum 3-day period in all cases where special problems or circumstances require the additional days for arranging necessary postdischarge care. Under this change, payment will be made for more than one

day only where the servicing intermediary finds that the additional time is warranted. The primary effect of this change will be to prevent payment for more than one day in those situations where additional time is not needed to arrange for postdischarge care.

2. *Availability of Skilled Nursing Facility Beds.* Several of those who commented were concerned that the lack of available skilled nursing facility beds in their localities would make transfers during a 1-day grace period difficult, if not impossible.

The regulatory change does not affect current policies and procedures that allow a hospital inpatient requiring a skilled level of nursing care to continue to receive payment for care at the hospital until an available skilled nursing facility bed can be found for the patient within the hospital's locality (42 CFR 405.1627(a)(2)). Thus, Medicare beneficiaries will not be subject to increased hardship because of this change.

3. *Inconsistent "Grace Periods".* Several commenters expressed concern that the grace period under sections 1879 and 1158 of the Social Security Act, which under routine circumstances allow payment for only 1 day, are not consistent with the grace period payment allowed under section 1814(a)(7) of the Act, which routinely allows payment for up to 3 days following a notice by the provider's utilization review committee. As a result, they fear that Medicare beneficiaries will be treated differently under these provisions.

Section 1814(a)(7) permits payment for 3 days of institutional care following the day upon which an institution receives a utilization review committee notice that further care is not medically necessary, if the patient remains in the institution. However, unlike section 1879, section 1814(a)(7) applies only when services rendered up to the time of the utilization review committee's finding are medically necessary. Also, unlike sections 1879 and 1158, section 1814(a)(7) does not expressly offer any discretion in the number of days for which such payments are to be made. Section 1879 leaves the length of the "grace period" to the discretion of the Secretary. Section 1158 mandates 1 day, but authorizes a PSRO to approve up to 2 additional days of payment, for a total of 3 days, if the patient requires more time to arrange for postdischarge care.

Since payment for "grace period" days under section 1814(a)(7) cannot be changed by regulation, the change being made here will result in an apparent inconsistency. However, it should be noted that section 1814(a)(7) applies only to hospitals and skilled nursing facilities which are not under PSRO review. PSRO implementation in hospitals is already well along and the application of section 1814(a)(7) should eventually be phased out entirely. Therefore, we think changing this regulation now will achieve as much consistency as possible.

5. *Determining Need for Additional Time.* One commenter expressed concern that the regulation provides for the intermediary to make the decision as to whether more time is required to arrange for postdischarge care. Another suggested that the regulation should put more emphasis on requiring the provider to demonstrate that more time is required to arrange for postdischarge care.

The regulation is consistent with the overall claims review responsibility of intermediaries for determining the amount of payments due providers under Medicare, and for making such payment. The intermediary's determination will be based on information or recommendations from varied sources and forwarded by the provider from, for example, an attending physician, the utilization review committee, a social service agent or some other party familiar with the beneficiary's situation. Thus, the provider or other sources must demonstrate to the intermediary sufficient need for additional time to arrange for postdischarge care to justify an extension of the grace period.

6. *Need for Regulations Change.* Several commenters questioned the need for the regulation change, suggesting that it would increase paperwork and would not result in any significant savings.

We do not believe that the regulation change will substantially increase paperwork. Furthermore, we believe that the change will result in reduced Medicare payments for noncovered services under section 1879, by encouraging providers and patients to make more timely arrangements for postdischarge care.

In our view, any increase in administrative costs will be far outweighed by the savings in Medicare payment.

Accordingly, the amendments are adopted without change, as set forth below.

42 CFR 405.330 is amended by revising paragraph (b) to read as follows:

§ 405.330 Payment for certain nonreimbursable expenses.

* * * * *

(b) Payment under this provision may be made for inpatient hospital services, post hospital extended care services, and home health services (as defined in §§ 405.116, 405.125, and 405.236 respectively) furnished on the first day after which ever of the following days is the earlier:

(1) The day on which the individual, to whom such items or services were furnished, has been determined, under § 405.332(a), to have knowledge, actual or imputed, that such items or services were excluded from coverage by reason of § 405.310(g) or § 405.310(k); or

(2) The day on which the provider of services, which furnished such items or services, has been determined, under § 405.332(b), to have knowledge, actual or imputed, that such items or services were excluded from coverage by reason of § 405.310(g) or § 405.310(k).

If it is determined by the fiscal intermediary that more time is required in order to arrange post discharge care, payment may be made for services furnished for up to 2 additional days.

(Secs. 1102, 1871, 1879 of the Social Security Act; 42 U.S.C. 1302, 1395hh., 1395pp)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated March 5, 1979.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Administration.

Approved: March 17, 1979.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 79-8884 Filed 3-22-79; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-43 (Sub-No. 7)]

PART 1057—LEASE AND INTERCHANGE OF VEHICLES

Lease and Interchange of Vehicles; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Notice of corrections to final rules.

SUMMARY: A portion of § 1057.24(a) was inadvertently omitted from the printed decision (*Lease and Interchange of Vehicles,* 131 M.C.C. 141) and the FEDERAL REGISTER notice (44 FR 4680) which set forth the final rules adopted in this proceeding. Also, the subsections of § 1057.25 were numbered in the final decision instead of being lettered. These sections are being republished in this notice in the

correct form and with the correct content.

FOR FURTHER INFORMATION CONTACT:

Richard Armstrong (202) 275-7426.

Sections 1057.24 and 1057.25 are corrected to read as set forth below:

§ 1057.24 Exemption for trip leasing equipment used in agricultural operations.

The requirement in § 1057.12(c) concerning the minimum duration of a lease for equipment with driver, does not apply where the authorized carrier complies with the provisions of § 1057.25 and where:

(a) The equipment is leased by the authorized carrier for use in a single movement or in one or more of a series of movements, loaded or empty, in the general direction of the place where the equipment is based, and the equipment is that of one of the following:

(1) A farmer or a cooperative association or federation of cooperative associations under 49 U.S.C. § 10526(a)(4) or (5).

(2) A private carrier and the equipment is used regularly in the transportation of (i) property referred to in 49 U.S.C. § 10526(a)(6), or (ii) perishable products manufactured from perishable property referred to in that section.

(b) The equipment has completed a movement covered by 49 U.S.C. § 10526(a)(6) and is leased to the authorized carrier for use next in one of the following:

(1) A loaded movement in any direction.

(2) One or more of a series of movements, loaded or empty, in the general direction of the place where the equipment is based.

(3) A movement described in (1) of this subsection and then a movement described in (2) of this subsection.

§ 1057.25 Record keeping for agricultural exemption.

To qualify for the exemption in § 1057.24, prior to leasing the equipment, the authorized carrier shall receive and retain a statement signed by the owner, or authorized representative of the owner, which includes:

(a) Authorization for the driver to lease the equipment for such movements.

(b) Certification that the equipment meets the qualifications in (a) or (b) of § 1057.24.

(c) Specification of the origin, destination, and the time of beginning and ending of the last movement which brought the equipment within the exemption of § 1057.24.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 79-8991 Filed 3-22-79; 8:45 am]

[7035-01-M]

[EX PARTE NO. 55 (Sub-No. 34)]

PART 1003—LIST OF FORMS

PART 1100 APPENDIX F—NUMBER OF COPIES OF DOCUMENTS

PART 1134—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS OR THEIR PROPERTIES

Revision of Finance Forms

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising certain finance forms used in applications to consolidate, merge, purchase, or lease operating rights and properties of a motor carrier, acquire control of a carrier, issue and sell securities, and temporarily operate a carrier sought to be acquired. The changes are intended to make the forms easier to understand and to conform statute citations to the recent codification of the Interstate Commerce Act. Several minor reporting changes have been made to meet the requirements of previous statutory and regulatory changes.

EFFECTIVE DATE: Applications filed on or after July 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, (202) 275-7292.

SUPPLEMENTARY INFORMATION: The Commission is taking this action so that these forms conform to previous changes in statutes and regulations and so they are easier to understand. The forms include OP-F-44, application to consolidate, merge, purchase, or lease operating rights and properties of a motor carrier, OP-F-45, application for authority to acquire control of a motor carrier or motor carriers through ownership of stock or otherwise, OP-F-46, application for approval of the temporary operation of motor carrier properties sought to be acquired under separately filed applications or of transfers of motor carrier certificates and permits, OP-F-200, application for authority to issue securities, or to assume obligation or liability in regard to securities of another person, and OP-F-210, special application for authority to sell securities without competitive bidding. In addition, the number of copies required to be filed with the Commission has been reduced to three, along with the original, in all cases. Except for these minor changes, no substantive changes have been made. Therefore, prior notice to the public is unnecessary, see 5 U.S.C. 553(b).

In accordance with The Energy Policy and Conservation Act of 1975, the Commission recently adopted rules at 49 CFR 1106. Each of the application forms complies with that Act and adopted rules, by requiring applicant to specify whether the proposed action under the application is a major regulatory action under the terms of that Act and to provide supplementary information where applicable. There is no reporting requirement in Form OP-F-46. That form concerns applications for approval of temporary operation of motor carrier properties, thus falling outside the scope of the reporting requirements, see 49 CFR 1106.7(c).

Item 7 of Form OP-F-200 has been changed to bring it into agreement with Section 308 of the Railroad Revitalization and Regulatory Reform Act of 1976. The Commission adopted the new procedures listed in Item 7 in Ex Parte No. 279, *Securities Regulations-Public Offerings (Form of Offering Circular Required for Public Sales of Securities Authorized under Section 20a or 214 of the Interstate Commerce Act)*, decided March 24, 1976 (not printed).

Finally, improved internal handling of these application forms has lessened the requirement for the number of copies needed by the Commission. In the future only an original and three copies need be filed. Appropriate sections of the Code of Federal Regulations, as indicated below, are modified to reflect these changes.

If persons wish to comment on the format or correctness of the attached forms, they may file comments with the Commission within 30 days of the service date of this notice. Please mail them directly to Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

Authority for the changes is found in 5 U.S.C. 552 and 553(b) and 49 U.S.C. 10101, 49 U.S.C. 10321, 49 U.S.C. 10501, 49 U.S.C. 10521, 49 U.S.C. 10921, 49 U.S.C. 11301 through 11303, and 49 U.S.C. 11341.

Decided: February 9, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Brown, Commissioners Stafford, Gresham, Clapp,

and Christian. Vice Chairman Brown absent and not participating.

H. G. HOMME, Jr.,
Secretary.

MODIFICATIONS IN CODE OF FEDERAL REGULATIONS FOR NUMBER OF APPLICATION COPIES REQUIRED

PART 1134—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS OR THEIR PROPERTIES

I. The following subsections of Volume 49 of the Code of Federal Regulations are modified as follows:

§ 1134.1 [Amended]

49 C.F.R. 1134.1(b)—delete "five copies", replace with "three copies".

§ 1134.6 [Amended]

49 C.F.R. 1134.6(b)—delete "five copies", replace with "three copies".

§ 1134.50 [Amended]

49 C.F.R. 1134.50(b)—delete "five copies", replace with "three copies".

49 C.F.R. 1100, Appendix F—Number of copies of documents (in addition to original) to be filed with Commission. Indicate requirement of three copies opposite the following:

Competitive bidding requirements—exemption.

Securities issuance, assumption of obligations.

Merger, consolidation, purchase, or lease (Form OP-F-44).

Temporary operation (Form OP-F-46).

Sec. 5a (Forms OP-F-44 and OP-F-45).

PART 1003—LIST OF FORMS

II. 49 C.F.R. 1003 is modified by adoption of the following revised forms:

[7035-01-C]

FORM OP-F-44 (49 CFR 1134.1)
Revised - - 79

BEFORE THE INTERSTATE COMMERCE COMMISSION

No. MC-F-_____
(For Office Use Only)

APPLICATION FOR AUTHORITY UNDER 49 U.S.C. 11343, 11344 TO CONSOLIDATE, MERGE, PURCHASE, OR LEASE OPERATING RIGHTS AND PROPERTIES OF A MOTOR CARRIER
(Please read instructions before preparing)

I. This is an application of--

A._____
(Full name of transferee[1])

_____
(State whether corporation, partnership, individual, trustee, receiver or assignee)

doing business as_____

_____; and
(City) (State) (Zip Code)

B._____
(Full name of transferor[2])

_____
(State whether corporation, partnership, individual, trustee, receiver or assignee)

doing business as_____
(Trade name)

_____
(Number and Street)

_____
(City) (State) (Zip Code)

for authority under 49 U.S.C. 11343, 11344 (describe briefly the consolidation, merger, purchase, or lease for which authority is sought):_____

_____

_____

II. Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? [ ]YES [ ]NO

If YES, a statement complying with requirements of 49 CFR 1108 must be attached to this application.

Is this application a major regulatory action under the Energy Policy and Conservation Act of 1975? (Refer to 49 C.F.R. 1106.1 through 1106.6, especially 1106.5). [ ]YES [ ]NO

If YES, attach information as to why this proceeding is a major regulatory action, and a description of important energy impacts.

III. Transferee is controlled,[3] directly or indirectly, by the persons named below. These persons join in this application as applicant for authority to control the operating rights and any property sought to be acquired by transferee.

---

[1] Includes, (1) in a consolidation, the new corporation succeeding to assets and assuming liabilities of two or more carriers, (2) in a merger, the surviving corporation performing a similar function, (3) in a purchase, the vendee, and (4) in a lease, the lessee. If more than one transferee, use identification AA, AAA, etc.

[2] Includes, in a merger or consolidation, the carrier or carriers proposed to be liquidated, and in a purchase or lease, the vendor or lessor, respectively. If more than one transferor, use identification BB, BBB, etc.

[3] 49 U.S.C. 10102(6) provides that "control" includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, voting trusts, holding or investment companies, or any other means.

Names	Street Address, City, State, & Zip Code

IV. All correspondence with respect to this application shall be sent to:

(Full name)

(Title and name of company; if attorney, so state)

(Business address)

V. The following appendices are attached:

Appendix A. -- Information regarding transferee, its affiliates if any, and the persons controlling transferee;

Appendix B. -- Information regarding transferor;

Appendix C. -- Nature of the proposed transaction and terms and conditions;

Appendix D. -- Operations under the rights sought to be acquired; and

Appendix E. -- Other facts and circumstances which applicants rely upon to warrant approval of the proposed transaction. Applicants will submit such additional information as the Commission may require.

VI. If the application is assigned for oral hearing, applicants prefer that the hearing be held at

Indicate places suitable for the hearing. If Washington, D.C. would not be objectionable, so state. State the approximate number of witnesses applicants expect to call: and the approximate time needed to present applicants' evidence:

ATTENTION: Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by imprisonment and fines. (See 18 U.S.C. 1001.)

Each person signing this application certifies that the representations made are, to the best of his/her knowledge and belief, true and complete.

Dated this day of , 19 .

(Signature of transferee)

By

(Title)

By person(s) in control of transferee:

(Signature of transferor)

By

(Title)

APPENDIX A

INFORMATION REGARDING TRANSFEREE, ITS AFFILIATES,[4/] IF ANY, AND THE PERSONS CONTROLLING TRANSFEREE

If more than one transferee, attach additional sheets and mark for identification, AA, AAA, etc.

Furnish with respect to (a) transferee and (aa) any persons controlling transferee, other than individuals.

1. Date and State of incorporation, formation, or organization:

Date_____ State_____

2. Name, Title, and business address of officers; partners, including limited or silent partners; or trustee:

Name	Title	Street Address, City, State & Zip Code

3. Name and business address of directors:

Name	Street Address, City, State & Zip Code

[4/] 49 U.S.C. 11343(c) provides that a person is affiliated with a carrier if, because of the relationship between the person and the carrier, it is reasonable to believe that the affairs of another carrier, control of which may be acquired by that person, will be managed in the interest of the other carrier.

APPENDIX A -- CONTINUED

Name	Street Address, City, State & Zip Code

4. The total number of shares outstanding, by class, _____ and the _____ name and business address of 10 principal stockholders, shareholders, or other owners, as of _____ (last record date) and their respective holdings. If holdings are in names of nominees, state names of real owners.

Names	Street address, City & State	Extent of Interest: Class	Shares	%

5. (a) Is transferee or any of the persons mentioned in 2, 3, or 4 (a) or (aa) above a motor, rail, or water carrier, an express or sleeping car company, a freight forwarder, or a person in control of or affiliated with such a carrier, company, or forwarder, or related to, or affiliated with a person in control of or affiliated with such a carrier, company, or forwarder? [ ]YES [ ]NO

If yes, consideration must be given to 49 U.S.C. 11323.

(b) Does transferee, or any other above-mentioned person own any interest in or exercise any measure of control over any carrier, company, or forwarder, except as disclosed? [ ]YES [ ]NO

If answer to any of the above is "yes" explain fully. Identify each carrier, company, or forwarder. Described nature and scope of its operations. Identify Interstate Commerce Commission authority under which operations are conducted:_____

_____

_____

6. Is transferee or any person controlling transferee, engaged in any other form of transportation activity? [ ]YES [ ]NO

If answer is "yes," indicate the extent:_____

_____

_____

_____

Attach to original only: (If documents here specified have been previously filed with the Interstate Commerce Commission in connection with any application, it will be sufficient to make reference to the docket number under which filed. However, any changes occurring since the filing shall be shown in a separate attached statement and identified to correspond with the specific appendix requested here.)

APPENDIX A -- CONTINUED

A-1. Copy of articles of incorporation, with all amendments; or copy of articles of partnership, association, trust agreement, or other documents evidencing organization.

A-2. Copy of annual report to stockholders or shareholders for year preceding date of filing this application.

Attach to original and each copy:

A-3. Copy of all resolutions of directors authorizing the transaction proposed; and, if the charter or bylaws require approval by the stockholders, copy of resolutions of stockholders authorizing the transaction proposed, and indicating the percentage of stock voting the authorization.

A-4 Copies of all resolutions of stockholders or directors, or fully authorized committees, designating by name and for that purpose the executive officer by whom the application is signed.

If the transferee is an organization other than a corporation, furnish documentary evidence showing authorization and designation of the individual signing the application.

If the party signing the application is a trustee, receiver, or like representative, furnish a copy of authorizing order of the court, if any.

The data requested below in A-5 through A-8, identified as indicated, must be furnished respecting transferee, any subsidiary engaged in transportation or activity connected with transportation, and the person or persons controlling transferee, except that, if the latter are non-carrier individuals who do not own any voting stock in, or control any other carrier subject to the Interstate Commerce Act, the data requested respecting transferee and subsidiaries only need be furnished.

APPENDIX A -- CONTINUED

Attach to original and each copy:

A-5. Balance sheet statement as of the latest available date. Ordinarily, this should be of a date within six months of the date of the application.

A-6. Detail of intangible property accounts including for each item the amount, date of acquisition, and source of authority.

A-7. Detail of investments in affiliated companies, including for each affiliated company the book cost of the investment in each class of securities, and the amount of advances made to each affiliated company.

A-8. Income statement for current calendar year to the latest available date and for each of the two preceding calendar years. Preferably, the latest statement should be to the date of the balance sheet.

APPENDIX B

INFORMATION REGARDING TRANSFEROR

If more than one transferor, attach additional sheets, and mark for identification BB, BBB, etc.

1. Date and State of incorporation, formation, or organization or transferor:

   Date_____State_____

2. Is there any financial or other relationship existing between transferor and other applicants? [ ]YES [ ]NO

   If answer is "Yes" explain:

_____

_____

_____

3. (a) Describe briefly the motor-carrier operating rights of transferor for which authority to consolidate, merge, purchase, or lease is sought, furnishing number or numbers assigned by the Interstate Commerce Commission. If only a portion of authority is involved, indicate specifically:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

(b) If only part of transferor's operating authority is involved in the proposed transaction, describe operating authority being retained, particularly duplicating authority.

_____

_____

_____

(c) If the transaction involves other properties of transferor, generally describe the properties:

_____

_____

_____

4. Are operations not being conducted by transferor under any portion of the operating rights involved in the proposed transaction?[ ]YES [ ]NO

If answer is "yes," explain:_____

_____

_____

_____

Attach or original and each copy:

B-1. Copy of all resolutions of directors authorizing the transaction proposed; and, if the charter or bylaws requires approval by the stockholders, copies of resolutions of stockholders authorizing the transaction proposed, and indicating the percentage of stock voting for the authorization.

B-2. Copies of all resolutions of stockholders, directors, or fully authorized committees, designating by name and for that purpose the executive officer by whom the application is signed.

If the transferor is an organization other than a corporation, furnish documentary evidence showing authorization and designation of the individual signing the application.

If the party by whom the application is signed is a trustee, receiver, or like representative of transferor, furnish a copy of the authorizing order of the court.

B-3. Balance sheet statement as of the lastest available date. Ordinarily, this should be of a date within six months of the date of the application and of the same date, if possible, as that furnished on behalf of transferee.

B-4. Detail of intangible property accounts including for each item the amount, date of acquisition, and source of authority.

B-5. Income statement of current calendar year to the latest available date and for each of the two preceding calendar years. Preferably, the latest statement should be to the date of the balance sheet.

APPENDIX C

NATURE OF PROPOSED TRANSACTION AND TERMS AND CONDITIONS

Attach to original and each copy of this application the following data:

C-1. Copy of every contract or other written instrument entered into, or proposed to be entered into, pertaining to the transaction, or if not contained in written contract or other instrument, a statement containing detailed description of the transaction.

C-2. Statement showing ledger value (or estimated value where ledger value not available) for property proposed to be acquired, segregated by items in accordance with Uniform System of Accounts for Motor Carriers, with further segregation of revenue automotive equipment on basis of buses, trucks, tractors, semitrailers, full trailers, pole trailers, and miscellaneous equipment.

C-3. Statement containing the following information for each item of encumbered property proposed to be acquired for which transferee has agreed to assume obligation.

(a) Description of the property encumbered.

(b) Amount and full description of encumbrance, including maturity, interest, other terms and conditions, and whether amount is evidenced by a promissory note.

(c) Amount of encumbrance to be assumed by transferee.

(d) Amount of any other liability to be assumed by transferee showing the information requested in (b) above.

APPENDIX C--Continued

C-4. Statement explaining how transferee proposes to meet the financial requirements of the transaction, including, if a loan is involved, the amount, maturity, interest rate, other terms and conditions, and whether a promissory note or other securities will be issued.

C-5. If application is for authority to consolidate, merge, or purchase, "giving effect" balance sheet for transferee as of the latest available date showing the effect of consummation of the proposed transaction. Each adjustment should be separately explained.

C-6. "Giving effect" income statement for the current calendar year to date, for transferee, showing estimated adjustment and eliminations which would have resulted from consummation of the proposed transaction. Each adjustment should be separately explained and supported.

C-7. If the transaction involves an issue of securities or assumption of obligation or liability in respect to securities of transferor or others, (a) statement showing that the issue or assumption is within one of the exemptions in 49 U.S.C. 11302 or (b) statement indicating that a separate application will be filed under 49 U.S.C. 11302.

APPENDIX D

OPERATIONS UNDER THE RIGHTS SOUGHT TO BE ACQUIRED

Attach to original and each copy of this application the following appendices:

D-1. Map showing the operations sought to be acquired, authority, if any, to be retained by transferor, and all pertinent portions of transferee's present authority.

D-2. If irregular-route authority is sought to be acquired indicate whether that authority sought can or will be joined with any operating authority transferee now holds, or seeks in a pending application, so as to permit the performance of a through service by transferee to, from, or between points not included under the operating rights sought to be transferred. [ ]YES [ ]NO

If answer is YES and joinder or tacking is intended, indicate the points or areas where the involved authorities would connect and the territory that would be served through the joinder. Show on map the method by which tacking would be accomplished. Consideration must be given to the provisions of Ex Parte 55 (Sub-No. 8), Gateway Elimination, 119 M.C.C. 530.

(Attach pertinent portions of authority now held or sought in pending applications).

D-3. Statement showing the extent to which transferee or any carrier affiliated with transferee holds authority duplicating in any respect that sought here, or to which any application previously filed with the Commission and still pending, or any application being filed simultaneoulsy with this one, seeks authority duplicating that sought in this application.

D-4. If transferor is a carrier of property, submit an abstract showing actual shipments transported under the operating authority involved in the proposed transaction. Preferably, the abstract should include shipments transported during the 6 months preceding the date of the agreement of the parties

covering the transaction. Shipments before and after this period may be included provided that such evidence is not cumulative. The responsibility rests with applicants, if they rely on transferor's operations, to make this appendix as complete and representative of transferor's operations as possible. The relevant data shall be abstracted from bills of lading, freight bills, or other shipping documents in orderly and informative fashion. For each shipment shown on the abstract there should be shown the commodity; the weight; the point of origin; whether on-line or off-line; point of interchange if interchange was effected; and the point of destination, whether on-line or off-line. Shipments should be totalled by number and weight. The abstract shall not divulge information concerning the business activities of shippers or consigness which carriers are prohibited from disclosing without consent. Dormancy will be assumed respecting operating authority for which no shipments are shown, and other supporting data will be required.

The abstract shall be accompanied by a summary reflecting total number of shipments and weight transported between origin and destination point. If regular routes are involved the summary shall indicate the routes over which the shipments moved.

D-5. If transferor is a carrier of passengers, or applicants will not rely on transferor's operations or the supporting evidence of public witnesses, describe the type of evidence which applicants rely upon to support their burden of proof.

D-6. Vendee affirms that if the authority being sought is granted, it shall not restrict, halt, or curtail service to and/or from any points previously served by vendor whether by tariff or otherwise. [ ]YES [ ]NO. If "no" explain.

APPENDIX E

OTHER FACTS AND CIRCUMSTANCES WHICH APPLICANTS RELY UPON TO WARRANT APPROVAL OF THE PROPOSED TRANSACTION

Attach to original and each copy of this application the following information:

E-1. Explain and support the reasonableness of the consideration involved in the proposed transaction.

E-2. Show the effect of the proposed transaction upon adequate transportation service to the public.

E-3. Show the increase in fixed charges resulting from the proposed transaction, the manner in which it is proposed to meet these charges, and that the increase of transferee's total fixed charges would not be contrary to the public interest.

E-4. Establish that any guaranty or assumption of payment of dividends or fixed charges contemplated in the transaction is consistent with the public interest.

E-5. Show the effect of the transaction on the interests of the carrier employees affected.

E-6. Establish that the transaction will be consistent with the public interest.

E-7. If transferee is a carrier by railroad subject to the Interstate Commerce Act, or a person which is controlled by or affiliated with such a carrier, show that the proposed transaction will enable such carrier by railroad to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

E-8. Indicate whether the proposed transaction would result in dual operations, or the extension of these operations by transferee, or by transferee and any person controlling, controlled by, or under common control with transferee.

CERTIFICATE OF SERVICE

I certify that I have delivered a copy of this application, in person or by mail, to the following Regional Managing Director(s) of the Commission's Bureau of Operations for the Region(s) in which the headquarters of the carriers involved in the application are located.

Regional Managing Directors	Address
_____	_____
_____	_____
_____	_____

I further certify that a summary of the application was delivered, in person or by first-class mail, to the appropriate State Board (or official) of the State in which the headquarters of the carriers are located:

Name of State Board	Address
_____	_____
_____	_____
_____	_____
_____	_____

Dated this____day of_____, 19___.

_____
Signature

INSTRUCTIONS

1. REFERENCE - See 49 U.S.C. 11343.

2. FILING FEE - Applicants must submit with the application a check or money order made out to the Interstate Commerce Commission for the amount listed at 49 C.F.R. 1002.2.

3. FORM - If this form is not used, application shall be typewritten or printed on paper 8-1/2 inches wide and 13 inches long, with a margin of 1-1/2 inches on the left side and 1 inch on the right side. Indent quotations and use only one side of the paper. White-line blueprints which cannot be reproduced by photography are not acceptable.

4. APPENDICES - Shall be folded to conform to the size of the application.

5. MANNER OF EXECUTION - The original application shall be signed in ink by applicants, if individuals; by all partners, if partnership; and if corporations, associations, or other similar forms or organization, by executive officers having knowledge of all matters contained therein and designated for that purpose by applicants.

6. NUMBER OF COPIES - File with the Secretary of the Interstate Commerce Commission at Washington, D.C. 20423, the original and three copies of each application. Concurrently furnish one copy to each of the Regional Managing Directors of the Bureau of Operations for the Regions in which are located the headquarters of the carriers involved in the application, and upon written request, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having the authority to regulate the business of transportation by motor vehicle in each State in or through which the carriers operate. Signatures on the copies may be stamped or typed. A summary of the application, as provided in 49 CFR 1100.240(b), shall be delivered by first-class mail to the appropriate official (described above) of the States in which the headquarters of the carriers are located.

7. NOTICE TO COMPETITORS - Applicants are not required to give notice to competitors. Notice to interested persons of the filing of the application will be given by publication of a summary of the authority sought in the FEDERAL REGISTER.

8. WHEN ADDITIONAL SPACE REQUIRED - Attach to the application supplemental sheets, making specific reference to the supplements in the form. Do not paste riders to any page.

9. INFORMATION REQUIRED - Must be given unless not known or available, or if not applicable. In such case, however, explicit statement to this effect shall be made in the application in lieu of the omitted material, setting forth the reasons why the information has not been given.

10. RELATED APPLICATIONS - Applicant shall bring to the Commission's attention any certificate or permit it seeks (under the OP-OR-9 application procedure) which is directly related to the proposed transaction.

11. FEDERAL REGISTER SUMMARY - The applicant will prepare a summary of the authority sought for the Federal Register. The Commission will advise applicant if the summary does not properly describe the transaction (49 CFR 1100.240(b)).

FORM OP-F-45 Revised - -79
(49 CFR 1134.50)

BEFORE THE INTERSTATE COMMERCE COMMISSION

APPLICATION FOR AUTHORITY UNDER 49 U.S.C. 11343, 11344
TO ACQUIRE CONTROL OF A MOTOR CARRIER OR MOTOR CARRIERS
THROUGH OWNERSHIP OF STOCK, OR OTHERWISE
(Please read instructions on page before preparing)

No. MC-F-_____
(For office use only

I. This is an application of--

_____
(Full name of applicant)

_____
(State whether corporation, partnership, individual, trustee, receiver or assignee)

_____
(State whether a rail, express, motor, or water carrier)

doing business as_____
(Trade name)

Business address_____
(Number and street)

_____
(City) (State) (Zip Code)

for authority under 49 U.S.C. 11343, 11344 to acquire control of--

_____
(Full name of carrier(s) to be controlled)

Business address_____
(Number and street)

_____
(City) (State) (Zip Code)

through ownership of capital stock, or otherwise.

II. Applicant is controlled,[1/] directly or indirectly, by the persons named below, and each of these persons joins in this application:

Name	Street Address, City, State, & Zip Code

III. The aggregate gross operating revenues of applicant (if a motor carrier), the motor carrier(s) of which control is proposed to be acquired, and affiliates[2/] of both for a period of 12 consecutive months ending not more than six months preceding the date of the agreement of the parties covering the proposed transaction was $_____.

IV. The following appendices are attached:

Appendix A. -- Information regarding applicant, its affiliates if any, and the persons controlling applicant;

Appendix B. -- Information regarding carrier to be controlled, and its affiliates, if any, engaged in an activity connected with transportation, of which control would be acquired in this transaction;

Appendix C. -- Nature of the proposed transactions and its terms and conditons; and

Appendix D. -- Facts and circumstances on which applicant relies to warrant approval of the proposed transaction. Applicant will submit such additional information as the Commission may require.

[1/] 49 U.S.C. 10102(6) provides that "control" includes actual control, legal control, and the power to exercise control, through or by common directors, officers, stockholders, voting trusts, holding or investment companies, or any other means.

[2/] 49 U.S.C. 11343(c) provides that a person is affiliated with a carrier if, because of the relationship between the person and the carrier, it is reasonable to believe that the affairs of another carrier, control of which may be acquired by that person, will be managed in the interest of the other carrier.

V. If the application is assigned for oral hearing, applicant prefers that the hearing be held at _____

_____

_____

Indicate places suitable for the hearing. If Washington, D.C. would not be objectionable, so state. State the approximate number of witnesses applicant expects to call: _____ and the approximate time needed to present applicant's evidence: _____

VI. All correspondence with respect to this application should be sent to:

_____
(Full name)

_____
(Title and name of company; if attorney, so state)

_____
(Business address)

VII. Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? [ ]YES [ ]NO

If YES, a statement complying with requirements of 49 C.F.R. 1108 must be attached to this application.

Is this application a major regulatory action under the Energy Policy and Conservation Act of 1975? (Refer to 49 C.F.R. 1106.1 through 1106.6, especially 1106.5)(c). [ ]YES [ ]NO

If yes, attach information as to why this proceeding is a major regulatory action, and a description of important energy impacts.

ATTENTION: Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by imprisionment and fines. (See 18 U.S.C. 1001.)

Each person signing this application certifies that the representations made are, to the best of his/her knowledge and belief, true and complete.

Dated this _____ day of _____, 19__.

_____
(Signature of applicant)

By _____

_____
(Title)

By person(s) in control of applicant:

_____

_____

_____

APPENDIX A

INFORMATION REGARDING APPLICANT, ITS AFFILIATES IF ANY, AND THE PERSON OR PERSONS CONTROLLING APPLICANT

If more than one applicant, attach additional appendices, mark for identification AA, AAA, etc.

1. Date and State of incorporation, formation, or organization of applicant:

Date_____ State_____

2. Name, title, and business address of officers; partners, including limited or silent partners; or trustees:

Name	Title	Street Address, City, State & Zip Code

3. Name and business address of directors:

Name	Street Address, City, State & Zip Code

APPENDIX A -- CONTINUED

4. Name and business address of 10 principal stockholders, shareholders, or other owners, whichever applicable, as of _____ _____(last record date) and their respective holdings. If holdings are in names of nominees, state names of real owners.

Names	Street address, City, State and Zip Code	Extent of Interest Class	Shares	%

5. Total number of shares of stock authorized to be issued_____.

6. Total number of shares issued and outstanding_____.

7. Par value per share $_____.

8. If a person controlling applicant is a corporation, partnership, or association, furnish with respect to such person the information requested above_____

9. (a) Is applicant, any person controlling applicant, or any of the persons mentioned in 2, 3, 4, or 8 above a motor, rail, or water carrier, an express or sleeping-car company, a freight forwarder, or a person in control of or affiliated with such a carrier, company, or forwarder? [ ]YES [ ]NO

If yes, consideration must be given to 49 U.S.C. 11323.

(b) Does applicant, any person controlling applicant, or any other above-mentioned person own any interest in, or exercise any measure of control over any carrier, company, or forwarder, except as disclosed? [ ]YES [ ]NO

If answer to any of the above is "yes" explain fully, identifying each carrier, company, or forwarder. Describe nature and scope of its operations. Identify Interstate Commerce Commission authority under which operations are conducted, or attach copy of certificate(s) or permit(s) issued by this Commission:_____

APPENDIX A -- CONTINUED

10. Is applicant or any persons controlling applicant engaged in any other form of transportation activity? [ ]YES [ ]NO
If "yes", indicate the extent:

_____

_____

_____

The appendices, requested below, identified as indicated, must be furnished respecting (a) applicant,(b) applicant's wholly owned subsidiaries and (c) the person or persons controlling applicant, except that, if the latter are noncarrier individuals who do not own any voting stock in, or control any other carrier subject to the Interstate Commerce Act, the appendices regarding these persons need not be furnished.

Attach to original only: (If documents here specified have been previously filed with the Interstate Commerce Commission in connection with any application, it will be sufficient to make reference to the docket number under which filed. Any changes occurring since the filing shall be shown in a separate statement attached, and identified to correspond with the specific appendix requested here.)

A-1. Copy of articles of incorporation, with all amendments; or copy of articles of partnership, association, trust agreement, or other documents evidencing organization.

A-2. Copy of annual report to stockholders or shareholders for year preceding date of filing this appilcation.

Attach to original and each copy:

A-3. Copy of all resolutions of directors authorizing the transaction proposed; and, if the charter or bylaws require approval by the stockholders, copies of resolutions of stockholders authorizing the transaction proposed, and indicating the percentage of stock voting for the authorization.

APPENDIX A -- CONTINUED

A-4 Copies of all resolutions of stockholders or directors, or duly authorized committees, designating by name and for that purpose the executive officer by whom the application is signed.

If applicant or a person controlling applicant is an organization other than a corporation furnish documentary evidence showing authorization and designation of the individual signing the application.

If any party signing the application is a trustee, receiver, or like representative, furnish a copy of the authorizing order of the court, if any.

A-5. Balance sheet statement as of the latest available date, but not earlier than six months prior to the filing of this application.

A-6. Analysis of intangible property accounts including for each item the date of acquisition, source of authority, account in which presently recorded, amounts, reserve, and policy and practice followed with respect to amortization of intangible property.

A-7. Analysis of investment and advances-affiliated companies' account in exhibit A-5, in form of supporting schedule contained in the Commission's Class I and Class II motor carrier annual report forms.

A-8. Income statement for current calendar year to date of the balance sheet in exhibit A-5, and for each of the two preceding calendar years.

APPENDIX B

INFORMATION REGARDING CARRIER TO BE CONTROLLED, AND ITS AFFILIATES, IF ANY, ENGAGED IN AN ACTIVITY CONNECTED WITH TRANSPORTATION, OF WHICH CONTROL WOULD BE ACQUIRED

If control of more than one carrier is proposed to be acquired, attach appendices and mark for identification BB, BBB, etc.

1. Date and State of incorporation, formation, or organization of carrier to be controlled:

   Date_____ State_____

2. Is there any financial or other relationship existing between applicant and carrier, control of which is proposed to be acquired? [ ]YES [ ]NO If answer is "yes" explain:

_____

_____

_____

3. Describe fully the motor-carrier operating rights of the carrier, control of which is proposed to be acquired, furnishing numbers assigned by the Interstate Commerce Commission, or attach copy of the certificate(s), permit(s), or certificate of registration issued to the carrier to be controlled.

4. Are operations being conducted by the carrier to be controlled under the described motor-carrier operating rights? [ ]YES [ ]NO If answer is "no," explain and state whether applicant will file affidavits of shippers, or present shipper witnesses if a hearing is deemed necessary, to support reactivation of the dormant operating rights.

5. If the operating rights of the carrier, control of which is proposed to be acquired, duplicate to any extent those presently held by applicant, or, if a non-carrier, those presently controlled by applicant, explain the manner in which applicant proposes to eliminate the duplications.

6. Is it proposed to acquire control of any person engaged in an activity, such as an equipment or terminal company, connected with transportation by the carrier of which control is sought to be acquired? [ ]YES [ ]NO If answer is "yes," describe the nature and scope of the activity of this person:_____

_____

_____

_____

The data requested below, identified as indicated, must be furnished respecting the carrier to be controlled.

Attach to original and each copy: (If documents here specified have been previously filed with the Interstate Commerce Commission in connection with an application, it will be sufficient to make reference to the docket number under which filed. Any changes occurring since the filing shall be shown in a separate statement attached and identified to correspond with the specific appendix requested here.)

B-1. Balance sheet statement as of latest available date, but not earlier than six months prior to the filing of this application.

B-2. Analysis of intangible property accounts including for each item, date of acquisition, source of authority, account in which presently recorded, amounts, reserve, and policy and practice followed with respect to amortization of intangile property.

B-3. Income statement for current calendar year to date of the balance sheet in Appendix B-1.

B-4. If transferor is a carrier of property, submit an abstract showing interstate shipments transported during the 6 months preceding the filing of the application under the operating authority involved in the proposed transaction. Do not include intrastate shipments. The abstract must include all shipments transported during the period selected as representative (e.g., all shipments within the entire period; or, all on the same date of each week of the period; or, all for a like week of each month of the period, etc.). Each page of the abstract must include columns showing the following information for each shipment listed: 1. A separate number beginning with "1"; 2. The pro number of the supporting freight bill; 3. The date of the shipment; 4. The origin of the shipment if not originated by transferor; 5. The origin of the shipment if originated by transferor, or, the point at which transferor received the shipment through interchange if originated by another carrier; 6. The destination of the shipment if delivered by transferor, or, the point at which transferor interchanged the shipment for delivery by another carrier; 7. The destination of the shipment if delivered by a carrier other than the transferor; 8. The commodity; and 9. The weight of the shipment. Each page should show the total weight of all shipments thereon. The abstract shall be accompanied by a summary reflecting total number of shipments and weight between origin and destination point. If regular routes are involved the summary shall indicate the routes over which the shipments moved.

APPENDIX B--Continued

The data requested below, identified as indicated, must be furnished respecting each affiliate of the carrier engaged in any activities connected with transportation, of which control would be acquired.

Attach to original and each copy:

B-5. Balance sheet statement as of the latest available date, but not earlier than 6 months prior to the filing of this application.

B-6. Income statement for current calendar year to the date of the balance sheet in Appendix B-5.

APPENDIX C

NATURE OF PROPOSED TRANSACTION AND TERMS AND CONDITIONS

Attach to original and each copy of this application the following information:

C-1. Copy of every contract or other written instrument entered into, or proposed to be entered into, pertaining to the transaction, or if not contained in written contract or other instrument, statement containing detailed description of the transaction.

C-2. Statement explaining how applicant proposes to meet the financial requirements of the transaction, including the amount, maturity, interest rates, other terms and conditions of any loan and whether a promissory note or other security will be issued.

C-3. Map showing all operations of applicant, carrier to be controlled, and affiliates of either, if any, as of date of application, and identifying their respective routes by distinguishing colors. If the operations are such that they cannot be shown on a map feasibly, it may be omitted.

C-4. If application involves the issuance of securities or assumption by applicant of obligations as guarantor or otherwise in regard to securities of others, statement indicating (a) which of the obligations of applicant as shown on its balance sheet of record are evidenced by securities within the meeaning of 49 U.S.C. 11302, and (b) the fair market value of applicant's capital stock as of the dates of issue.

APPENDIX D

FACTS AND CIRCUMSTANCES ON WHICH APPLICANT RELIES TO WARRANT APPROVAL OF THE PROPOSED TRANSACTION

Attach to original and each copy of this application the following information:

D-1. Explain and support the reasonableness of the consideration involved in the proposed transaction.

D-2. Show the effect of the proposed transaction upon adequate transportation service to the public.

D-3. Show the total fixed charges incurred as a result of the proposed transaction, and the manner in which it is proposed to meet these charges, and that the increase of applicant's total fixed charges resulting from the proposed transaction would not be contrary to the public interest.

D-4. Establish that any guaranty or assumption of payment of dividends or fixed charges contemplated in the transaction is consistent with the public interest.

D-5. Show the effect of the transaction on the interests of the carrier employees affected.

D-6. Establish that the transaction will be consistent with the public interest.

D-7. If applicant is a carrier by railroad subject to the Interstate Commerce Act, or a person which is controlled by or affiliated with such a carrier show that the proposed transaction will enable the carrier by railroad to use service by motor vehicle to public advantage in its operations and will not unduly restrain competition.

D-8. Indicate whether the proposed transaction would result in dual operations, or the extension of these operations by applicant, or by applicant and any persons controlling, controlled by, or under common control with applicant.

CERTIFICATE OF SERVICE

I certify that I have delivered a copy of this application, in person or by mail, to the following Regional Managing Director(s) of the Commission's Bureau of Operations for the Region(s) in which the headquarters of the carriers involved in the application are located.

Regional Managing Directors	Address
_____	_____
_____	_____
_____	_____

I further certify that a summary of the application was delivered, in person or by first-class mail, to the appropriate State Board (or official) of the State in which the headquarters of the carriers are located:

Name of State Board	Address
_____	_____
_____	_____
_____	_____
_____	_____

Dated this____day of_____, 19___.

_____
Signature

INSTRUCTIONS

1. REFERENCE - See 49 U.S.C. 11343.

2. FILING FEE - Applicants must submit with the application a check or money order made out to the Interstate Commerce Commission for the amount listed at 49 C.F.R. 1002.2.

3. FORM - If this form is not used, application shall be typewritten or printed on paper 8-1/2 inches wide and 13 inches long, with a margin of 1-1/2 inches on the left side and 1 inch on the right side. Indent quotations and use only one side of the paper. White-line blueprints which cannot be reproduced by photography are not acceptable.

4. APPENDICES - Shall be folded to conform to the size of the application.

5. MANNER OF EXECUTION - The original application shall be signed in ink by applicants, if individuals; by all partners, if a partnership; and if corporations, associations, or other similar forms or organization, by executive officers having knowledge of all matters contained therein and designated for that purpose by applicant.

6. NUMBER OF COPIES - File with the Interstate Commerce Commission at Washington, D.C. 20423, the original and three copies of each application. Concurrently furnish one copy to each of the Regional Managing Directors of the Commission's Bureau of Operations in which are located the headquarters of the carriers involved in the application, and upon written request, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having the authority to regulate the business of transportation by motor vehicle in each State, in or through which operations may be conducted under the operating authorities involved in the application. Signatures on the copies may be stamped or typed. A summary of the application, as provided in 49 CFR 1100.240(b), shall be delivered by first-class mail to the appropriate official (described above) of the States in which the headquarters of the applicants are located.

7. NOTICE TO COMPETITORS - Applicants are not required to give notice to competitors. Notice to interested persons of the filing of the application will be given by publication of a summary of the authority sought in the FEDERAL REGISTER.

8. AMENDMENTS - Except for good cause shown, amendments to applications which broaden the scope of the proposed transaction will not be permitted if tendered after notice of the filing of the application has been published in the Federal Register. Restrictive amendments may be submitted at any time, but if tendered after publication, they may be allowed only in the discretion of the Commission, or by the Administrative Law Judge if the matter is assigned for hearing or pre-hearing conference.

9. WHEN ADDITIONAL SPACE REQUIRED - Attach to the application supplemental sheets, making specific reference to the supplements.

10. INFORMATION REQUIRED - Must be given unless not known or available, or if not applicable. In such case, however, explicit statement to this effect shall be made in the application in lieu of the omitted material, setting forth the reasons why the information has not been given.

11. HEARING - Requests for postponement, or change of location of a hearing, should be made at least 10 days prior to the scheduled date of hearing, and good cause for the requested change should be stated. An ample supply of exhibits to be used at a hearing should be prepared so that copies are available for all parties. Where practicable, they should be distributed in advance.

12. RELATED APPLICATIONS - Applicant shall bring to the Commission's attention any certificate or permit it seeks (under the OP-OR-9 application procedure) which is directly related to the proposed transaction.

13. FEDERAL REGISTER SUMMARY - The applicant will prepare a summary of the authority sought for the Federal Register. The Commission will advise applicant if the summary does not properly describe the transaction (49 CFR 1100.240(b)).

FORM OP-F-46 (49 CFR 1134.6)
Revised - - 79

BEFORE THE INTERSTATE COMMERCE COMMISSION

APPLICATION FOR APPROVAL UNDER 49 U.S.C. 11349 OF THE TEMPORARY OPERATION OF MOTOR-CARRIER PROPERTIES SOUGHT TO BE ACQUIRED UNDER SEPARATELY FILED APPLICATIONS UNDER 49 U.S.C. 11343, 11344 OR OF TRANSFERS OF MOTOR CARRIER CERTIFICATES AND PERMITS UNDER 49 U.S.C. 10926.
(Please read instructions on page before preparing)

DOCKET NO. MC-F_____
or
DOCKET NO. MC-FC_____
(For office use only

I. A. Application of_____
(Full name of transferee, including any ICC permit or certificate numbers.1/)

_____
(State whether corporation, partnership, individual, trustee, receiver or assignee)

doing business as_____
(Trade name)

_____
(Number & Street) (City) (State) (Zip Code)

for authority temporarily to operate motor carrier properties2/ of

B._____
(Full name of transferor, including any ICC permit or certificate number3/)

1/ Includes (a) lessee of properties temporarily to be operated, and (b) person who proposes to control operations temporarily.

2/ Includes lease of operating rights only where transfer is sought under 49 U.S.C. 10926.

3/ Includes (a) lessor of properties temporarily to be operated, and (b) carrier whose operations are temporarily to be controlled.

_____
(State whether corporation, partnership, individual, trustee, receiver or assignee)

doing business as_____
(Trade name)

_____
(Number & Street) (City) (State) (Zip Code)

II. Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? [ ]YES [ ]NO

If YES, a statement complying with requirements of 49 C.F.R. 1108 must be attached to this application.

III. Facts and circumstances relied upon to establish that failure to grant temporary authority may result in destruction of or injury to motor carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public shall be attached as Exhibit A.

IV. Terms and conditions of lease covering properties temporarily to be operated, or agreement covering operations temporarily to be controlled, are set forth in written instrument, executed as Exhibit B.

V. All correspondence with respect to this application shall be sent to:

_____
(Full name)

_____
(Title and name of company; if attorney, so state)

_____
(Business address of person to be addressed)

OATH

COUNTY OF_____)
)ss:
STATE OF_____)

ATTENTION: Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by imprisionment and fines. (See 18 U.S.C. 1001.)

Each person signing this application swears or affirms that the representations made are to the best of his/her knowledge and belief, true and complete.

Signature of Transferor Signature of Transferee

_____ _____

_____ _____

_____ _____

Subscribed and sworn to before me, a _____ in and for the State and County above named, this _____ day of_____ 19 ___.

(SEAL)

_____
Signature

My Commission expires_____.

CERTIFICATE OF SERVICE

I,_____, CERTIFY that upon the_____ day of_____, 19___, a copy of this application was delivered in person or by mail, to the following Regional Managing Director(s) of the Bureau of Operations, in which are located the headquarters of the carriers involved in the application.

_____

_____

I further certify that a summary of the application was delivered, in person or by first-class mail, to the appropriate State Board (or official) of the State in which the headquarters of the applicants are located:

Name of State Board	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Dated this____day of_____, 19___.

_____
Signature

INSTRUCTIONS

1. REFERENCE - See 49 U.S.C. 11349 and 10926.

2. FEES - Applicant must submit with the application a check or money order made out to the Interstate Commerce Commission for the amount listed at 49 C.F.R. 1002.2.

3. FORM - If this form is not used, the application shall be typewritten or printed on paper 8-1/2 inches wide and 13 inches long, with a margin of 1-1/2 inches on the left side and 1 inch on the right side. Indent quotations and use only one side of the paper. White-line blueprints which cannot be reproduced by photography are not acceptable.

4. EXHIBITS - Shall be folded to conform to the size of the application.

5. MANNER OF EXECUTION - The original application shall be signed in ink by applicants, if individuals; by all partners, if a partnership; and if corporations, associations, or other similar forms or organization, by executive officers having knowledge of all matters contained therein and designated for that purpose by applicant.

6. NUMBER OF COPIES - File with the Secretary of the Interstate Commerce Commission at Washington, D.C. 20423, the original and three copies of each application. Concurrently furnish one copy to each of the Regional Managing Directors of the Commission's Bureau of Operations in which are located the headquarters of the carriers involved in the application, and upon written request, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission or Official) having the authority to regulate the business of transportation by motor vehicle in each State in which the carriers operate. Signatures on the copies may be stamped or typed. A summary of the application shall be delivered by first-class mail to the appropriate official (described above) of the State in which the headquarters of applicants are located.

7. NOTICE TO COMPETITORS - Applicants are not required to give notice to competitors. Notice to interested persons of the filing of the application will be given by the publication of a summary of the authority sought in the FEDERAL REGISTER. This summary will be prepared by the Interstate Commerce Commission.

8. WHEN ADDITIONAL SPACE REQUIRED - Attach to the application supplemental sheets, making specific reference to the supplements in the form. Do not paste riders to any page.

9. LEASE OR OTHER AGREEMENT - The written instrument filed as Exhibit B should provide for a specific monetary monthly rental or management fee commensurate with the value of the properties to be temporarily operated. Temporary authority should not be requested for the purpose of making legal a violation of 49 U.S.C. 11343.

10. GENERAL - No consideration can be accorded an application for temporary authority under 49 U.S.C. 11349 unless a corresponding application under 49 U.S.C. 11343 has been filed.

FORM OP-F 200 (Rev.)

BEFORE THE INTERSTATE COMMERCE COMMISSION

APPLICATION UNDER 49 U.S.C. 11301 and 49 U.S.C. 11302 FOR AUTHORITY TO ISSUE SECURITIES, OR TO ASSUME OBLIGATION OR LIABILITY IN REGARD TO SECURITIES OF ANOTHER PERSON
(Read instructions before answering)

No. FD _____
(For office use only)

I. (a) Application of _____
(Full Name)

whose business address is _____
(Street Address)

_____
(City) (State) (Zip Code)

(b) Applicant's representative to whom inquiries may be made is:

_____
(Full Name)

_____
(Street Address)

_____
(City) (State) Zip Code)

II. (a) Will granting the authority sought in this application have a significant effect upon the quality of the human environment? [ ]YES [ ]NO
If YES, a statement complying with the requirements of 49 C.F.R. 1108 must be attached.

(b) Is this application a major regulatory action under the Energy and Conservation Act of 1975? (Refer to 49 C.F.R. 1106.1 through 1106.6, especially 1106.5). [ ]YES [ ]NO

If YES, attach information as to why this proceeding is a major regulatory action, and a description of important energy impacts.

III. State whether applicant is a carrier by railroad, a common or contract carrier by motor vehicle, a corporation organized for the purpose of engaging in transportation as any such carrier, a sleeping-car company, or a holding company, as defined in the General Instructions. If a motor carrier, give lead docket number.

IV. Describe briefly the securities proposed to be issued or obligation or liability proposed to be assumed.

V. List the States in which the applicant carrier operates or is authorized to do business, or in which the applicant holding company is incorporated or authorized to do business.

VI. List by docket number any related Finance proceedings pending or to be filed.

SUPPORTING DOCUMENTS

The following statements and information, identified by item numbers and letters corresponding to those in this form, are to be submitted by applicant:

ITEM 1. GENERAL INFORMATION REGARDING APPLICANT.

(a) Date and State of incorporation, or other organization.

(1) If applicant is incorporated or organized under the laws of, or authorized to operate in, more than one State, give all pertinent facts as to incorporation or organization.

(2) If authorization to a new, reorganized, or consolidated corporation which is not in existence is sought, name the jurisdiction under the laws of which the corporation would be organized, reorganized, or consolidated.

(3) If applicant is a trustee, receiver, assignee, or other fiduciary, name the court, if any, under the direction of which applicant is acting, and state the nature of the proceeding, if any, in which the applicant was appointed.

(b) File with the original application (but not with the copies) one or more of the following documents as appropriate. See 49 CFR 1100.80 for the rule regarding incorporation by reference.

(1) Copy of charter or articles of incorporation, with amendments to date, duly certified by the appropriate public officer; and copy of bylaws, with amendments to date.

(2) If applicant is not a corporation, copy of articles of agreement, or association, or trust agreement, evidencing organization.

(3) If applicant is a trustee, receiver, assignee, or other fiduciary, copy of duly certified order of the court, or instrument of appointment.

ITEM 2. FINANCIAL STATEMENTS.

(a) Applicant's general balance sheet as of the latest practicable date.

(b) If applicant is a motor carrier, a corporation organized for the purpose of engaging in transportation as a motor carrier, or motor carrier holding company, and the value (fair market value as of date of issue, or par value, whichever is greater) of its capital stock outstanding as of the date of balance sheet does not exceed $1,000,000 it must furnish a statement showing as of that date the extent to which its liabilities other than captial stock are represented by notes or other securities. Described these notes and securities.

(c) Applicant's income and profit and loss statement for the last calendar year, (unless a copy is on file in its annual report with the Commission or in another proceeding to which reference is made). Also submit a copy of this statement for the current calendar year to the latest available date.

ITEM 3. GENERAL DESCRIPTION OF THE SECURITIES WITH RESPECT TO WHICH THE APPLICATION IS MADE.

(a) If the application covers the issue of stock, the description shall include:

(1) The kind and class of stock

(2) The number of shares authorized, outstanding, and to be issued

(3) Par value of each share and/or stated value, if having no par value

(4) Amount

(5) Voting rights

(6) Preferences

(7) Conversion privileges

(8) Call provisions

(9) Liquidation rights

(10) Whether it is assessable

(b) If the application covers the issue of securities other than stock, the description shall include:

(1) Full title of the securities

(2) Title and date of the indenture, if any, under which the securities are to be issued and the name of the trustee or trustees under the indenture

(3) Principal amount authorized, previously issued, and proposed to be issued under the indenture

(4) Denominations of the securities to be issued

(5) Date of securities

(6) Interest rate or rates

(7) Interest payment dates

(8) Date or dates of maturities, with amounts maturing on each date, if maturing serially

(9) Reference to the provisions of the indenture, if any, under which the securities will be issued, permitting the proposed issue of securities, and relating to sinking funds, redemption features, and coversion rights.

(c) Specimens, or forms where specimens are not available, of all securities with respect to which the application is made.

(d) In case of the issue or assumption of bonds or evidence of indebtedness, a copy of the mortgage or indenture by which secured or proposed to be secured.

ITEM 4. PURPOSE OF THE PROPOSED ISSUE OR ASSUMPTION, AND USES OF THE PROCEEDS.

A statement showing the amount of net proceeds intended to be used with respect to one or more of the purposes specified below:

(a) THE ACQUISITION OF PROPERTY OTHER THAN EQUIPMENT: A statement containing:

(1) A general description of the character, size, and location of the property, and the name and address of the person from whom it is to be acquired; and

(2) The actual or estimated costs to applicant of acquisition of the property, classified by Interstate Commerce Commission primary accounts; full terms of the contract, if any has been made, for such acquisition; and date necessary for a determination of the reasonableness of such costs.

(b) THE ACQUISITION OF EQUIPMENT:

(1) A full description of the equipment by type or design of unit, size, capacity, builder, year built, and name and address of the person from whom it is to be acquired; and

(2) The unit prices paid or to be paid free on board builder's plant; whether the equipment was purchased through competitive bidding; and, if the unit prices shown are not the lowest bids received, the reason for accepting a higher bid.

(c) THE CONSTRUCTION, COMPLETION, EXTENSION OR IMPROVEMENT OF FACILITIES, OR ADDITIONS AND BETTERMENTS BY A COMMON CARRIER BY RAILROAD (accomplished expenditures or expenditures not yet made):

(1) The period covered by the expenditures

(2) The purpose of the expenditures

(3) The amount of proposed expenditures or expenditures made but not yet capitalized and credits by reason of retirements within the period

(4) The distribution of the total cost by the primary accounts of the Commission's classification of investment in road and equipment

(d) THE DISCHARGE OR REFUNDING OF EXISTING OBLIGATIONS: A statement containing a description of sale or other disposition of existing obligations (including notes issued pursuant to the exemptions in 49 U.S.C. 11301 and 11302). Describe terms and conditions, discounts and commissions, counsel fees, and other expenses.

(e) THE REIMBURSEMENT OF MONEY EXPENDED FROM INCOME OR FROM OTHER MONIES IN THE TREASURY OF THE APPLICANT (including proceeds of notes maturing and issued as described in the preceding paragraph), NOT YET CAPITALIZED:

(1) The period covered by the total disbursement

(2) The purposes of the disbursements

(3) The amount of disbursements (gross capital charge) and all credits to capital account within the period

(4) The primary accounts of the Commission's classification to which the disbursements or retirements were charged or credited

(f) OTHER PURPOSES: A statement containing complete details of the purposes of the proposed issue or assumption.

ITEM 5. THE FACTS AND CIRCUMSTANCES ON WHICH THE APPLICANT RELIES.

(a) If the applicant is a carrier or a corporation organized for the purpose of engaging in transportation as a carrier--

To establish that the proposed issue or assumption (1) is for some lawful object within its corporate purposes, compatible with the public interest, necessary or appropriate for or consistent with the proper performance by the carrier of service to the public as a motor carrier, and (2) is reasonably necessary and appropriate for this purpose.

(b) If the applicant is a non-carrier person, who is authorized to control a carrier--

To establish that the proposed issue or assumption is consistent with the proper performance of its service to the public by each carrier under the control of the person, and will not impair the ability of the carrier to perform service and is consistent with the public interest.

(c) If the application is filed with respect to a class of railroad securities as to which competitive bidding is prime facie required,1/ and exemption from this requirement is sought--

---

1/ Pertinent conclusions and the requirements are set forth in the Commission's report, In Re Competitive Bidding in Sale of Securities, 257 I.C.C. 129, as modified by Findings in Atlantic Coast Line R. Co. Competitive Bidding Exemption, 282 I.C.C. 513, and further modified in In Re Competitive Bidding in Sale of Securities, 307 I.C.C. 1. Also see Western Maryland Equipment Trust, 111 I.C.C. 437, and Section 10 of the Clayton Act, 15 U.S.C. Section 20. The exemption process is set forth in 49 CFR 1115.25, and Form OP-F 210.

To show that competitive bidding should not be required in the sale or other disposition of the proposed securities, including a statement that applicant has not entered into any discussion or any negotiations with respect to the terms of sale with any prospective purchaser of its securities.

(d) If the application is to sell railroad securities without competitive bidding on the ground that such securities come within one of the specific exemptions--

To show that the exemption applies.

ITEM 6. TERMS OF SALE OR OTHER DISPOSITION, AND ESTIMATE OF EXPENSES.

(a) At what prices or rates and upon what terms the securities will be sold.

(b) An estimate of the expenses applicant will incur in connection with the sale, itemized to show:

(1) The commissions to be paid, discounts to be allowed, and the total of commissions and discounts,

(2) Legal accounting, engineering, certification, authentication, and other expenses, and total expenses. Where the amounts of the items grouped under "other expenses" are substantial, they must be itemized.

(3) The grand cost of commissions, discounts, and expenses.

ITEM 7. CONTRACTS, UNDERWRITINGS, AND OTHER ARRANGEMENTS.

Describe how, and to whom, and by or through whom, the securities will be issued. Give details of all contracts, underwritings, and other arrangements.

If a public offering is involved, applicant shall provide the information called for in the circular entitled "Appendix, Form OP-F-200".

Section 308 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210) provides for the removal of railroad securities (other than those concerning a railroad equipment trust) from the exemption they previously had from the requirements of the Securities Act of 1933. For public disclosure purposes, these railroad securities are subject to the jurisdiction of the Securities and Exchange Commission. However, a railroad still must file with this Commission all material filed with the SEC. In the event it claims that the offer and sale of the securities are exempt from registration under the Securities Act of 1933, an opinion from counsel shall state this, indicate the section of that Act (or rule) containing the claimed exemption, and state pertinent facts relied upon.

ITEM 8. RESOLUTIONS AND OTHER AUTHORIZATIONS.

(a) Copies of all resolutions of directors authorizing the proposed issuance of securities or the proposed assumption of obligation or liability for which authority is requested.

(b) If the charter or bylaws require approval by stockholders, copies of resolutions of stockholders, authorizing issuance or assumption. Resolutions of stockholders shall be accompanied by sufficient transcripts of the minutes of their meetings to show the number of shares voted for and against the resolutions, and the number of share-votes required to adopt the resolution.

(c) Copies of resolutions of stockholders or directors, or duly authorized committees, authenticated by a proper executive officer of applicant, designating the executive officer by whom the application is signed, verified, and filed on behalf of the applicant.

(d) If applicant is not a corporation, documentary evidence showing authorization of the proposed issuance or assumption and designation of the individual signing, verifying, and filing on behalf of applicant; and

(e) If applicant is a trustee, receiver, assignee, or other fiduciary, a certified copy of the order, if any, of the court having jurisdiction, authorizing the proposed issuance or assumption, and the filing of the application.

ITEM 9. OPINION OF COUNSEL.

Opinion that the issuance or assumption meets the requirements of the law as set forth in Item 5, and will be legally authorized and valid if approved by the Commission, with specific reference to any pertinent provisions of charter or articles of incorporation or association.

ITEM 10. SIGNATURE.

Dated this_____day of_____, 19___.

By_____Title_____

Form OP-F 200 (Rev.)

OATH

COUNTY OF_____)
)ss:
STATE OF_____)

_____, being duly sworn, states: I have
(Name of Affiant)

filed this application as (indicate relationship to applicant)

_____

_____

I am qualified and authorized to sign, file and verify this application and the attached exhibits. I have examined all of the statements in the application, and they are true and complete to the best of my knowledge.

Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by up to five years imprisionment and fines up to $10,000 for each offense. (See 18 U.S.C. 1001.)

_____
(Signature of Affiant)

Subscribed and sworn to before me, a_____

In and for the State and County above, named, this ____ day

of _____ 19__.

(SEAL)

My Commission expires_____.

CERTIFICATE OF SERVICE

_____ certifies that upon the ____ day

of _____, 19__, a copy of the foregoing application was mailed or delivered in person to the Governor of each State in which the applicant operates or is authorized to do business, as follows:

I also certify that the Governor of each State has been advised that if they desire to make any representations, to notify the Commission within 15 days.

_____ _____
(Signature) (Date)

GENERAL INSTRUCTIONS

1. USE OF FORM OP-F 200. All carriers and other persons subject to 49 U.S.C. 11301 or 49 U.S.C. 11302 making application for authority (a) to nominally issue securities, (b) to sell, pledge, repledge, or otherwise dispose of securities nominally issued or assumed or nominally outstanding, (c) to actually issue securities, or (d) to assume any obligation or liability as lessor, lessee, guarantor, endorser, surety, or otherwise in respect of the securities of any other person actually outstanding, shall make application substantially in the form of Form OP-F-200.

2. APPLICATION OF GENERAL RULES AND REGULATIONS. Before undertaking the preparation of the application, refer to the rules set forth at 49 CFR 1115.

3. DEFINITIONS:

(a) The term "holding company" means a person which is not a carrier, but which is authorized by the Interstate Commerce Commission to control a carrier or carriers and, as provided in 49 USC 11348, is to be considered a carrier.

(b) The term "nominally issued", "nominally outstanding", "actually issued" and "actually outstanding" are defined in 49 C.F.R. 1201.

FORM OP-F 210 (Revised)

BEFORE THE INTERSTATE COMMERCE COMMISSION

SPECIAL APPLICATION FOR AUTHORITY TO SELL SECURITIES WITHOUT COMPETITIVE BIDDING
(Read Instructions on Page 2)

I. Application of _____
(Name and Trade Name, if any)

whose business address is _____
(Street)

_____
(City) (State) (Zid Code)

The following information is submitted by applicant in support of its request for exemption from the competitive bidding requirements:

1. General description and amount of the securities for which exemption is sought.

2. Purpose and use of the proposed issue and proceeds.

3. States in which applicant operates or proposes to operate.

4. Related finance proceedings before the Commission. Give docket number, if known.

5. Date of organization and State(s) under the laws of which applicant was organized and received its present charter(s).

6. Facts relied upon by applicant to show that competitive bidding should not be required in the sale or other disposition of the proposed securities. Include a statement that applicant has not entered into discussion or negotations with respect to the terms of sale with any prospective purchaser of its securities.

7. Why the special application is necessary.

II. Will granting the authority sought in this application have a significant effect upon the quality of the human environment? [ ]YES [ ]NO

If YES, a statement complying with the requirements of 49 CFR 1108 must be attached.

III. Is this application a major regulatory action under the Energy Policy and Conservation Act of 1975? (Refer to 49 C.F.R. 1106.1 through 1106.6, especially 1106.5).

[ ]YES [ ]NO

If YES, attach information as to why this proceeding is a major regulatory action, and a description of important energy impacts.

Dated this_____day of_____, 19__.

_____

BY_____

TITLE_____

OATH

COUNTY OF_____)
)ss:
STATE OF_____)

_____, being duly sworn, states: I am the
(Name of Affiant)

_____of _____
(Title of Affiant) (Name of Respondent)

_____; I am authorized by applicant to sign and file this application. I have carefully examined all of the statements contained in the application. I have knowledge of the matters stated and they are true and complete.

Knowing and willful misstatements or omissions of material facts constitute Federal criminal violations punishable by up to 5 years imprisionment and fines up to $10,000 for each offense. (See 18 U.S.C. 1001.)

_____
(Signature of Affiant)

Subscribed and sworn to before me, a _____ in the State and County above named, this ____ day of _____ 19__.

_____

(SEAL)

My Commission expires_____.

CERTIFICATE OF SERVICE

_____ certifies that upon the ____ day of _____, 19__, a copy of the application was mailed or delivered in person to the Governor of the State in which the applicant operates or is authorized to do business, or in the case of holding companies, of each State in which the applicant is incorporated or authorized to do business, as follows:

I certify that the Governors of these States have been advised that, if they desire to make any representations, to notify the Commission within 15 days.

_____ (Date)

_____ (Signature)

INSTRUCTIONS

USE OF FORM OP-F 210. This form should be used in making application for exemptions from the competitive bidding requirement only when it is not practicable to include the request for exemption in an application filed in Form OP-F-200 for authority under 49 U.S.C. 11301 to issue securities.

COMPETITIVE BIDDING REQUIREMENT. The requirement that, with certain specified exceptions, all classes of railroad securities other than equipment, issued under authority granted pursuant to the provisions of 49 U.S.C. 11301, be offered for sale at competitive bidding, is set forth in 49 CFR 1115.25. Refer to this before starting preparation of the application. If the space provided in the form is not sufficient to supply the information required, use a separate sheet, attach it to the application, and give it the same number as the paragraph to which it relates.

[FR Doc. 79-8767 Filed 3-22-79; 8:45 am]

[3510-22-M]

Title 50—Wildlife and Fisheries

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 226—DESIGNATED CRITICAL HABITAT

Determination of Critical Habitat for the Leatherback Sea Turtle

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) determines critical habitat for the leatherback sea turtle (*Dermochelys coriacea*) in waters adjacent to Sandy Point Beach, St. Croix, U.S. Virgin Islands. The action is being taken under Section 7 of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et. seq.* (the "Act") to provide protection to sea turtles using these waters for courting, breeding, and as access to and from their nesting areas on Sandy Point Beach. All Federal departments and agencies are required to insure that actions authorized, funded, or carried out by them do not result in the destruction or adverse modification of the critical habitat.

DATES: This rule becomes effective on March 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard B. Roe, Acting Deputy Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, (202) 634-7287.

SUPPLEMENTARY INFORMATION: On November 29, 1978 (43 FR 55806), the National Marine Fisheries Service (NMFS) published a proposed determination of critical habitat for the leatherback sea turtle (*Dermochelys coriacea*). This critical habitat was described as:

> The waters adjacent to Sandy Point, St. Croix, U.S. Virgin Islands, up to and inclusive of the waters from the hundred fathom curve shoreward to the level of mean high tide with boundaries at 17°42'12" North and 64°50'00" West.

The leatherback sea turtle has been listed as endangered since 1970 (35 FR 19320). Although the leatherback spends most of its life in waters of 150 feet depth or greater, it comes ashore to nest and lay eggs.

Courtship and mating are believed to occur in waters adjacent to nesting beaches just prior to the time of egg laying. Accordingly, the survival and recovery of the leatherback depends on the maintenance of suitable and undisturbed nesting beaches and protection of waters adjacent to those beaches.

During the early summer of 1977 the U.S. Fish and Wildlife Service (FWS) identified a nesting aggregation of leatherback sea turtles occurring at the western end of the island of St. Croix, U.S. Virgin Islands. Personnel of the FWS, NMFS, U.S. Coast Guard, and Government of the Virgin Islands conducted observation on St. Croix during the month of June. In excess of 70 leatherback nests were discovered on the 0.8. mile by 0.1 mile strip of Sandy Point Beach during these observations. This area constitutes a major beach under U.S. jurisdiction used for nesting by the endangered leatherback. The FWS designated Sandy Point Beach on St. Croix as critical habitat for the leatherback sea turtle on September 26, 1978 (43 FR 43688).

Pursuant to an agreement between the FWS and the NMFS, the FWS has jurisdiction over sea turtles on the land and the NMFS over sea turtles in the marine environment. These regulations designate as critical habitat an area of the marine environment adjacent to a nesting beach previously designated as critical habitat by the FWS.

The Endangered Species Act Amendments of 1978 define the term "critical habitat" as follows:

(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management consideration or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, upon a determination by the Secretary that such areas are essential for the conservation of the species.

Since the area designated as critical habitat is used by the leatherback for courting and mating activities and provides an access to and from an important nesting beach, the NMFS believes the area is essential for the conservation of the leatherback sea turtle and requires special management protection. As such, these waters qualify for designation as critical habitat under the Endangered Species Act, as amended.

Review of Relevant Impacts and Summary of Comments and Recommendations

In the proposal to designate this area as critical habitat, it was noted that NMFS was unaware of any current plans to develop this area. In the course of this rulemaking, efforts were made to obtain information concerning all economic and other relevant impacts of the proposed designation and all public and private activities which may adversely modify the critical habitat or may be impacted by this designation. To this end, notice of the proposed designation appeared in Virgin Islands newspapers, was distributed to local government personnel, and written comments were solicited from the public. Consultation with the U.S. Coast Guard, U.S. Navy, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and Government of the U.S. Virgin Islands indicated that the proposed designation would generate no significant impacts. A public meeting regarding the proposed designation was held, as required under the 1978 amendments to the Act, in Fredericksted, St. Croix on December 5, 1978 (43 FR 55806).

The meeting was attended by 11 individuals representing: the NMFS; the U.S. Fish and Wildlife Service; Department of Conservation and Cultural Affairs (DCCA), U.S. Virgin Islands; the West Indies Laboratory of Fairleigh Dickinson University in St. Croix; and interested members of the public. None of the attendees expressed opposition to the proposal.

At the public meeting, representatives of DCCA indicated that several species of sea turtles nest on 42 of 43 identified beaches on St. Croix. The NMFS has requested DCCA to provide additional information on this matter.

Representatives of the West Indies Laboratory discussed the critical shortage of sand in the Virgin Islands and the potential use of the shelf area seaward of Sandy Point as a sand mining site. A two-year study is in progress by the West Indies Laboratory (funded by Office of Sea Grant, NOAA) to identify potential offshore sandmining sites. At this time, it is unknown whether offshore sandmining is economically and technologically feasible and if so, where it might occur. It is conceivable however, that mining in this area, if it were ever proposed, might be impacted by this designation.

It was noted at the meeting that designating this area as critical habitat will require any Federal department or agency that authorizes, funds, or carries out activities that might result in the destruction or adverse modification of the area to comply with Section 7 of the Act.

Written comments were received from Mr. Glen O. Clark, Acting Superintendent, Virgin Islands National Park, U.S. Department of the Interior and from Ms. Laura Tangley, Defenders of Wildlife; both supported the proposed designation.

Mr. Clark indicated that staff of Christiansted National Historic Site and Buck Island Reef National Monument have inspected the proposed critical habitat area and concur in the designation of this area as critical habitat for the leatherback sea turtle.

Defenders of Wildlife noted that the proposed area is of critical importance to the leatherback in the course of carrying out its normal courting, breeding, and nesting activities, and falls within the definition of critical habitat under the Endangered Species Act of 1973 as well as the Act's 1978 amendments. In addition to supporting this designation, Defenders of Wildlife further recommended that NMFS identify other areas under U.S. jurisdiction that may be essential to the conservation of the species and designate these areas as critical habitat.

Defenders of Wildlife expressed concern that although private activities in the Sandy Point Beach area such as commercial and recreational fishing, boating, swimming, and diving are not directly affected by designating the area as critical habitat, these private activities could potentially have a detrimental impact on leatherback sea turtles at times of courting, breeding, and nesting. Defenders of Wildlife recommended the NMFS investigate the impacts of these private activities on leatherback sea turtles, and should the research show it necessary, seasonally close the area to one or more of such private activities. Defenders of Wildlife further recommended that NMFS provide the turtles additional protection by locally publicizing their endangered status and by concentrating enforcement efforts in the area.

The NMFS received no requests for a public hearing on the proposal.

The only activities that have been identified as possibly modifying this critical habitat of being impacted by its designation are recreational activities such as boating and swimming and sandmining. Recreational activities may result in disturbances in the water column that could affect the critical habitat but designation of this habitat will not impact private recreational activities. Sandmining may result in increased turbidity in the water column which may result in adverse modification of this habitat.

Conclusion

All information available to NMFS indicates that the area proposed as critical habitat needs to be protected to help conserve the leatherback sea turtle. In addition, the economic and other impacts of this designation are either speculative or nonexistent. Based on the best scientific and commercial data available, the Assistant Administrator for Fisheries hereby determines that the waters adjacent to Sandy Point Beach, St. Croix, U.S. Virgin Islands are critical habitat for the leatherback sea turtle.

Effect of the Rulemaking

The major effect of desginating this area as critical habitat will be to require any Federal department or agency that authorizes, funds, or carries out activities that might result in the destruction or adverse modification of the critical habitat to comply with Section 7 of the Act. At this time there are no known Federal activities planned for this area.

Private activities are not directly affected by designating an area as critical habitat. The taking of any endangered turtle is presently prohibited by the provisions of the Endangered Species Act of 1973.

National Environmental Policy Act

The Assistant Administrator for Fisheries has determined that this action is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969. An environmental assessment has been prepared in conjunction with this rulemaking. It is on file in the NMFS Office of Marine Mammals and Endangered Species, 3300 Whitehaven Street, N.W., Washington, D.C. 20235, and may be examined during regular business hours or obtained by mail.

Miscellaneous

On October 4, 1978, NMFS proposed to add a new Part 226, entitled Designated Critical Habitat, to Title 50 of the Code of Federal Regulations; and, to designate the Port Canaveral Navigation Channel, Cape Canaveral, Florida, as a critical habitat under 50 CFR Part 226 (43 FR 45905). The public comment period on establishing a new Part 226 closed on December 4, 1978. The designation of the Port Canaveral Navigation Channel is still pending. Nevertheless, no comments were received on the general provisions of the proposed new 50 CFR Part 226, and NMFS considers it appropriate to promulgate these general provisions at this time.

Under Executive Order 12044 (43 FR 23170) and Department of Commerce Administrative Order 218-7 (44 FR 2082), the Assistant Administrator for Fisheries has made an initial determination that this is not a significant regulation.

The primary author of this rulemaking is Mr. Richard B. Roe, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, (202) 634-7287.

Regulation Promulgation

Accordingly, 50 CFR is amended by adding a new Part 226 as follows:

PART 226—DESIGNATED CRITICAL HABITAT

Subpart A—Introduction

Sec.
226.1 Purpose of regulations.
226.2 Scope of regulations.

Subpart B—Critical Habitat for Marine Mammals

226.11–.30 [Reserved]

Subpart C—Critical Habitat for Marine Fish

226.31–.70 [Reserved]

Subpart D—Critical Habitat for Marine Reptiles

226.71 Sandy Point, St. Croix, U.S. Virgin Islands.

Authority.—Endangered Species Act of 1973, section 7, Pub. L. 93-205, 16 U.S.C. § 1536.87 Stat. 884.

Subpart A—Introductions

§ 226.1 Purpose of regulations.

The regulations contained in this Part identify those habitats designated as critical under section 7 of the Endangered Species Act, as amended, by the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, for those endangered and threatened species under the jurisdiction of the Secretary of Commerce. The list of these species is found in 50 CFR § 222.23(a) for endangered species and 50 CFR § 227.4 for threatened species.

§ 226.2 Scope of regulations.

(a) The critical habitat designations contained in this Part apply only to the endangered and threatened species listed in this Part.

(b) Regulations implementing section 7 of the Endangered Species Act, as amended, are found in 50 CFR Part 402.

(c) The provisions in this Part are in addition to, and not in lieu of other regulations of Parts 217-227 and 402 of this Chapter.

Subpart B—Critical Habitat for Marine Mammals

§§ 226.11–226.30 [Reserved]

Subpart C—Critical Habitat for Marine Fish

§§ 226.31–226.70 [Reserved]

Subpart D—Critical Habitat for Marine Reptiles

§ 226.71 Sandy Point, St. Croix, U.S. Virgin Islands.

LEATHERBACK SEA TURTLE (DERMOCHELYS CORIACEA)

The waters adjacent to Sandy Point, St. Croix, U.S. Virgin Islands, up to and inclusive of the waters from the hundred fathom curve shoreward to the level of mean high tide with boundaries at 17°42'12" North and 64°50'00" West.

Dated: March 16, 1979.

WINFRED H. MEIBOHM,
National Marine Fisheries Service.

[FR Doc. 79-8873 Filed 3-22-79; 8:45 am]

[3410-02-M]

Title 7—Agriculture

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

[Lemon Regulation 191]

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 March 25–31, 1979. 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: March 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under 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. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act. This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee met on March 20, 1979, 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 improving.

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.

§ 910.491 Lemon Regulation 191.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period March 25, 1979, through March 31, 1979, is established at 235,000 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 22, 1979.

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

[FR Doc. 79-9153; Filed 3-22-79; 11:42 am]

[3410-07-M]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER I—ADMINISTRATIVE REGULATIONS

PART 2003—ORGANIZATION

Subpart A—Functional Organization of the Farmers Home Administration

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its statement of organization and function. This action is taken to correct an incorrect placement of an organizational unit and is published in order to keep the public informed of the Agency structure.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph Freburger, Director, Management Systems and Organization Planning Division. Phone: (202) 447-2445.

SUPPLEMENTARY INFORMATION: The Farmers Home Administration amends a portion of Exhibit B of Subpart A, Part 2003, Chapter XVIII, Title 7 in the Code of Federal Regulations. The function of the St. Louis Field Operations Branch was inadvertently published as though it was a subordinate element of the St. Louis Finance Office; whereas, it should have been shown as subordinate to the Business Services Division of FmHA's Washington headquarters. 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 change is only to correct the organizational structure and publication in prior rule making form is unnecessary. Therefore, Exhibit B to 7 CFR Part 2003 is amended by transferring the information under *"St. Louis Field Operations Branch"* which is under *"Finance Office,"* in column 3 on page 59084 of the FEDERAL REGISTER for December 19, 1978 to appear just before the heading *"Communications Center"* which is under the *"Business Services Division"* on page 59085 as follows:

EXHIBIT B—U.S. DEPARTMENT OF AGRICULTURE, FARMERS HOME ADMINISTRATION

* * * * *

07 03 0007 FINANCE OFFICE

* * * * *

St. Louis Field Operations Branch (Transferred)

* * * * *

07 03 00 0002 BUSINESS SERVICES DIVISION

* * * * *

Directives Management Branch

* * * * *

St. Louis Field Operations Branch

1. Furnishes office services to county offices, State offices, and Finance Office.
2. Provides expert technical advice to field officials.
3. Oversees acquisition, distribution, utilization, accountability, and disposition of personal property (supplies, furniture, equipment) to State, county, and Finance Offices.
4. Secures and reconciles periodic property inventory reports with property control records.
5. Operates St. Louis supply depot for storage and distribution of printed forms, office supplies, and other personal property.
6. Operates printing and duplicating operation.
7. Conducts space management functions for Finance, State and county offices, including:

Negotiating acquisition of rent-free, non-Federal space or leased quarters

Negotiating and executing contracts in connection with space leasing and for heat, light, communications, janitorial, and other services

Preparing agreement supplements and adjusting or terminating leases and other contracts

Surveying space use and acquiring, releasing, or adjusting space assignments

Negotiating with GSA, the Postal Service, and other agencies.

* * * * *

7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: March 9, 1979.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc. 79-8999 Filed 3-22-79; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-34-M]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[7 CFR Part 301]

DOMESTIC QUARANTINE NOTICES

Pink Bollworm; Miscellaneous Amendments to Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the supplemental regulations which designate generally infested regulated areas and suppressive regulated areas subject to the Pink Bollworm Quarantine. It would delete 15 counties in Arkansas and 1 parish in Louisiana from the list of suppressive regulated areas. Based upon surveys by Federal and State inspectors, these areas have been declared free of pink bollworm and it would no longer appear necessary to regulate these areas in order to prevent the spread of the pink bollworm.

DATE: Comments must be received on or before May 22, 1979.

ADDRESS: Submit written data, views, or arguments to: H. V. Autry, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:

H. V. Autry, (301) 436-8247.

SUPPLEMENTARY INFORMATION: All written submissions made pursuant to this notice will be made available for public inspection in Room 633, Federal Building, Hyattsville, MD 20782, during regular hours of business, unless the person makes the submission to the Regulatory Support Staff, Plant Protection and Quarantine Programs, and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect any person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of the denial of such request and an opportunity afforded for withdrawal of the submission. Request for confidential treatment will be held confidential (7 CFR 1.27(c)).

The pink bollworm (*Pectinophora gossypiella* Saunders) is one of the most destructive and widespread insect pests of cotton in the world. This insect spread to the United States from Mexico in 1917 and now occurs throughout most of the cotton-producing States west of the Mississippi River.

Surveys conducted by the United States Department of Agriculture and State agencies have established that the pink bollworm no longer occurs in the regulated areas, of 15 counties in Arkansas and 1 parish in Louisiana. Therefore, it would no longer appear necessary to regulate those counties or parish in order to prevent the spread of the pink bollworm. Such counties and parish are: Clark, Conway, Faulkner, Franklin, Greene, Hempstead, Jefferson, Lafayette, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, and Pulaski Counties in Arkansas; and De Soto Parish in Louisiana.

Accordingly, pursuant to the provisions of sections 8 and 9 of the Plant Quarantine Act of August 20, 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, and 150ee), § 301.52-2a of the Pink Bollworm Quarantine regulations (7 CFR 301.52-2a) would be amended to read as set forth below:

§ 301.52-2a Regulated area; suppressive and generally infested areas.

The civil divisions and part of civil divisions described below are designated as pink bollworm regulated areas within the meaning of the provisions of this subpart; and such regulated areas are hereby divided into generally infested areas or suppressive areas as indicated below.

* * * * *

ARKANSAS

(1) Generally infested area. None.
(2) Suppressive area.
Yell County. The entire county.

* * * * *

LOUISIANA

(1) Generally infested area. None.
(2) Suppressive area.
Bossier Parish. The entire parish.
Caddo Parish. The entire parish.
Natchitoches Parish. The entire parish.
Red River Parish. The entire parish.

* * * * *

This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." While this action has not been designated "significant" under those criteria, a Draft Impact Analysis Statement has been prepared and is available from PPQ, APHIS, Room 633, Federal Building, Hyattsville, MD 20782.

Done at Washington, D.C., this 16th day of March 1979.

JAMES O. LEE, Jr.,
Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79-8778 Filed 3-22-79; 8:45 am]

[3410-15-M]

Rural Electrification Administration

[7 CFR 1701]

RURAL ELECTRIC PROGRAM

TH-230 Structure Crossarms

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed revision of REA Specification.

SUMMARY: The Rural Electrification Administration proposes to revise REA Specification No. T-8, (Crossarm Assembly for 230 kV H-Frame Construction). The current inability to obtain firm commitments of either 3½"×9¼" solid sawn or laminated crossarms is causing serious procurement problems and construction delays. This action should increase the quantity and availability of crossarms while permitting better utilization of resources by suppliers. Adoption of this proposed revision would also require minor modifications of the following REA Form 805 drawings: TM-136, TH-230, and TH-231B.

DATE: Public comments must be received by REA no later than May 22, 1979.

ADDRESS: Interested persons may obtain copies of the proposed revision from Mr Rowland C. Hand, Sr., Director, Power Supply and Engineering Standards Division, Rural Electrification Administration, Room 3304, South Building, United States Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-4413. All data, views, or comments should also be directed to Mr. Hand.

All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Power Supply and Engineering Standards Division during regular business hours.

An impact analysis for this proposed action has been prepared and is available upon request.

FOR FUTHER INFORMATION CONTACT:

Mr. Rowland C. Hand, (202) 447-4413.

Dated: March 15, 1979.

JOE S. ZOLLER,
Acting Assistant Administrator, Electric.

[FR Doc. 79-8738 Filed 3-22-79; 8:45 am]

[6750-01-M]

FEDERAL TRADE COMMISSION

[16 CFR Part 457]

STANDARDS AND CERTIFICATION

Revised Schedule for Public Hearings and Submission Dates on Proposed Trade Regulation Rulemaking

AGENCY: Federal Trade Commission.

ACTION: Dates changed for public hearings in San Francisco, California, and Washington, D.C., and submission of statements of proposed testimony.

SUMMARY: On December 7, 1978, the Commission published in the FEDERAL REGISTER its initial notice of proposed rulemaking regarding standards and certification. This notice established dates for commencement of public hearings in San Francisco, California, and Washington, D.C., and the submission of prepared statements by witnesses who desired to testify at those hearings. This notice announces a new schedule for the commencement of those hearings and new deadlines for the submission of prepared statements by witnesses.

DATES AND SCHEDULE: The San Francisco hearing will commence on May 21, 1979. Prepared statements of those who desire to testify must be received by April 9, 1979. The Washington, D.C. hearing will commence on June 25, 1979. Prepared statements of those who desire to testify must be received by May 14, 1979.

ADDRESSES: The hearing in San Francisco, California, will begin at 9:00 a.m., May 21, 1979, in Room 12138, Federal Building, 450 Golden Gate Avenue, San Francisco, California. The hearing in Washington, D.C., will begin at 9:00 a.m., June 25, 1979, in Room 532, Federal Trade Commission Building, Pennsylvania Avenue and Sixth Street, N.W., Washington, D.C.

Prepared statements of those who desire to testify at the hearings should be submitted in five copies, when feasible, to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580. These documents will be available for inspection in Room 130 of the Public Reference Branch, Federal Trade Commission Building, Pennsylvania Avenue and Sixth Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, 202-724-1045, or Robert J. Schroeder, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, 202-523-3935.

SUPPLEMENTAL INFORMATION: On December 7, 1978, the Commission published in the FEDERAL REGISTER its initial notice of rulemaking regarding the establishment of prohibitions and requirements for standards developers, certifiers, and persons who reference standards and certifications in the marketing of products (43 FR 57269). This notice announced special procedures which the Commission pursuant to 16 C.F.R. § 1.20 determined to employ in the proceeding and contained a schedule for various stages of the proceeding, including dates for the commencement of public hearings, deadlines for the submission of prepared statements of those who wished to testify at those hearings, and the filing of notifications of interest by those who desired to question witnesses at the hearings. Because of the number and the wide diversity of interests of the participants in this proceeding, it has been unusually difficult to identify groups with the same or similar interests in the proceeding and to select a single representative for each of those groups to conduct questioning of witnesses on behalf of the group. In response to requests from numerous participants, the Presiding Officer has adjusted the schedule established in the initial notice of rulemaking to allow the participants a greater amount of time to effect the selection of group representatives. Additionally, the Presiding Officer has been informed that a number of the prospective witnesses at both the San Francisco and Washington hearings will have difficulty in meeting the deadlines established for the submission of prepared statements of testimony. Accordingly, and in the interests of an orderly conduct of the proceeding, the Presiding Officer has rescheduled the San Francisco hearing to commence on May 21, 1979, and the Washington, D.C., hearing to commence on June 25, 1979. The period for the submission of prepared statements of witnesses has also been extended. Prepared statements of those who desire to testify at the San Francisco, California, hearing must be received by April 9, 1979. Prepared statements of those who desire to testify at the Washington, D.C., hearing must be received by May 14, 1979.

HENRY B. CABELL,
Presiding Officer.

[FR Doc. 79-8983 Filed 3-22-79; 8:45 am]

[8120-01-M]

TENNESSEE VALLEY AUTHORITY

[18 CFR Part 308]

CONTRACT DISPUTES

Implementation of the Contract Disputes Act of 1978

AGENCY: Tennessee Valley Authority ("TVA").

ACTION: Proposed rule.

SUMMARY: TVA proposes a new part 308 implementing the Contract Disputes Act of 1978, 92 Stat. 2383 ("the Act"), as it relates to TVA. This part prescribes procedures for use in the determination of disputes relating to certain TVA contracts containing disputes clauses, including Contracting Officers' decisions, decisions by the TVA Board of Contract Appeals, hearing and prehearing procedures, and issuance and enforcement of TVA administrative subpoenas.

DATES: Comments are due by April 23, 1979.

ADDRESS: Comments should be addressed to Herbert S. Sanger, Jr., General Counsel, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT:

TVA's General Counsel, whose address is given above, can provide further information about contract dispute procedures. His telephone number is (615) 632-2241. Information about TVA's contracting process can be secured from J. L. Williams,

Jr., Director, Division of Purchasing, Tennessee Valley Authority, 1000 Chattanooga Union Bank Building, 633 Chestnut Street, Chattanooga, Tennessee 37401. His telephone number is (615) 632-2241.

SUPPLEMENTARY INFORMATION: On November 1, 1978, the President signed into law the Contract Disputes Act of 1978, Pub. L. 95-563, 92 Stat. 2383. The Act applies to certain TVA contracts which contain disputes clauses, and creates statutory rights and remedies for persons holding such contracts. In adopting the Act, Congress recognized that TVA has highly specialized purchasing needs and must have the freedom to exercise its business judgment in individual instances to be able to maintain the efficiency of its operations. The Act is intended to recognize the status quo regarding TVA's traditional flexibility and independence to establish the terms and conditions of its contracts. The Act requires TVA to adopt rules and regulations implementing it. This part will implement those requirements.

The part has 5 subparts. Subpart A deals with general matters, including definitions, payment of interest by TVA, and fraudulent claims. Subpart B deals with Contracting Officers and their decisions. Subpart C deals generally with the TVA Board of Contract Appeals. Subpart D deals with the Board of Contract Appeals' prehearing and hearing procedures. Subpart E deals with the issuance and enforcement of TVA administrative subpoenas. TVA has not previously had subpoena power for its contract disputes.

Although advance notice and comment are not required, the TVA Board is interested in receiving comments from the public and will consider revisions to this part in light of any comments received by the above date. Accordingly, it is proposed to adopt Part 308 of Chapter II of Title 18 of the Code of Federal Regulations to read as follows:

PART 308—CONTRACT DISPUTES

Subpart A—General Matters

Sec.

308.1 Purpose and organization.
308.2 Definitions.
308.3 Exclusions.
308.4 Coverage of certain excluded Contractors.
308.5 Interest.
308.6 Fraudulent claims.
308.7 Effective date.

Subpart B—Contracting Officers

308.11 Contractor's request for relief.
308.12 Submission and decision of Contractor's claim.
308.13 Time limits for decisions.
308.14 Requests for relief by TVA.
308.15 Finality of decisions.
308.16 Decisions involving fraudulent claims.
308.17 Failure to render timely decision.

Subpart C—Board of Contract Appeals

308.21 Jurisdiction and organization.
308.22 Representation.
308.23 Finality of decisions.
308.24 Undue delay in Contracting Officer's decision.
308.25 Stay of appeal for Contracting Officer's decision.
308.26 Appeals.
308.27 Appeal files.

Subpart D—Prehearing and Hearing Procedures

308.31 Filing and service.
308.32 Prehearing procedures.
308.33 Hearings.
308.34 Record on appeal.
308.35 Small claims procedure.
308.36 Accelerated appeal procedure.
308.37 Decisions.
308.38 Reconsideration.
308.39 Briefs and motions.

Subpart E—Subpoenas

308.51 Form.
308.52 Issuance.
308.53 Service.
308.54 Requests to quash or modify.
308.55 Penalties.

AUTHORITY: Tennessee Valley Authority Act of 1933, as amended, 16 U.S.C. § 831-831dd; Contract Disputes Act of 1978, 92 Stat. 2383-2391.

Subpart A—General Matters

§ 308.1 Purpose and organization.

The regulations in this part implement the Contract Disputes Act of 1978 as it relates to TVA. This part consists of 5 subparts. Subpart A deals with matters applicable throughout the part, including definitions. Subpart B deals with Contracting Officers' decisions. Subpart C deals with general matters concerning the TVA Board of Contract Appeals. Subpart D deals with hearing and prehearing procedures, including discovery. Subpart E deals with subpoenas.

§ 308.2 Definitions.

For the purposes of this part, unless otherwise provided:

(a) The term "Act" means the Contract Disputes Act of 1978, 92 Stat. 2383-91.

(b) The term "Board" means the TVA Board of Contract Appeals.

(c) The term "claim" means a written demand by a Contractor, in compliance with this paragraph, for a decision by a Contracting Officer under a disputes clause. A claim must:

(1) State the amount of monetary relief, or the kind of nonmonetary relief, sought, and identify the contract provision relied upon;

(2) Include sufficient supporting data to permit the Contracting Officer to decide the claim, or provide appropriate reference to previously submitted data;

(3) If monetary relief totalling more than $50,000 is involved, include a signed certification by the Contractor that the claim is made in good faith, that the supporting data are accurate and complete to the best of the Contractor's knowledge and belief, and that the amount requested accurately reflects the contract adjustment for which the Contractor believes TVA is liable;

(4) Be signed by the Contractor, or on its behalf if the Contractor is other than an individual. If signed on a Contractor's behalf, the claim must include evidence of the authority of the individual so signing it, and of the individual signing any certification required by this paragraph, unless such authority appears in the contract or contract file.

The Contracting Officer has no authority to waive any of the requirements of this paragraph.

(d) The term "contract" means an agreement in writing entered into by TVA for:

(1) The procurement of property, other than real property in being;

(2) The procurement of nonpersonal services;

(3) The procurement of construction, alteration, repair or maintenance of real property; or

(4) The disposal of personal property.

(e) The term "Contracting Officer" means TVA's Director of Purchasing, or duly authorized representative acting within the limits of the representative's authority. The TVA Purchasing Agent who administers a contract for TVA is designated as the duly authorized representative of the Director of Purchasing to act as Contracting Officer for all purposes in the administration of the contract (including, without limitation, decision of claims under the disputes clause). Such a designation continues until it is revoked or modified by written notice to the Contractor and the Purchasing Agent from TVA's Director of Purchasing.

(f) The term "Contractor" means a party to a TVA contract which contains a disputes clause. The term "Contractor" does not include TVA.

(g) The term "disputes clause" means a clause in a TVA contract requiring that a contract dispute be resolved through a TVA-conducted administrative process. It does not include, for example, arbitration provisions, or provisions specifying an independent third party to decide certain kinds of matters or special mechanisms to establish prices or price adjustments in contracts.

(h) The term "Hearing Officer" means a member of the Board who

has been designated to hear and determine a particular matter pending before the Board.

(i) The term "TVA" means the Tennessee Valley Authority.

(j) A term defined in a contract subject to this part shall have the meaning given it in the contract.

§ 308.3 Exclusions.

(a) This part does not apply to any TVA contract for the sale of fertilizer or electric power, or to any TVA contract related to the conduct or operation of the electric power system, or to any TVA contract which does not contain a disputes clause.

(b) Except as otherwise specifically provided, this part does not apply to any TVA contract entered into prior to March 1, 1979, or to any dispute relating to such a contract.

§ 308.4 Coverage of certain excluded Contractors.

(a) A Contractor whose contract is excluded from this part under § 308.3(b) may elect to proceed under this part and the Act with respect to any dispute pending before a Contracting Officer on March 1, 1979, or initiated thereafter. If the disputes clause in the contract is not an "all disputes" clause (*see Patton Wrecking & Dem. Co. v. Tennessee Valley Authority*, 465 F.2d 1073 (5th Cir. 1972)), a Contractor's election under this section shall cause the provisions of the first two sentences of section 6(a) of the Act to apply to the contract, and such an election shall be irrevocable.

(b) A Contractor makes an election under paragraph (a) of this section by giving written notice to the Contracting Officer stating that the Contractor elects to proceed with the dispute under the Act. For disputes pending on March 1, 1979, the notice shall be actually received by the Contracting Officer within 30 days after the Contractor receives the Contracting Officer's decision. For disputes initiated thereafter, the notice shall be included in the document first requesting a decision by the Contracting Officer.

§ 308.5 Interest.

TVA shall pay a Contractor interest on the amount found to be due on a claim:

(a) From the date payment is due under the contract or the Contracting Officer receives the claim, whichever is later, until TVA makes payment;

(b) At the rate fixed by the Secretary of the Treasury for the Renegotiation Board under Pub. L. 92-41, in effect on the date from which interest runs pursuant to paragraph (a) of this section.

§ 308.6 Fraudulent claims.

(a) If a Contractor is unable to support any part of a claim and it is determined that such inability is attributable to the Contractor's misrepresentation of fact or fraud, the Contractor shall be liable to TVA, as set out in section 5 of the Act, for:

(1) An amount equal to the unsupported part of the claim; plus

(2) All TVA's costs attributable to reviewing that part of the claim.

(b) The term "misrepresentation of fact" has the meaning given it in section 2(7) of the Act.

(c) Prior to TVA's filing suit for amounts due under this section, TVA shall afford the Contractor an opportunity to pay voluntarily the amount TVA asserts is due to it.

(d) A determination by TVA that fraud or misrepresentation of the fact has been committed is not subject to decision under a disputes clause.

(e) The provisions of this section are in addition to whatever penalties or remedies may otherwise be provided by law.

§ 308.7 Effective date.

Subject to § 308.3(a), this part applies to any TVA contract having an effective date on or after March 1, 1979.

Subpart B—Contracting Officers

§ 308.11 Contractor's request for relief.

Any request for relief which a Contractor believes is due under a contract shall be submitted to the Contracting Officer in writing, in accordance with the terms of the contract, including applicable time limits.

§ 308.12 Submission and decision of Contractor's claim.

(a) If Contractor and TVA are unable to resolve Contractor's request for relief by agreement within a reasonable time, Contractor may submit a claim to the Contracting Officer.

(b) The Contracting Officer shall issue a decision to the Contractor on a submitted claim in conformity with the contract's disputes clause. Specific findings of fact are not required, but may be made. Such findings are not binding in any subsequent proceeding except as provided in § 308.15. The decision shall:

(1) Be in writing;

(2) State the reasons for the decision reached;

(3) Include information about the Contractor's rights of appeal under sections 7 and 10 of the Act (including time limits); and

(4) Notify the Contractor, as appropriate, of the special procedures available under §§ 308.35 and 308.36 at the Contractor's election. A copy of the provisions of this part shall be furnished with the decision.

§ 308.13 Time limits for decisions.

(a) If a submitted claim involves $50,000 or less, the Contracting Officer shall issue the decision within 60 days from actual receipt of the claim. If a submitted claim involves more than $50,000, the Contracting Officer within 60 days from actual receipt shall either issue a decision or notify the Contractor of the date by which a decision shall be rendered, which shall be within a reasonable time.

(b) The Contracting Officer shall issue a decision within any time limits set by an order under § 308.24. If a Hearing Officer grants a stay of an appeal pursuant to § 308.25, the Contracting Officer shall issue a decision within any time limits specified by the stay order, or within a reasonable time after receipt of the stay, if it sets not time limits.

(c) As used in this subpart, the reasonableness of a time period depends on the amount or kind of relief involved and complexity of the issues raised, the adequacy of the Contractor's supporting data, contractual requirements for auditing of Contractor's cost or other data, and other relevant factors.

§ 308.14 Request for relief by TVA.

When TVA believes it is due relief under a contract, the Contracting Officer shall make a request for relief against the Contractor, and shall attempt to resolve the request by agreement. If agreement cannot be reached within a reasonable time, the Contracting Officer shall issue a decision which complies with the requirements of § 308.12(b).

§ 308.15 Finality of decisions.

A decision by a Contracting Officer under the disputes clause of a contract subject to this part is final and conclusive and not subject to review by any forum, tribunal, or Government agency unless an appeal or suit is timely commenced under this part or section 10(a)(2) and (3) of the Act.

§ 308.16 Decisions involving fraudulent claims.

If a Contracting Officer denies any part of a Contractor's claim for lack of support, and the Contracting Officer is of the opinion that the Contractor's inability to support that part of the claim is within § 308.6 and section 5 of the Act, the Contracting Officer's decision shall not state that opinion, but, contemporaneously with the decision, the Contracting Officer shall separately notify TVA's General Counsel of that opinion and the reasons therefor.

§ 308.17 Failure to render timely decision.

Any failure by Contracting Officer to issue a decision on a submitted claim within the period required or permitted by § 308.13, will be deemed to be a decision by the Contracting Officer denying the claim and will authorize the commencement of an appeal on the claim under this part, or a suit on the claim as provided in section 10(a)(2) of the Act. If no appeal or suit pursuant to this section has been commenced at the time the Contracting Officer issues a decision, the right to sue or appeal and the time limits therefor shall be determined as otherwise provided in this part and the Act, and this section shall not authorize an appeal or suit from the decision.

Subpart C—Board of Contract Appeals

§ 308.21 Jurisdiction and organization.

(a) The Board shall consider and determine timely appeals filed by Contractors from decisions of TVA Contracting Officers pursuant to a disputes clause.

(b) The Board shall consist of an indeterminate number of members, who shall serve on a part-time basis. The members of the Board shall all be attorneys at law duly licensed by any state, commonwealth, territory, or the District of Columbia. One of the members of the Board shall be designated as "Chairman" pursuant to section 8(b)(2) of the Act.

(c) Each appeal or other matter before the Board shall normally be assigned to a single Hearing Officer, to be designated by the Chairman. The Chairman may act as a Hearing Officer, and shall notify the Contractor and TVA of the name and mailing address of the person designated as Hearing Officer.

§ 308.22 Representation.

(a) In any appeal to the Board, a Contractor may be represented by an attorney at law duly licensed by any state, commonwealth, territory, or the District of Columbia. A Contractor not an individual and not wishing to appear by an attorney may be represented by any member, partner, or officer duly authorized to act on Contractor's behalf, or if an individual, may appear personally.

(b) TVA shall be represented by attorneys from its Office of General Counsel.

§ 308.23 Finality of decisions.

A decision by a Hearing Officer on an appeal shall be the decision of the Board and shall be final, subject only to amendment under § 308.37(c), reconsideration under § 308.38 or appeal pursuant to section 8(g)(2) and 10(b) of the Act.

§ 308.24 Undue delay in Contracting Officer's decision.

(a) If there is an undue delay by a Contracting Officer in issuing a decision on a claim, the Contractor may request the Chairman to direct the Contracting Officer to issue a decision within a specified period of time.

(b) A request under this section shall:

(1) Be in writing;

(2) State the date on which the claim was submitted to the Contracting Officer;

(3) State the date suggested for issuance of a decision by the Contracting Officer.

(c) TVA may reply to a motion under this section within 5 days after its receipt.

(d) The Chairman shall issue a written decision on the request. If granted, the decision shall specify the date by which the Contracting Officer's decision is to be rendered, and a copy shall be served on the Contracting Officer.

§ 308.25 Stay of appeal for Contracting Officer's decision.

If an appeal has been taken because of a Contracting Officer's failure to render a timely decision, as provided by § 308.17, the Hearing Officer, sua sponte or on the motion of a party, may stay proceedings on the appeal in order to obtain a decision on the matter appealed. Oral argument will not be heard on such a motion unless otherwise directed. The stay order will normally set a date certain by which the decision of the Contracting Officer will be rendered.

§ 308.26 Appeals.

(a) An appeal to the Board from a Contracting Officer's decision under § 308.12 shall be initiated within 90 days from the Contractor's receipt of the Contracting Officer's decision and in the manner set forth in the disputes clause.

(b) An appeal from the Contracting Officer's failure to render a timely decision shall be taken within the time period provided by § 308.17. The notice of appeal shall be in the form and filed in the manner specified in the disputes clause, but shall state that it is an appeal under § 308.17, and shall include a copy of the claim which was submitted for decision.

§ 308.27 Appeal files.

(a) Notices of appeal shall be filed as provided in the disputes clause, and shall be promptly transmitted by TVA to the Chairman.

(b) Following transmittal of the notice of appeal, TVA shall assemble and transmit to the Hearing Officer and the Contractor an appeal file consisting of:

(1) The Contracting Officer's decision, if any, from which the appeal is taken;

(2) The contract and pertinent amendments, specifications, plans, and drawings (a list of the documents submitted may be provided Contractor in lieu of copies);

(3) The claim;

(4) Any other matter pertinent to the appeal submitted to or considered by the Contracting Officer for reaching a decision.

(c) The appeal file shall be submitted within 30 days. Within 30 days after receipt of a copy, the Contractor may submit to the Hearing Officer and TVA's General Counsel any documents within the scope of paragraph (b) of this section which are not included in the appeal file but which the Contractor believes are pertinent to the appeal. Such documents are considered a part of the appeal file.

Subpart D—Prehearing and Hearing Procedures

§ 308.31 Filing and service.

(a) All documents required to be served shall be served on TVA and Contractor and filed with the Board, except subpoenas.

(b) A request under § 308.15 shall be directed to the General Manager, Tennessee Valley Authority, 400 Commerce Avenue, Knoxville, Tennessee 37902, and shall be transmitted to the Chairman.

(c) All other documents required to be filed shall be directed to the Hearing Officer assigned to the matter.

(d) Service on the opposing party may be made personally or by mail. The copy presented for filing shall bear an appropriate certificate or acknowledgment of service.

§ 308.32 Prehearing procedures.

(a) Unless otherwise provided in this part, prehearing procedures, including discovery, shall be conducted in accordance with Rules 6, 7(b), 16, 26, 28–37, 41, and 56 of the Federal Rules of Civil Procedure, except that the Hearing Officer may modify those Rules to meet the needs of the parties in a particular case.

(b) The term "court" as used in those Rules shall be deemed to mean "Hearing Officer"; the term "plaintiff" shall be deemed to mean "Contractor"; the term "defendant" shall be deemed to mean "TVA"; and the term "action" shall be deemed to mean the pending appeal.

(c) Discovery subpoenas are subject to Subpart E.

(d) The party noticing a depostion is responsible for securing a reporter.

§ 308.33 Hearings.

(a) TVA shall arrange for the verbatim reporting of evidentiary hearings before the Hearing Officer, and shall provide the Hearing Officer with the original transcript. The parties shall make their own arrangements with the reporter for copies.

(b) Admissibility of evidence shall generally be governed by the Federal Rules of Evidence, subject, however, to the Hearing Officer's discretion. As used in those Rules, the term "court" shall be deemed to mean "Hearing Officer."

(c) Conduct of hearings shall generally be governed by Rules 41–44, 44.1, and 46 of the Federal Rules of Civil Procedure, except that the Hearing Officer may modify those Rules to meet the needs of the parties in a particular case. The terms "court," "plaintiff," "defendant," and "action" as used in those Rules shall be deemed to have the meaning given them in § 308.32.

(d) Hearings shall be as informal as may be reasonable and appropriate under the circumstances, and shall be held at a time and place to be specified by the Hearing Officer.

(e) Evidentiary subpoenas are subject to Subpart E of this part.

§ 308.34 Record on appeal.

Except as otherwise provided in this part, the appeal shall be decided on the basis of the record on appeal, which consists of the notice of appeal, the claim, may notice of election under § 308.35 or 308.36, orders entered during the proceeding, admissions, transcripts of hearings, hearing exhibits and stipulations on file, all other documents admitted in evidence, and all briefs submitted by the parties.

§ 308.35 Small claims procedure.

(a) The Contractor may elect to have the appeal processed under this section, if the amount in dispute is $10,000 or less. This amount shall be determined by totalling the amounts claimed by TVA and Contractor.

(b) Appeals under this section shall be decided, whenever possible, within 120 days after the Hearing Officer receives written notice that the Contractor has elected to proceed under this section. Such election may be made a part of the notice of appeal.

(c) An appeal under this section shall be determined on the basis of the record on appeal and those documents in the appeal file identified in § 308.27(b)(1), (2), and (3). Other documents may be considered in the determination of the appeal as may be stipulated to by the parties, or as the Hearing Officer may order on motion by a party. No evidentiary hearing shall be held unless the Hearing Officer directs testimony on a particular issue. Discovery and other prehearing procedures may be conducted under such time periods as the Hearing Officer may set to meet the 120-day period, and the Hearing Officer may reserve up to 30 days to prepare a decision. Upon request by either party, the Hearing Officer shall hear oral argument after the record is closed, and may direct oral argument on specified issues if the parties do not request it.

(d) The Hearing Officer's decision under this section will be short and contain only summary findings of fact and conclusions of law. The decision may, at the Hearing Officer's discretion, be rendered orally at the conclusion of any oral argument held. In such case, the Hearing Officer will promptly furnish the parties a typed copy of the decision, which shall constitute the final decision.

(e) Decisions under this section shall be final and conclusive except for fraud, and shall have no value as precedent for future appeals.

§ 308.36 Accelerated appeal procedure.

(a) The Contractor may elect to have the appeal processed under this section if the amount in dispute is $50,000 or less. The amount shall be determined by totalling the amounts claimed by TVA and Contractor.

(b) Appeals under this section shall be decided, whenever possible, within 180 days after the Hearing Officer receives written notice that the Contractor has elected to proceed under this section. Such election may be made a part of the notice of appeal.

(c) In cases under this section, the parties are encouraged to limit discovery and briefing, consistent with adequate presentation of their positions. The Hearing Officer may shorten applicable time periods in order to meet the 180-day period, and may reserve 30 days to prepare a decision.

(d) The Hearing Officer's decision under this section will be short and may contain only summary findings of fact and conclusions of law. The decision may, at the Hearing Officer's election, be rendered orally at the conclusion of the evidentiary hearing, following such oral argument as may be permitted. In such case, the Hearing Officer will promptly furnish the parties a typed copy of the decision, which shall constitute the final decision.

§ 308.37 Decisions.

(a) The Hearing Officer's decision shall be in writing. Except as provided by §§ 308.35 or 308.36, the decision shall contain complete findings of fact and conclusions of law. The parties may be directed to submit proposed findings and conclusions. A decision against a Contractor on a claim shall include notice of the Contractor's rights under paragraphs (2) and (3) of section 10(a) of the Act.

(b) If the decision denies any part of a Contractor's claim for lack of support and the Hearing Officer is of the opinion that the Contractor's inability to support that part is within § 308.6 and section 5 of the Act, the decision shall not state that opinion, but contemporaneously with the decision the Hearing Officer shall separately notify TVA's General Counsel of that opinion and the reasons therefor.

(c) Not later than 10 days after receipt of the decision, a party may move to alter or amend the findings or make additional findings and amend the conclusions and decision accordingly. Such a motion may be combined with a motion under § 308.38. This time period cannot be extended.

§ 308.38 Reconsideration.

Motions for reconsideration shall be served not later than 10 days after issuance of the Hearing Officer's decision. This time period cannot be extended. Such a motion shall be heard and decided in the manner provided by Rule 59 of the Federal Rules of Civil Procedure for motions for new trail in actions tried without a jury.

§ 308.39 Briefs and motions.

(a) All motions shall be accompanied by a brief or memorandum setting forth supporting authorities. Briefs in opposition to a motion shall be served within 10 days after receipt of the motion, unless otherwise specified in this part, or by order of the Hearing Officer.

(b) The Hearing Officer shall set the schedule for service of prehearing and posthearing briefs on the merits.

(c) A motion to dismiss an appeal for lack of jurisdiction should be served seasonably, but may be served at any time. The issue of lack of jurisdiction may be raised by the Hearing Officer sua sponte, in which case the Hearing Officer shall set a briefing schedule on the issue in the document raising it to the parties.

(d) A motion for summary judgment may be made at any time after the appeal file has been transmitted under § 308.26.

Subpart E—Subpoenas

§ 308.51 Form.

(a) A subpoena shall state the name of the Board and the title of the appeal; shall command the person to whom it is directed to attend and give testimony at a deposition or hearing, as appropriate, and, if appropriate, to produce specified books, papers, documents, or tangible things at a time and place therein specified; and shall notify the person of the right to request that the subpoena be quashed or

modified and of the penalties for contumacy or failure to obey.

§ 308.52 Issuance.

(a) A deposition subpoena shall not issue except upon the filing of a notice of deposition of the person to be subpoenaed, which notice should normally be filed at least 15 days in advance of the scheduled deposition.

(b) A subpoena for the attendance of a witness at an evidentiary hearing shall not issue except upon the filing of a request for appearance at the hearing of the person to be subpoenaed, which request should normally be filed at least 30 days in advance of the scheduled hearing. The request should state:

(1) The name and address of the witness;

(2) The general scope of the witness' testimony;

(3) The books, records, papers, and other tangible things sought to be produced; and

(4) The general relevance of the matters sought to the case.

(c) Upon receipt of a notice of deposition or request for appearance at a hearing, the Hearing Officer shall fill in the name of the witness and sign and issue a subpoena otherwise in blank to the party seeking it, together with a duplicate for proof of service. The party requesting the subpoena shall fill in both copies before service.

(d) Letters rogatory may be issued by the Hearing Officer as provided in 28 U.S.C. § 1781-1784.

§ 308.53 Service.

A subpoena may be served at any place, and may be served by any individual not a party who is at least 18 years of age, or as otherwise provided by law. Service may be made by an attorney or employee of a party. Service shall be made by personal delivery of the subpoena to the individual named therein, together with tender of the amounts required by 5 U.S.C. § 503 or other applicable law. The individual making service shall file with the Board the duplicate subpoena, filled out as served, with the return of service filled in, signed and notarized.

§ 308.54 Requests to quash or modify.

The person served with a subpoena (or a party, if the person served is a party's employee) may request the Hearing Officer to quash or modify a subpoena. Such requests shall be made and determined in accordance with the time limits and principles of Rule 45(a), (b) and (d) of the Federal Rules of Civil Procedure.

§ 308.55 Penalties.

In case of contumacy or refusal to obey a subpoena by a person who resides, is found, or transacts business within the jurisdiction of a United States District Court, the Board will apply to the court through the General Counsel of TVA for an order requiring the person to appear before the Hearing Officer, to produce evidence or give testimony, or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof.

By Order of the Board of Directors of the Tennessee Valley Authority.

Dated: March 19, 1979.

LEON E. RING,
General Manager.

[FR Doc. 79-8872 Filed 3-22-79; 8:45 am]

[4110-03-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 310]

[Docket No. 75N-0062]

ORAL HYPOGLYCEMIC DRUGS

Availability of Agency Analysis and Reopening of Comment Period on Proposed Labeling Requirements; Further Extension

AGENCY: Food and Drug Administration.

ACTION: Further Extension of Comment Period on Proposed Rule.

SUMMARY: This document further extends to July 16, 1979, the comment period on the Food and Drug Administration's (FDA's) analysis of the University Group Diabetes Program (UGDP) study and on the proposed labeling requirements for oral hypoglycemic drugs. This action is being taken to allow more time to review the extensive material made available as part of FDA's analysis. The current comment period would have expired on March 16, 1979.

DATES: Comments by July 16, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bradley, 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 the FEDERAL REGISTER of November 14, 1978 (43 FR 52732), FDA announced the availability of its analysis of the UGDP study and reopened, until January 15, 1979, the comment period on the labeling changes proposed in the FEDERAL REGISTER of July 7, 1975 (40 FR 28587). Comments on the FDA analysis of the UGDP were also invited.

A summary of the FDA analysis is contained in the Notice of Availability published in the FEDERAL REGISTER of November 14, 1978 (43 FR 52732). The analysis consists of a 121 page report complete with appendices and over 2,200 pages of records that were obtained from the UGDP or generated by FDA.

In the FEDERAL REGISTER of January 14, 1979 (44 FR 3994), the agency extended the comment period on the proposed rule until March 16, 1979 in response to requests received from the Upjohn Company and the American Diabetes Association. The agency has now received a further request from the American Diabetes Association to extend for an additional 120 days the comment period on the proposed oral hypoglycemic labeling. The basis for the requested extension is to permit a recently appointed Association committee an opportunity to review the UGDP study and develop proposed oral hypoglycemic labeling acceptable to all parties involved in this matter.

The agency has considered this request and finds that the complexity of the issues and the volume of material to review justify the requested further extension.

Accordingly, the comment period is extended to July 16, 1979. Comments may be seen in the office of the Hearing Clerk, Food and Drug Administration, at the address noted above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 16, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs

[FR Doc. 79-8615 Filed 3-22-79; 8:45 am]

[4710-06-M]

DEPARTMENT OF STATE

Bureau of Consular Affairs

[22 CFR Parts 22 and 51]

[Docket No. SD-143]

EXECUTION OF PASSPORT APPLICATION

Change in Fee

AGENCY: Department of State.

ACTION: Proposed rule; correction.

SUMMARY: The Department proposes to amend an additional regulation (Part 51) to increase the fee for execution of passport application from $3 to $4. This proposed amendment was inadvertently omitted from a previous proposed rule concerning the increase in fees for consular services which was published on March 6, 1979 and which affected Part 22 only.

DATES: Comments must be received on or before April 23, 1979. The proposed effective date is May 1, 1979.

ADDRESS: Send comments to the Director, Office of Citizenship, Nationality and Legal Assistance, Passport Services, Bureau of Consular Affairs, Room 5813, Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

Karen Spinner (202) 632-2836.

SUPPLEMENTARY INFORMATION: On March 6, 1979, the Department published a proposed rule (44 FR 12209) to increase the fee in Part 22 for the execution of passport applications, with an effective date of April 1, 1979. This proposed rule includes an amendment to a comparable regulation in Part 51 (which was inadvertently omitted) and changes the effective date for the increase of fees (Part 22) from April 1, 1979 to May 1, 1979.

The Secretary of State is authorized to prescribe the passport application fee under 22 U.S.C. 214, as amended. In enacting this statute, it was the intent of Congress that the Department of State review the application fee periodically to insure that it adequately and fairly covers the cost of providing the service to the public. In this regard the Department has conducted a survey of various passport application acceptance facilities, and has determined that the fee increase of $1 is fair and necessary to enable the acceptance facilities to recover the full cost of the program and to continue the services currently offered to the public.

In view of the fact that a number of passport acceptance facilities have ceased accepting applications because of the inadequacy of the fee and the possibility that any extended delay in increasing the fee may result in further suspensions of service, the Department has limited the comment period to the statutory 30-day requirement. It is believed that this will afford the public adequate time to express their views.

Accordingly, it is proposed to amend Title 22, Code of Federal Regulations, Parts 22 and 51 to read as set forth below.

1. Section 22.8 is amended to read as follows:

§ 22.8 Effective date.

The charges hereby established will become effective on May 1, 1979 with respect to all services rendered pursuant to requests received in the Department of State and the Foreign Service on or after the effective date.

2. Section 51.61 is amended to read as follows:

§ 51.61 Statutory fees.

Except as provided in § 51.63, (a) the fee for a U.S. passport is $10; (b) the execution fee for a U.S. passport is $4, which shall be remitted to the U.S. Treasury where an application is executed before a Federal official but which may be collected and retained by any State official before whom an application is executed; (c) the passport fee of $10 shall be paid by all applicants for a passport. The execution fee of $4 shall be paid only when an application is executed under oath or affirmation before an official designated by the Secretary for such purpose.

AUTHORITY: Sec. 1, 41 Sat. 750, as amended, Sec. 1, 44 Stat. 887, Sec. 4, 63 Stat. 111, as amended; 22 U.S.C. 214, 211a, 2658; E.O. 11295, 36 FR 10603; 3 CFR 1966-70 comp. p. 507.

For the Secretary of State,

Dated: March 21, 1979.

BEN H. READ,
Under Secretary for Management.

[FR Doc. 79-9112 Filed 3-22-79; 8:45 am]

[4210-01-M]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[24 CFR Part 200]

[Docket No. R-79-633]

MINIMUM PROPERTY STANDARDS

Thermal Insulation

AGENCY: Department of Housing and Urban Development, Office of the Secretary.

ACTION: Notice of Transmittal of Interim Rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) days of continuous session of Congress prior to such rule's publication for comment in the FEDERAL REGISTER. This Notice lists and summa;rizes for public informtion a rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrent with issuance of this Notice, the Secretary is forwarding to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the interim rule listed below:

PART 200—INTRODUCTION

Subpart S—Minimum Property Standards

This interim rule amends 24 CFR Part 200, Subpart S. Minimum Property Standards (MPS) by increasing the thermal requirements for one- and two-family dwellings. The MPS, incorporated by reference in 24 CFR 200.933, are set forth in HUD Handbook 4900.1.

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o), Section 324 of the Housing and Urban Development Amendments of 1978).

Issued at Washington, D.C. March 19, 1979.

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

[FR Doc. 79-8888 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 888]

[Docket No. R-79-632]

AMENDMENT OF RENT SCHEDULE

Congressional Waiver Request

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional waiver request under Section 7(o)(4) of the Department of HUD Act.

SUMMARY: Recently enacted legislation enables the Congress to review proposed and final HUD rules. The legislation, however, permits the Secretary to request waiver of its review requirements in appropriate instances. This Notice lists and briefly summarizes for public information a Notice of Amendment of Rent Schedule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT:

Edward M. Winiarski, Supervisory Appraiser, Valuation Branch, Technical Support Division, Office of Multifamily Housing Development, 451 Seventh Street, S.W., Washing-

ton, D.C. 20410 (202) 472-4810. This is not a toll-free number.

SUMMARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both Congressional Banking Committees a Notice of Amendment of Rent Schedule. The purpose of the transmittal is to request waiver of the Congressional waiver requirements for this document under Subsection 4 of Section 7(o) of the Department of HUD Act. Unless waiver is granted, publication and adoption of the document will be delayed until passage of the number of days of continuous session required by the respective Subsection. This delay will seriously jeopardize program implementation.

A copy of the document is available for public inspection during business hours at the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

The rulemaking document for which waiver has been requested is: Notice of Amendment of Rent Schedule. This proposed rule would amend 24 CFR Part 888 to implement fair market rents for 2-4 story elevator buildings for the District of Columbia jurisdiction.

(Section 7(d), Department of HUD Act (42 U.S.C. 3535(o)), Section 324 of the Housing and Urban Development Amendments of 1978.)

Issued at Washington, D.C. on March 19, 1979.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc. 79-8868 Filed 3-22-79; 8:45 am]

[4210-01-M]

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-5278]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Archbald, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Archbald, Lackawanna County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, Archbald, Pennsylvania. Send comments to: Mr. Joseph J. Daley, Mayor of Archbald, 165 Chestnut Street, Archbald, Pennsylvania 18403.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Archbald, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River	The junction of Blakely, Jessup and Archbald.	837
	Confluence of Laurel Run.	875
	Monroe Street	887
	Wayne Street	888
	Bridge Street	893
	Market Street	908
	Northern Corporate Limits.	915
Laurel Run	Laurel Street	875
	Delaware and Hudson Railroad.	889
	800 feet upstream of the Delaware and Hudson Railroad Bridge.	913
White Oak Run	Confluence with Lackawanna River.	889
	Upstream limit of Church Street Culvert.	895
	Delaware and Hudson Railroad.	906
	300 feet upstream of Delaware and Hudson Railroad.	909
	850 feet upstream of Delaware and Hudson Railroad.	925
	300 feet downstream of Goers Hill Street.	968
	Goers Hill Street	1,018
	250 feet upstream of Goers Hill Street.	1,026
Wildcat Creek	Downstream Corporate Limits.	892
	Downstream of Road Bridge.	958
	Upstream of Road Bridge.	966
	Downstream of Betty Street.	981
	Upstream of Betty Street.	987
	Upstream of culvert near drive-in theater.	1,009
	2,100 feet upstream of culvert entrance.	1,039
	2,300 feet upstream of culvert entrance.	1,055
	Downstream of Roosevelt Highway.	1,103

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8507 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5279]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Avis, Clinton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Avis, Clinton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Building, Avis, Pennsylvania. Send comments to: Honorable Robert L. Swartz, Mayor of Avis, Prospect Avenue, Avis, Pennsylvania 17721.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Avis, Clinton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pine Creek	At U.S. Route 220	559

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8508 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5280]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Blakely, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Blakely, Lackawanna County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Hall, Blakely, Pennsylvania. Send comments to: Honorable Edward Perucki, Mayor of Blakely, 518 Main Street, Peckville, Pennsylvania 18452.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Blakely, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lackawanna River	Upstream Corporate Limits.	836
	Bridge Street	819
	Pennsylvania Route 247.	807
	Keystone Street (Extended).	798
	Corporate Limits 3,300 feet downstream from Pennsylvania Route 247.	785

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Confluence of Wildcat Creek.	780
	West Lackawanna Avenue.	766
Wildcat Creek	Upstream Corporate Limits.	890
	Abandoned Railroad (Upstream).	880
	Abandoned Railroad (Downstream).	862
	Legislative Route 648 (Upstream).	852
	Keystone Street (Upstream).	826
	Conrail (Upstream)	809
	Main Street (upstream).	793
	Willow Street (Upstream).	785
	Confluence with Lackawanna River.	780
Hull Creek	Fourth Street (culvert inlet).	839
	Columbus Avenue (culvert inlet).	830
	Third Street (culvert inlet.	821
	Footbridge 3,175 feet downstream from Third Street (Upstream).	806
	Second Street (culvert inlet.	798
	First Street (culvert inlet).	788
	Pennsylvania Route 347 (culvert inlet).	767

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8509 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5282]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Chester Heights, Delaware County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Chester Heights, Delaware County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the Borough Secretary, Valleybrook Road, Chester Heights, Pennsylvania. Send comments to: Honorable Albert A. Danish, Mayor of Chester Heights, Box 12, Chester Heights, Pennsylvania 19017.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Chester Heights, Delaware County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chester Creek	Downstream Corporate Limits.	114
	Lenni Road (Upstream).	115
	Station Road	136
	Darlington Road	149
	Upstream Corporate Limits.	152
West Branch Chester Creek.	Downstream Corporate Limits.	174
	Mattson Road	177
	Upstream Corporate Limits.	181

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8511 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5285]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Glendon, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Glendon, Northampton County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Glendon Borough Hall. Send comments to: Honorable Michael P. Dew, Jr., Mayor of Glendon, Lucy Crossing, Glendon, Easton, Pennsylvania 18042.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Glendon, Northampton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lehigh River	Parkway Bridge (Upstream).	197
	25th Street Bridge	197
	Dam (3,300 feet downstream of 25th Street Bridge) Downstream Face.	200
	Dam (3,300 feet downstream of 25th Street Bridge) Upstream Face.	204

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8514 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5287]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Latrobe, Westmoreland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of LaTrobe, Westmoreland County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Secretary, 321 Thompson Street, LaTrobe, Pennsylvania 15650. Send comments to: Mr. Howard J. Barnhart, Director of Administrators of LaTrobe, 321 Thompson Street, LaTrobe, Pennsylvania 15650.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of LaTrobe, Westmoreland County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Loyalhanna Lake	Ligonier Street Bridge	970
Upstream Reservoir.	Washington Street Extended.	970
Loyalhanna Creek	Ligonier Street Bridge 100' North of Buttonwood Street.	973
	Conrail Overpass (Upstream Side).	979
	Lloyd Avenue (State Route 981 Upstream Side).	982
	Conrail Spur at Legion-Kenner Park.	986
	Mission Road Bridge	998
	Easton Road (State Route 982).	1,003

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8515 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5289]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Morton, Delaware County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Morton, Delaware County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Borough Office, 400 Highland Avenue, Morton, Pennsylvania. Send comments to: Mr. Kenneth E. Ryan, Council President of Morton, 400 Highland Avenue, Morton, Pennsylvania 19070.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Morton, Delaware County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Stony Creek	At Downstream Corporate Limits.	115
	Upstream of Yale Avenue/Church Road.	119
	Upstream of Conrail Bridge.	120
	At Upstream Corporate Limits.	121

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8518 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5291]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Borough of Wilson, Northumberland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Wilson, Northumberland County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Wilson Borough Hall. Send comments to: Honorable Ellwood T. Fehnel, Mayor of Wilson, 834 Balata Street, Easton, Pennsylvania 18042.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Borough of Wilson, Northampton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lehigh River	25th Street	197
Bushkill Creek	Binney-Smith Bridge (private).	232

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8520 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5267]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Bellevue, Campbell County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Bellevue, Campbell County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 5130 Fallon, Bellevue, Kentucky. Send comments to: Honorable Willard Hundemer, mayor, City of Bellevue, City Hall, 5130 Fallon, Bellevue, Kentucky 41073.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Bellevue, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Upstream Corporate Limit.	499
Woodlawn Creek	Confluence with Woodlawn Tributary No. 1.	501
	Wilson Road [1]	517
	Upstream Corporate Limit.	519
Woodlawn Tributary No. 1.	Berry Avenue-80 feet [2]	502
	Taylor Avenue-10 feet [2]	506
	Taylor Avenue-25 feet [2]	514
	Confluence with Chadwick Branch.	515

[1] At centerline.
[2] Upstream of centerline
[3] Downstream of centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8545 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5281]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Carbondale, Lackawana County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Carbondale, Lackawanna County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Carbondale, Pennsylvania. Send comments to: Honorable Fred J. Mancuso, Mayor of Carbondale, 1 North Main Street, Carbondale, Pennsylvania 18407.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Carbondale, Lackawanna County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Racket Brook	Williams Avenue (Upstream).	1,140
	Spring Drive (Upstream).	1,110
	Footbridge 530 feet downstream from Spring Drive (Upstream).	1,099
	U.S. Route 6 (Upstream)	1,095
	Private Bridge 235 feet upstream from John Street (Upstream).	1,071
	John Street (Upstream).	1,061
	Confluence with Lackawanna River.	1,058
Lackawanna River	Upstream Corporate Limits.	1,099
	Confluence of Coal Brook.	1,074
	Confluence of Racket Brook.	1,058
	Salem Avenue (Upstream).	1,054
	Eighth Avenue (Upstream).	1,043
	Delaware and Hudson Railroad (Upstream).	1,033
	Cottage Avenue (Upstream).	1,015
	Downstream Corporate Limits.	1,005
Fall Brook	Upstream Corporate Limits.	1,128
	Private Road 1,030 feet upstream from Brooklyn Street (Upstream).	1,073
	Brooklyn Street (Upstream).	1,037
	Confluence with Lackawanna River.	1,032

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8510 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5255]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Chandler, Maricopa County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Chandler, Maricopa County, Arizona. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Department of Public Works, Chandler, Arizona. Send comments to: Mr. Bruce Knutson, City Manager of Chandler, 200 East Commonwealth Avenue, Chandler, Arizona 85224.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Chandler, Maricopa County, Arizona in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ponding Area on Southern Pacific Railroad.	Orchid Lane (extended to Ray Road.	1,217
	Ray Road to Boston Road (extended).	1,220
	Boston Road (extended) to Pecos Road.	1,221

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8533 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5258]

Proposed Flood Elevation Determination for the City of Colton, San Bernardino County, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Colton, San Bernardino County, California.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Civic Center, 650 North La Cadena Drive, Colton, California.

Send comments to: Mr. Thomas Calabros, City Manager, City of Colton, Civic Center, 650 North La Cadena Drive, Colton, California 92324.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Colton, California, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
11th Street Storm Drain.	Atchison, Topeka and Santa Fe Railroad Bridge (1st downstream crossing)—100 feet[1].	922
	M Street—50 feet[1].....	953
Highgrove Channel.	Riverside Reservation Spillway—75 feet[2].	853
	Riverside Reservation Spillway—25 feet[1].	865
	Trailer Park (Upper Crossing)—100 feet.	883
	Iowa Avenue—75 feet[1]....	912
Reche Canyon Channel.	Barton Road—120 feet[1]..	1042
Santa Ana River....	At Downstream Corporate Limits.	860
	La Cadena Avenue—25 feet[1].	913
	Mount Vernon Avenue—50 feet[1].	946
Colton Southwest Storm Drain.	At the intersection of N Street and the Atchison, Topeka and Santa Fe Railroad.	953
	At the intersection of Pennsylvania Avenue and Valley Boulevard.	981

[1]Upstream of centerline
[2]Downstream of centerline

Source of flooding	Location	Depth, in feet, above ground
Santa Ana River....	At intersection of I-395 and Southern Pacific Railroad.	3
Colton Southwest Storm Drain.	At the intersection of Hert Street and La Cadena Drive.	1

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8536 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5265]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Dunkerton, Black Hawk County, Iowa

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Dunkerton, Black Hawk County, Iowa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in

the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Dunkerton, Iowa. Send comments to: The Honorable George Jenson, Mayor, City of Dunkerton, City Hall, Dunkerton, Iowa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Dunkerton in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Crane Creek	About 2,500 feet downstream of Canfield Road.	946
	About 250 feet downstream of Canfield Road.	947
	Just upstream of Chicago and North Western Railroad.	949
	Just upstream of upstream corporate limits.	950

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8543 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5268]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Independence, Kenton County, KY.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Independence, Kenton County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Building, Independence, Kentucky. Send comments to: Honorable Marion Schadler, Mayor, City of Independence, City Building, P.O. Box 126, Independence, Kentucky 41051.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Independence, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Banklick Creek	Richardson Road [1]	555
	Louisville and Nashville Railroad (most downstream crossing) [1]	581
	Webster Road North—50 feet [2]	610
	Confluence with Brushy Fork—50 feet [2]	693
	Independence Station Road [1]	726
	Webster Road South [1]	744
	Cody Road—125 feet [2]	754
	Bristow Road [1]	765
Fowler Creek	McCullum Pike [1]	771
	Harris Pike [1]	800
Brushy Fork	Louisville and Nashville Railroad Culvert—50 feet [2]	693
	Independence Station Road [1]	742
	Banklick Station Road—25 feet [2]	778
	Shaw Road [1]	795

[1] At centerline.
[2] Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Coumminty Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8546 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5266]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Kansas City, Wyandotte County, Kan.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Kansas City, Wyandotte County, Kansas. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Physical Planning Department, Kansas City, Kansas. Send comments to: The Honorable Jack Reardon, Mayor, City of Kansas City, Municipal Office Building, 1 Civic Plaza, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Kansas City, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Missouri River	At Eastern corporate limit.	751
	Approximately ½ mile downstream of Fairfax Bridge.	757
	Just upstream of Interstate 635.	759
	At Northern corporate limit.	765
Kansas River	At confluence with Missouri River.	751
	1,000 feet upstream of 7th Street.	752
	Just downstream of Kansas Avenue.	757
	At confluence of Brenner Heights Creek.	760
	At confluence of Mill Creek.	764
	At Western corporate boundary.	767
Jersey Creek	At entrance to tunnel	760
	Just upstream of 3rd Street.	761
	Just upstream of 4th Street.	764
	Just upstream of 5th Street.	768
	At downstream end of Missouri-Pacific Railroad Tunnel.	769
	At upstream end of Missouri-Pacific Railroad Tunnel.	777
	Approximately 400 feet upstream of 10th Street.	780
	Just upstream of 11th Street.	785
	Just upstream of 13th Street.	796
	Approximately 400 feet upstream of 16th Street.	807
	At confluence of Jersey Creek Tributary.	810
	Just downstream of 18th Street.	811
	Just upstream of Garfield Avenue.	824
	Approximately 300 feet downstream of Wood Avenue.	824
	Just upstream of 25th Street.	846
	Just downstream of 26th Street.	848
	Just upstream of 26th Street.	856
	Approximately 750 feet upstream of 26th Street.	856
Jersey Creek Tributary.	At confluence with Jersey Creek.	810
	Just upstream of Stewart Avenue.	815
	Just upstream of 22nd Street.	833
	Approximately 1,150 feet upstream of 22nd Street.	845
Turkey Creek	Just upstream of Tunnel Entrance.	763
	Just upstream of Interstate 35 Ramp.	768
	Approximately 350 feet upstream of Mission Road.	787
	Upstream of Interstate 35.	790
	Upstream of Mill Street.	799
	Just downstream of the St. Louis and San Francisco Railway.	802
	Approximately 700 feet downstream of Roe Avenue.	808
	400 feet upstream of 18th Street Expressway.	835
	Approximately 200 feet upstream of the upstream Interstate 35 crossing.	838
	At southern corporate boundary.	843
	Approximately 2,100 feet upstream of Lamar Avenue.	851
Brenner Heights Creek.	At confluence with Kansas River.	760
	Just upstream of 57th Street.	765
	Approximately 200 feet downstream of State Avenue.	786
	Approximately 300 feet upstream of State Avenue.	790
	Just upstream of Everett Avenue.	816
	Approximately 800 feet downstream of Parallel Avenue.	842
	Approximately 250 feet upstream of Parallel Avenue.	849
	Just downstream of 59th Street.	849
	Just upstream of 59th Street.	862

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Approximately 2,750 feet upstream of 59th Street.	876
Brenner Heights Creek Tributary.	At confluence with Brenner Heights Creek.	763
	Just upstream of State Avenue.	784
	Just upstream of 55th Street.	799
	Approximately 650 feet upstream of 55th Street.	800
	Approximately 2,850 feet upstream of 55th Street.	821
Muncie Creek	At confluence with Brenner Heights Creek.	760
	Just upstream of 61st Street.	763
	Just upstream of Riverview Avenue.	775
	Just downstream of the Kansas Turnpike.	779
	Approximately 400 feet upstream of Kansas Turnpike.	788
	Approximately 2,800 feet upstream of Kansas Turnpike.	788
	Just downstream of State Avenue.	811
	Approximately 100 feet upstream of State Avenue.	819
	Approximately 7,100 feet upstream of State Avenue.	861
Mill Creek	At confluence with Kansas River.	764
	Just downstream of Union Pacific Railroad.	764
	Approximately 900 feet upstream of Kansas Highway 32.	775
	Just upstream of Kansas Avenue.	783
	Just downstream of 72nd Street.	792
	Just upstream of 72nd Street.	798
	Just downstream of Riverview Avenue.	810
	Just upstream of Riverview Avenue.	820
	Approximately 1,550 upstream of Interstate 70.	822
	Just downstream of State Avenue.	864
	Just upstream side of State Avenue.	874
	Approximately 2,700 feet upstream of State Avenue.	881
Little Turkey Creek Tributary.	At confluence with Little Turkey Creek.	789
	Just upstream of Kansas Avenue.	791
	Just downstream of 86th Street.	791
	Just upstream of 86th Street.	797
	Approximately 5,700 feet upstream of 86th Street.	823
	Approximately 7,300 feet upstream of 86th Street.	840
Connor Creek	At confluence with Missouri River.	765
	Approximately 200 feet upstream of 97th Street.	766
	Approximately 300 feet upstream of Hollingsworth Avenue.	778
	Just upstream of Donahoo Road.	819
	Approximately 150 feet upstream of 107th Street.	840
	Approximately 2 miles upstream of 107th Street.	899

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1970.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8544 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5269]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Mentor, Campbell County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Mentor, Campbell County, Kentucky. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the home of the Mayor, Route 2, California, Kentucky. Send comments to: Honorable Ronald Strasinger, Mayor, City of Mentor, Route 2, Box 22, California, Kentucky 41007.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Mentor, Kentucky, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	Upstream Corporate Limit.	506

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to

permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8547 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5272]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Northfield, Rice County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Northfield, Rice County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 801 Washington Street, Northfield, Minnesota. Send comments to: Honorable Kent Eklund, Mayor, City of Northfield, City Hall, 801 Washington Street, Northfield, Minnesota 55057.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Northfield, Minnesota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cannon River	Second Street Bridge—100 feet.[1]	904
	Fourth Street Bridge—50 feet.[1]	906
	Fifth Street—40 feet.[2]	912
	Fifth Street—60 feet.[1]	915
	State Trunk Highway 3—30 feet.[2]	917
	State Trunk Highway 3—100 feet.[1]	918

[1] Upstream from centerline.
[2] Downstream from centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979

GLORIA M. JIMENEZ
Federal Insurance Administrator.

[FR Doc. 79-8550 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-3780]

Revision of Proposed Flood Elevation Determination for the City of Sallisaw, Sequoyah County, Okla.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Sallisaw, Sequoyah County, Oklahoma.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 42 FR 54091 on October 4, 1977 and in 42 FR 64539 on December 23, 1977 and in the *Sequoyah County Times* published on October 27, and November 3, 1977, and hence supersedes those previously published rules.

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Sallisaw, Oklahoma.

Send comments to: Mayor George Glenn, 111 North Elm Street, Sallisaw, Oklahoma 74955.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the City of Sallisaw, Sequoyah County, Oklahoma, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hog Creek	Just upstream of U.S. Highway 64.	494
	Upstream of Redwood Avenue.	499
Shiloh Creek	Adams Street (extended).	550
	Upstream of Meadowlark Street.	554
Tributary No. 1	Upstream of Interstate 40 West.	511
	Upstream of U.S. Highway 64 Bridge (Cherokee Avenue).	527
	Redwood Avenue Bridge	535
Tributary No. 3	At confluence of West Branch Tributary 3.	501
	Upstream of Cedar Street Bridge.	516
Tributary No. 4	Upstream of U.S. Highway 64 (western crossing).	505
	Upstream of U.S. Highway 64 (eastern crossing).	517
	Approximately 400 feet downstream of Redwood Avenue.	520
Tributary No. 5	Approximately 100 feet downstream from Dogwood Street Bridge.	525
Tributary No. 7	Approximately 100 feet downstream of U.S. Highway 59.	545
Little Sallisaw Creek.	Approximately 300 feet downstream of Highway 64.	495

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 23, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8506 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5257]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Tolleson, Maricopa County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Tolleson, Maricopa County, Arizona. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Tolleson, Arizona. Send comments to: Mr. David Mansfield, City Manager of Tolleson, 9555 West Van Buren Street, Tolleson, Arizona 85353.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Tolleson, Maricopa County, Arizona in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ponded Area	Southeast of intersection of McDowell Road and 91st Avenue extending east 850 feet from the intersection and 1,100 feet south, bounded on the east by the Corporate Limits.	[1]1,024
	North of Southern Pacific Railroad running parallel with the railroad at an approximate width of 1,000 feet. Affects areas inside the Corporate Limits west of 83rd Avenue.	[2]2
	Extending north from Roosevelt Irrigation District Canal at a width of approximately 250 feet at the west Corporate Limits to approximately 650 feet at the east Corporate Limits.	[1]1,027

[1] Elevation.
[2] Depth.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8535 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5277]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Willoughby Hills, Lake County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Willoughby Hills, Lake County, Ohio. These base (100-year) flood elevations are the basis for the

flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, Willoughby Hills, Ohio. Send comments to: The Honorable Melvin Shaefer, Mayor, City of Willoughby Hills, 35405 Chardon Road, Willoughby Hills, Ohio 44094.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Willoughby Hills, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chagrin River.....	Downstream corporate limit.	622
	3,300 feet downstream from Eagle Road.	636
	Just upstream of Eagle Road.	644
	Just upstream of Dodd Road.	659
	Just upstream of Euclid-Chardon Road.	668
	Upstream corporate limit.	679

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8505 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5256]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Gilbert, Maricopa County, Ariz.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Gilbert, Maricopa County, Ariz. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the City Clerk, Gilbert, Ariz. Send comments to: Mr. Lynn R. Stuart, Town Manager of Gilbert, 119 North Gilbert Road, Gilbert, Arizona 85234.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Gilbert, Maricopa County, Ariz. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Southern Pacific Railroad.	North of Embankment, from Baseline Road to Elliot Road.	[1]
Consolidated Canal.	Along Eastern Side from Baseline Road to Lindsay Road.	[1]
	Along Eastern Side from Warner Road to Ray Road.	[2]

[1] Average depth = 2.
[2] Average depth = 1.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8534 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5259]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Haddam, Middlesex County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Haddam, Middlesex County, Conn. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the office of the Town Clerk, Haddam, Connecticut. Send comments to: Mr. Lawrence Conti, First Selectman of Haddam, Haddam Town Hall, Middlesex Turnpike, Haddam, Connecticut 06438.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Haddam, Middlesex County, Conn. in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Connecticut River.	State route 82	11
	Confluence of Ponset Brook.	17
Salmon River	Leesvile Road, Connecticut Route 151.	13
	Downstream Dam located 4.0 miles upstream of confluence with Connecticut River.	13
	Upstream Dam located 4.0 miles upstream of confluence with Connecticut River.	29
Ponset Brook	Upstream Dublin Road	47
	Depot Road	52
	Upstream Connecticut route 81.	64
	Downstream Higganum Reservoir Dam.	65
	Upstream Higganum Reservoir Dam.	97
	Upstream Skinner Road	149
	State Route 9 southbound.	252
	Little City Road	314
Candlewood Hill Brook.	Connecticut Route 9A	65
	Downstream Scovill Road.	128
	Upstream Scovill Road	131
	Upstream Candlewood Hill Road.	168
	Spencer Road	211
	Weiss Albert Road	229
	Candlewood Hill Road	239
Mill Creek	Middlesex Turnpile	14
	Downstream Dam (mile 0.45).	25
	Upstream Dam (mile 0.45).	37
	0.65 miles above confluence upstream of Connecticut River.	48
	0.70 miles above confluence upstream of Connecticut River.	52
	0.80 miles above confluence upstream of Connecticut River.	64
	0.90 miles above confluence upstream of Connecticut River.	75
	Upstream Park road	97
	Banforth Road	
Bible Rock Brook	Bible Rock Road	60
	Boulder Dell Road	71
	Thayer Road extension	106
Beaver Meadow Brook.	0.10 miles above confluence upstream of Mill Creek.	134
	0.30 miles above confluence upstream of Mill Creek.	145
	0.50 miles above confluence upstream of Mill Creek.	157
	0.70 miles above confluence upstream of Mill Creek.	166

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8537 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5293]

Proposed Flood Elevation Determinations for the Town of Honea Path, Anderson County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Honea Path, Anderson County, S.C. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed

rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 30 North Main Street, Honea Path, S.C. Send comments to: Honorable J. C. Hammett, Mayor, Town of Honea Path, Town Hall, 30 North Main Street, Honea Path, S.C. 29654.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Honea Path, S.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Corner Creek	Samuel Road—60 feet[1]...	716
Tributary C of Broad Mouth Creek.	Downstream Corporate Limits.	680
	Chiquola Street—15 feet[2].	706
	Chiquola Street—25 feet[1].	711
	Walkway—80 feet[2].....	716
	Walkway—30 feet[1].....	729

[1] Upstream of centerline
[2] Downstream of centerline

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8522 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5296]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Josephine, Collin County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Josephine, Collin County, Tex. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Josephine, Tex. Send comments to: Mayor Richard McNair, City Hall, P.O. Box J, Josephine, Tex. 75064.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Josephine, Collin County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sabine Creek Tributary.	Just downstream of Farm to Market Road #6.	585
	Just downstream of Hubbard St.	588

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8525 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5275]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Long View, Catawba County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Long View, Catawba County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 139 24th Street, S.W., Hickory, North Carolina. Send comments to: Mr. Roy Hoffman, Town Manager, Town of Long View, Town Hall, 139 24th Street, S.W., Hickory, North Carolina 28601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Long View, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Long View Creek...	1st Corporate Limits—25 feet [1].	1,012
	U.S. Highway 64-70—60 feet [2].	1,050
	U.S. Highway 64-70—25 feet [1].	1,080
	26th Street Southwest—25 feet [1].	1,080
Frye Creek	2nd Avenue N.W.—40 feet [1].	1,052
	19th Street N.W.—150 feet [1].	1,059
	20th Street N.W.—25 feet [1].	1,062
	23rd Street N.W.—120 feet [2].	1,065
	23rd Street N.W.—20 feet [1].	1,070
	27th Street N.W.—60 feet [1].	1,085
	30th Street N.W.—20 feet [1].	1,105
	33rd Street N.W.—20 feet [1].	1,120
Long View Creek Tributary Two.	Corporate Limits—60 feet [1].	1,053

[1] Upstream of centerline.
[2] Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8503 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5260]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Kent, Litchfield County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Kent, Litchfield County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review Town Hall, Main Street, Kent, Connecticut. Send comments to: Mr. Eugene O'Meara, First Selectman, Board of Selectmen, Town of Kent, Town Hall, Main Street, Kent, Connecticut 06757.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Kent, Connecticut, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Housatonic River..	Kent Corporate Limits [1].	268
	Bulls Bridge Road—85 feet [2].	326
	Bulls Bridge Dam—100 feet [3].	342
	Bulls Bridge Dam—100 feet [2].	362
	State Route 34 Bridge—100 feet [2].	372
	Corporate Limits (Second Crossing) [1].	402
Housatonic River (West Branch).	Bulls Bridge Road—75 feet [3].	334
	Bulls Bridge Road—50 feet [2].	347
	Spooners Dam—105 feet [3].	350
	Spooners Dam—50 feet [2]	362
West Aspetuck River.	Tangway Flats Road—65 feet [3].	582
	Tangway Flats Road—75 feet [2].	587
	Kent Hollow Road West No. 1—35 feet [2].	595
	Kent Hollow Road West No. 2—75 feet [2].	600

[1] At centerline.
[2] Upstream of centerline.
[3] Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8538 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5295]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Keystone, Pennington County, S. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Keystone, Pennington County, South Dakota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Keystone, South Dakota. Send comments to: Ms. Rhonda Paulson, Town Board President, Town of Keystone, Town Hall, Box 689, Keystone, South Dakota 57751.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Keystone, South Dakota, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Battle Creek.....	Keystone Hayward Road (downstream crossing)—30 feet [1].	4286
	First Street—50 feet [1].....	4325
	Third Street—35 feet [1]....	4344
	Burlington Northern Railroad Bridge (downstream crossing)—35 feet [1].	4373
	Burlington Northern Railroad Bridge (upstream crossing)—35 feet [1].	4458
	At Upstream Corporate Limits.	4493
		4493
Grizzley Bear Creek.	Swanzey Street—30 Feet [1].	4353
	Cemetery Road (downstream crossing)—40 feet [1].	4394
	At Upstream Corporate Limits.	4436

[1] Upstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8524 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5261]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of New Milford, Litchfield County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of New Milford, Litchfield County, Connecticut. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 10 Main Street, New Milford, Connecticut. Send comments to: Mr. Clifford Chapin, First Selectman, Board of Selectmen, Town of New Milford, Town Hall, 10 Main Street, New Milford, Connecticut 06776.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of New Milford, Connecticut, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Housatonic River	Confluence with Town Farm Brook—200 feet [1].	196
	Pumpkin Hill Road	204
	Confluence with Still River.	217
	Bleachery Dam [2]	219
	Bridge Street [2]	219
	Confluence with Rocky River.	220
	Boardman Bridge—50 feet [1].	223
	Confluence with Bullymuck Brook—150 feet [1].	224
Town Farm Brook	River Road—50 feet [2]	195
	River Road—150 feet [1]	200
	Town Farm Road—20 feet [1].	248
	Cascade Road—120 feet [1].	449
	U.S. Highway 67 [2]	470
Still River	ConRail [2]	217
	Harry Brook Park Bridge [2].	217
	Cross Road—50 feet [1]	230
Great Brook	West Street [2]	219
	Mill Street [2]	219
	Prospect Hill Road (State Highway 67) [2].	226
	Brookside Avenue [2]	241
	Elm Street—30 feet [1]	247
	Confluence with Cross Brook.	291
	Park Lane East—50 feet [1].	318
	State Highway 109 (downstream crossing) [2].	344
	State Highway 109 (most upstream crossing)—30 feet [3].	418
	State Highway 109 (most upstream crossing) [3].	423
	Old Parkwood Road [2]	441
	Essex Road Culvert (upstream end).	812
East Aspetuck River.	Housatonic Avenue [2]	220
	Wells Road [2]	220
	Westville Road [2]	231
	Van Car Road [2]	264
	U.S. Highway 202 [2]	348
	Upland Road—20 feet [1]	383
	Sand Pit Road [2]	398
	Old Mill Road [2]	410
	Wheaton Road [2]	457
	Spruce lane—150 feet [2]	480
	Spruce Lane—80 feet [1]	486
West Aspetuck River.	Aspetuck Road (Downstream Crossing) [2].	220
	Aspetuck Road (Upstream crossing)—100 feet [1].	236
	Long Mountain Road—25 feet [1].	264
	Merryall Road (Downstream crossing):	
	50 feet [2]	313
	10 feet [1]	319
	Merryall Road (Upstream Crossing)—50 feet [1].	355
	Confluence with Denman Brook.	392
	Chapel Hill Road—50 feet [1].	415
	Clove Farm Road—50 feet [1].	436

[1] Upstream of centerline.
[2] At centerline.
[3] Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8539 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5274]

NATIONAL FLOOD INSURANCE

Proposed Flood Elevation Determinations for the Town of Pelham, Hillsborough County, N.H.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Pelham, Hillsborough County, New Hampshire. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed

rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Planning Board Office, Pelham, New Hampshire. Send comments to: Mary Ann Thompson, Chairman, Board of Selectman, Town of Pelham, Town Office, Pelham, New Hampshire 03076.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Pelham, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beaver Brook	Southern corporate limit.	124
	Upstream side of Willow Street.	128
	Upstream side of Old Bridge Street.	131
	Upstream side of Gage Hill Road.	134
	Upstream side of Mill Dam.	137
	Downstream side of Tallant Road.	147
	Upstream side of Tallant Road.	150
	Just upstream of Castle Hill Road.	157
	Upstream side of Mammoth Road.	167
Golden Brook	Confluence with Beaver Brook.	134
	Downstream side of Hobbs Road.	134
	Upstream side of Hobbs Road.	136
	Just downstream of Moeckel Road.	137
	Upstream side of Moeckel Road.	140
	Confluence with Lowell Brook.	151
Gumpas Road Brook.	Confluence with Beaver Brook.	128
	Downstream side of Marsh Road.	132
	Upstream side of Marsh Road.	137
New Meadow Brook.	Conference with Beaver Brook.	125
	0.44 miles upstream of confluence with Beaver Brook.	126
	Downstream side of Pulpit Rock Road.	129
	Upstream side of Pulpit Rock Road.	132
	Downstream side of Bridge Street.	133
	Upstream side of Bridge Street.	139
	0.61 miles upstream State Route 38.	139
Island Pond Brook	Mouth at Golden Brook.	134
	Just downstream of State Route 38.	136
	Upstream side of State route 38.	145
	Upstream side of Private Road, 0.94 miles upstream of State Route 38.	145
Simpson Mill Brook.	At confluence Golden Brook.	137
	Downstream side of Simpson Mill Road.	137
	Upstream side of Simpson Mill Road.	139
	Northern corporate limit.	140
Gumpas Pond Brook.	Southern corporate limit.	124
	Downstream side of Earth and Stone Dam, 530 feet downstream of Mammoth Road.	129
	Downstream side of Mammoth Road.	136
	Upstream side of Mammoth Road.	137
	Upstream side of Private Road 2,220 feet upstream of Mammoth Road.	146
	Upstream side of Old County Road.	152
	Just downstream of Gumpas Hill Road.	158
	Upstream side of Gumpas Hill Road.	163
	Downstream side of Stone and Earth Dam.	176
	Upstream side of Stone and Earth Dam, 1.15 miles downstream of Gumpas Pond Dam.	186
	Just downstream of Gumpas Pond Dam.	194
	Upstream side of Gumpas Pond Dam.	204

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8502 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5294]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Town of Williamston, Anderson County, S.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Williamston, Anderson County, South Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, 43 East Main Street, Williamston, South Carolina. Send comments to: Honorable Marion W. Middleton, Mayor, Town of Williamston, Town Hall, 43 East Main Street, Williamston, South Carolina 29697.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Williamston, South Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Creek	Gatewood Entrance Road—90 feet [1].	762
	Williams Street—20 feet [1].	769
	Southern Railway—40 feet [1].	780
	Main Street—100 feet [1]...	785
	Ida Tucker Road—20 feet [1].	791
Big Creek Tributary I.	Confluence with Big Creek [2].	755
	Southern Railroad—100 feet [2].	796
	Southern Railroad—100 feet [1].	800
Camp Creek	confluence with Big Creek [2].	789
	Cherokee Road—40 feet [1].	796
	Upstream Corporate Limit [2].	801

[1] Upstream of centerline.
[2] At centerline.
[3] Downstream of centerline.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8523 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5283]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Conestoga, Lancaster County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Conestoga, Lancaster County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Building, Conestoga, Pennsylvania. Send comments to: Mr. John B. Metz, Chairman of the Township of Conestoga, P.O. Box 98, Conestoga, Pennsylvania 17516.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Conestoga, Lancaster County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Downstream Corporate Limits; confluence of Pequea Creek.	189
	Upstream Corporate Limits; confluence of Conestoga Creek.	191
Pequea Creek	Confluence of Susquehanna River, Conrail.	189
	Recreation Area—footbridge.	194
	Approximately 1,100 feet upstream from Fox Hollow Road.	204
	State Route 324	225
	Loop Road—T413	240
	Legislative Rote 36026, Sandhill Road.	251
	Upstream Corporate Limits.	264
Conestoga Creek	Conrail	190
	Weir—Elevation 195.2 feet.	204
	Upstream Corporate Limits.	224

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8512 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5284]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of East Hanover, Dauphin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of East Hanover, Dauphin County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the East Hanover Township Building, Grantville, Pennsylvania. Send comments to: Mr. Ronald L. Stammel, Chairman of the Township of East Hanover, R. D. 2, Box 4620, Grantville, Pennsylvania 17028.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of East Hanover, Dauphin County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Manada Creek	Confluence of Fishing Creek.	531
	Mountain Road (Upstream Side).	516
	Cliff Road (Township Route 614) (Upstream Side).	459
	Rabbit Lane (Upstream Side).	443
	Manada Bottom Road (Upstream Side).	435
	Camp Kiwanis Road (Upstream Side).	431
	Manada Bottom Road 2,200 feet from Camp Kiwanis Road (Upstream Side).	423
	Interstate 81 (Upstream Side).	420
	Confluence of Walnut Run.	406
	Jonestown Road (Township Route 6017) (Upstream Side).	404
	U.S. Route 22 (Upstream Side).	387
	Confluence East Branch Manada Creek.	365
	Township Route 431 (Upstream Side).	362
	Downstream Corporate Limits.	360
East Branch Manada Creek.	Interstate 81 (Upstream Side).	474
	Dry Run Road (Upstream Side).	467
	Private Drive 500 feet upstream from Jonestown Road (Upstream Side).	431
	Jonestown Road (Township Route 601) (Upstream Side).	428
	Meadow Lane (Legislative Route 22053) (Upstream Side).	407
	U.S. Route 22 (Upstream Side).	402
	Carlson Road (Township Route 467) (Upstream Side).	384
	Confluence of Tributary G.	374
	Crooked Hill Road (Township Route 469) (Upstream Side).	369
	Confluence with Manada Creek.	365
Fishing Creek	Upstream Corporate Limits.	563
	McLean Road (Upstream Side).	536
	Confluence with Manada Creek.	531
Bow Creek	Early's Mill Road (Upstream Side).	372
	Private Lane 3,950 feet upstream from Shady Lane (Upstream Side).	356
	Shady Lane (Upstream Side).	350
	Confluence of Tributary H.	343
	Confluence with Swatara Creek.	337
Tributary 1	Pheasant Road (Upstream Side).	397
	Private Drive 160 feet downstream from Pheasant Road (Upstream Side).	391
	Downstream crossing of Pheasant Road (Upstream Side).	383
	Confluence with Bow Creek.	372

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8513 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5286]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Londonderry, Dauphin County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Londonderry, Dauphin County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified

for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Office, Middletown Pennsylvania. Send comments to: Mr. David D. Maxwell, Chairman of the Township of Londonderry, R.D. 1, Township Municipal Building, South Geyers Church Road, Middletown, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Londonderry, Dauphin County, Pennsylvania, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Downstream Corporate Limits.	291
	Upstream Corporate Limits.	301
Conewago Creek East.	At Mouth	294
	Upstream side Engle Road Bridge.	309
	Downstream of Hillsdale Road Bridge.	322
	Upstream of Conrail Railroad Bridge.	348
	Upstream of Deodate Road Bridge.	371
	Upstream of Harrisburg Pike Bridge.	386
	Upstream Corporate Limits.	388
Swatara Creek	Downstream Corporate Limits.	302
	Upstream side Harrisburg Pike Bridge.	306
	Upstream side of Vine Street Bridge.	309
	Upstream side of Interstate 283 Bridge.	311

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8516 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5288]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Martic, Lancaster County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Martic, Lancaster County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Martic Township Building. Send comments to: Mr. David Ellenberg, Chairman of the Township of Martic, R.D. 1, Holtwood, Pennsylvania 17532.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Martic, Lancaster County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River.	Downstream Corporate Limits.	132
	Downstream side Holtwood Dam.	156

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Upstream side Holtwood Dam.	182
	Upstream Corporate Limits.	190
Pequea Creek.....	Confluence with Susquehanna River.	189
	Upstream side Fox Hollow Road Bridge.	198
	Upstream side Conrail Bridge.	227
	Upstream side Sand Hill Road Bridge.	252
	Upstream Corporate Limits.	279

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8517 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5290]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Plainfield, Northampton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Plainfield, Northampton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Municipal Building, Nazareth, Pennsylvania. Send comments to: Mr. William H. Danner, Sr., President of the Township of Plainfield, R.D. 3, Nazareth, Pennsylvania 18064.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Plainfield, Northampton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Waltz Creek	Legislative Route 48036 (Upstream).	586
	Township Road 666 (Upstream).	607
	Upstream Corporate Limits.	613
Little Bushkill Creek.	Private Road No. 1 (Upstream).	389
	Township Road 619 (Upstream).	409
	Township Road 623 (Upstream).	432
	State Route 191 (Downstream).	449

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8519 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5270]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Township of Saugatuck, Allegan County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Saugatuck, Allegan County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Township Hall, 36 Center Street, Douglas, Michigan. Send comments to: Mr. Ralph Cartwright, Township Supervisor, Township of Saugatuck, Township Hall, 36 Center Street, Douglas, Michigan 49406.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insur-

ance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Saugatuck, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan.....	Entire reach within Township of Saugatuck.	584
Kalamazoo River ..	At mouth with Lake Michigan.	584
	Approximately 8,250 feet upstream from western corporate limits.	584
	11,300 feet upstream of Interstate—196 bridge.	585
	At eastern corporate limits.	586
Silver Lake Creek .	At the mouth with Kalamazoo River.	584
	Approximately 6,000 feet upstream from mouth with Kalamazoo River.	586
	Just downstream from Richmond Road.	588
	Just upstream of Richmond Road.	590

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8548 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5292]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Woodward, Clinton County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Woodward, Clinton County, Pennsylvania. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Woodward Township Building, Riverside Terrace, R.D. 2, Lockhaven, Pennsylvania. Send comments to: Mr. Richard E. Eggler, Chairman of the Township of Woodward, R.D. 1, Lockhaven, Pennsylvania 17745.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Woodward, Clinton County, Pennsylvania in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
West Branch Susquehanna River.	Downstream Corporate Limit.	563
	Woodward Avenue—Downstream.	564
	Jay Street	565
	Upstream Corporate Limit.	578
Reeds Run.....	Confluence of West Branch Susquehanna River.	564
	Pennsylvania Route 664.	574
	Private Bridge 81,600 feet upstream of Route 664.	705

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8521 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5273]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Madison County, Miss.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Madison County, Mississippi. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Chancery Clerk's Office, Chancery Clerk Building, Canton, Mississippi 39046. Send comments to: Mr. Pat Luckett, President of Madison County Board of Supervisors or Mr. Billy D. Cooper, Chancery Clerk, Chancery Clerk Building, Canton, Mississippi 39046.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Madison County, Mississippi, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Spring Creek	Approximately 4100 feet upstream of the confluence with Bogue Chitto Creek.	186
Bogue Chitto Creek.	Just upstream of County Road.	176
Panther Creek	Just upstream of State Highway 22.	229
	Just downstream of Stokes Road.	212
	Just upstream Virilia Road.	203
Haley Creek	Just upstream Twin Harbours Road.	305
Twin Harbor Cove	Approximately 800 feet upstream Natchez Trace Parkway.	299
Brown Creek	Approximately 2000 feet upstream Natchez Trace Parkway.	310
Stream M	Just upstream Natchez Trace Parkway.	323
Stream L	Just upstreamNatchez Trace Parkway.	313
Stream K	Just downstream of Gus Green Road.	280
Limekiln Creek	Just upstream of Gus Green Road.	284
	Just upstream Robinson Springs Road.	252
Batchelor Creek	Just upstream of Covington Road.	239
	Approximately 2000 feet upstream of confluence with Tilda Bogue.	206
Stream J	Just upstream of Illinois Central Gulf RR.	245
Stream I	Just downstream of U.S. Highway 51.	243
	Approximately 1200 feet upstream of confluence with Bear Creek.	237
Stream H	Just upstream of Cotton Blossom Road.	243
Little Bear Creek	Just downstream of Yandell Road.	259
	Just upstream Old Canton Road.	249
	Just upstream Endris Road.	232
Stream G	Just upstream Endris Road.	257
	Just downstream State Highway 43.	246
Stream F	Just downstream Hart Road.	253
Walnut Creek	Just downstream State Highway 43.	234
	Just upstream of confluence with Bear Creek.	227
Stream E	Just upstream of Illinois Central Gulf RR.	234
	Just upstream of U.S. Highway 51.	229
Bear Creek	Just upstream Old Jackson Road.	259
	Sowell Road	241
	Just upstream Old Canton Road.	234
	Just upstream State Highway 22.	217
Hearn Creek	Approximately 1000 feet upstream of Natchez Trace Parkway.	301
Culley Creek	Just upstream Natchez Trace Parkway.	295
Brashear Creek	Just upstream Old Canton Road.	302
	Just downstream Natchez Trace Parkway.	300
	Just upstream Charity Church Road.	288
School Creek	Just upstream Old Canton Road.	297
	Approximately 250 feet downstream Old Canton Road.	292
	Just upstream of Madison Hinds County line.	291
Purple Creek	Just upstream Richardson Road.	358
	Just upstream Old Agency Road.	344
Stream D	Just upstream of confluence with Stream B.	306
Stream C	Just upstream Green Crossing Road.	287
	Approximately 1000 feet upstream of confluence with Stream B.	276
Stream B	Just upstream Lake Cavalier Road.	304
	Just downstream Society Hill Road.	286
White Oak Creek	Just downstream of Old Agency Road.	346
	Just downstream of I-220 Northbound Lane.	326
Larue Creek	Approximately 100 feet upstream Frontage Road.	334
	Just upstream County Line Road.	328
Stream A	Approximately 300 feet downstream Livingston Road.	342
	Just upstream County Line Road.	336
Hanging Moss Creek.	Just upstream County Line Road.	340

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of Housing and Urban Development Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8551 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5264]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unincorporated Areas of Switzerland County, Ind.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Unincorporated Areas of Switzerland County, Indiana. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Court House, Auditor's office, Rising Sun, Indiana. Send comments to: Mr. Wilber Buchanan, President of County Commissioners, Switzerland County, Rt. 2, Rising Sun, Indiana 47400.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Unincorporated Areas of Switzerland County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ohio River	At Switzerland and Ohio County boundary.	482
	6 miles downstream of Switzerland and Ohio County boundary.	480
	10 miles downstream of Switzerland and Ohio County boundary.	478
	13 miles downstream of Switzerland and Ohio County boundary.	476
	20 miles downstream of Switzerland and Ohio County boundary.	474
	25 miles downstream of Switzerland and Ohio County boundary.	472
	30 miles downstream of Switzerland and Ohio County boundary.	470
	At Switzerland and Jefferson County boundary.	468
Plum Creek	At confluence with Ohio River.	472
	3.4 miles upstream of confluence with Ohio River.	472
Grants Creek	At confluence with Ohio River.	482
	500 feet downstream of Barksworks Road.	482
	680 feet upstream of Barksworks Road.	489
	2,300 feet upstream of Barksworks Road.	500
	1,400 feet downstream of Red Hog Pike.	510
	200 feet downstream of Red Hog Pike.	520
	700 feet upstream of Red Hog Pike.	530
	1,500 feet upstream of Red Hog Pike.	540
	2,300 feet upstream of Red Hog Pike.	550
	3,000 feet upstream of Red Hog Pike.	560
	3,800 feet upstream of Red Hog Pike.	571
Wade Creek	At confluence with Ohio River.	479
	4,120 feet upstream of confluence with Ohio River.	479
	200 feet upstream of Antioch Road.	489
	660 feet upstream of Antioch Road.	500
	790 feet upstream of Antioch Road.	506
Goose Creek	At confluence with Ohio River.	479
	9,200 feet upstream of confluence with Ohio River.	479
	9,500 feet upstream of confluence with Ohio River.	485
	9,750 feet upstream of confluence with Ohio River.	490
	10,250 feet upstream of confluence with Ohio River.	500
	10,700 feet upstream of confluence with Ohio River.	510
	11,100 feet upstream of confluence with Ohio River.	520
	11,400 feet upstream of confluence with Ohio River.	532
Log Lick Creek	At confluence with Ohio River.	473
	7,340 feet upstream of Log Lick Creek Road.	473
Turtle Creek	At confluence with Ohio River.	474
	2,900 upstream of Little Hominy Ridge Road.	474
	3,700 feet upstream of Little Hominy Ridge Road.	482
	4,300 feet upstream of Little Hominy Ridge Road.	490
	4,900 feet upstream of Little Hominy Ridge Road.	500
	5,650 feet upstream of Little Hominy Ridge Road.	520
	6,400 feet upstream of Little Hominy Ridge Road.	540
	7,100 feet upstream of Little Hominy Ridge Road.	560
	7,900 feet upstream of Little Hominy Ridge Road.	580
	8,600 feet upstream of Little Hominy Ridge Road.	600
	9,300 feet upstream of Little Hominy Ridge Road.	620
	9,900 feet upstream of Little Hominy Ridge Road.	640
	10,560 feet upstream of Little Hominy Ridge Road.	660
	11,450 feet upstream of Little Hominy Ridge Road.	682

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of

1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 9, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8542 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5276]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Unicorporated areas of Transylvania County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the unincorporated areas of Transylvania County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at County Manager's Office, County Administration Building 28 East Main Street, Brevard, North Carolina 28712. Send comments to: Mr. Ed Isreal, County Manager, 28 East Main Street, Brevard, North Carolina 28712.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the unincorporated areas of Transylvania County, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
French Broad River.	Just upstream of Crab Creek Road.	2094
	Approximately 500 feet upstream of Everett Road (Patton Bridge).	2101
	Just upstream of Island Ford Road.	2140
	Approximately 300 feet upstream of Calvert Road.	2168
	Approximately 500 feet downstream of Burnt Road.	2192
Little River	Just upstream of Cascade Lake Road.	2103
Crab Creek	Just upstream of Cascade Lake Road.	2098
Davidson River	Approximately 100 feet upstream of U.S. Highway 64 (U.S. Highway 276).	2128
	Just upstream of English Chapel Road.	2169
Carson Creek	Just upstream of Island Ford Road.	2152
Catheys Creek	Approximately 100 feet upstream of U.S. Highway 64.	2177
Lime Kiln Branch.	Just upstream of U.S. Highway 64.	2182
Patterson Creek	Approximately 50 feet upstream of U.S. Highway 64.	2176
Mason Creek	Just upstream of U.S. Highway 64.	2180
East Fork French Broad River.	Just downstream of the most western crossing of Secondary Road 1107.	2188
	Just upstream of the most eastern crossing of Secondary Road 1107.	2254
Middle Fork French Broad River.	Just upstream of Secondary Road 1107.	2183
	Just upstream of the most southern crossing of Secondary Road 1131.	2235
	At U.S. Highway 178	2273
North Fork French Broad River.	Just upstream of Secondary Road 1322.	2228
West Fork French Broad River.	Appoximately 100 feet upstream of U.S. Highway 64.	2240

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of Housing and Urban Development Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979

GLORIA M. JIMENEZ,
Federal Insurance Administration.

[FR Doc. 79-8504 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5271]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the Village of Saugatuck, Allegan County, Mich.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Saugatuck, Allegan County, Michigan. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Village Manager, 329 Water

Street, Saugatuck, Michigan. Send comments to: Mr. DeForest Doerner, Village President, Village of Saugatuck, Village Hall, Saugatuck, Michigan 49453.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Saugatuck, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Michigan Backwater.	Downstream corportate limit.	584
	To upstream corporate limit.	584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8549 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5262]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Stone Park, Cook County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Village of Stone Park, Cook County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Village Hall, Stone Park, Illinois. Send comments to: Mr. William J. Francione, Village President, Village of Stone Park, 1629 North Mannheim Road, Stone Park, Illinois 60165.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Stone Park, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic datum
Addison Creek	Just upstream of Lake Street at the southern corporate limit.	635
	1,050 feet upstream of Lake Street.	636
	1,400 feet upstream of Mannheim Road at western corporate limit.	637

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8540 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5263]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Third Lake, Lake County, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the pro-

posed base (100-year) flood elevations listed below for selected locations in the Village of Third Lake, Lake County, Illinois. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Village Clerk, 23 South Lake Avenue, Lake Villa, Illinois. Send comments to: Mr. Edwin Sutter, Village President, Village of Third Lake, Village Hall, Lake Villa, Illinois 60046.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Village of Third Lake, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic datum
Third Lake	Southeast corporate limit.	766
	Western corporate limit.	766

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with section 7(o)(4) of the Department of HUD Act, section 324 of the Housing and Community Amendments of 1978, Pub. L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 12, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8541 Filed 3-22-79; 8:45 am]

[4210-01-M]

[24 CFR Part 1917]

[Docket No. FI-5298]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determination for the City of Duluth, St. Louis County, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Duluth, St. Louis County, Minnesota. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 4th Avenue and 1st Street, Duluth, Minnesota. Send comments to: The Honorable Robert C. Beaudin, Mayor, City of Duluth, City Hall, 4th Avenue and 1st Street, Duluth, Minnesota 55802. Attention: William C. Majewski, Director of Program Management.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll-free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Duluth, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mission Creek	At St. Louis River	607
	At Minnesota Highway 23.	613
	Approximately 1,500 feet upstream from Minnesota Highway 23.	620
	Approximately 2,940 feet upstream from Minnesota Highway 23.	639
Stewart Creek	At Burlington Northern Railroad.	604
	Downstream at Duluth Mesabi and Iron Range Railroad.	608
	Upstream at Duluth Mesai and Iron Range Railroad.	614

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Approximately 890 feet upstream from Duluth Mesabi and Iron Range Railroad.	620
	Approximately 20 feet upstream from Grand Avenue.	648
	Downstream of Burlington Northern Railroad 610 feet upstream from 93rd Avenue.	696
	Upstream side of Burlington Northern Railroad 610 feet upstream from 93rd Avenue.	722
	At Duluth, Winne-Peg, and Pacific Railroad.	780
62nd Avenue West Creek.	At St. Louis River	605
	Downstream at 63rd Avenue West.	606
	Downstream at 63rd Avenue West.	615
	Downstream at Burlington Northern Railroad.	615
	Upstream at Burlington Northern Railroad.	628
	At Grand Avenue	640
	At Raleigh Street	649
Keene Creek	Approximately 310 feet downstream of Burlington Northern Railroad.	604
	475 feet upstream from Raleigh Street.	612
	At 57th Avenue	614
	Approximately 100 feet upstream Grand Avenue.	630
	At Bristol Street	646
	Approximately 170 feet upstream Green Street.	678
	Approximately 120 feet upstream from Cody Street.	722
	West Gate Boulevard	728
	Approximately 440 feet upstream West Gate Boulevard.	744
49th Avenue Creek.	At St. Louis River	604
	At Soo Line Railroad	608
	Approximately 180 feet downstream from Grand Avenue.	619
	Upstream of Grand Avenue.	632
Merritt Creek	Burlington Northern Railroad.	607
	Downstream of Grand Avenue.	620
	Upstream of Grand Avenue.	630
	Upstreamof 6½ Street West.	652
	At 7th Street	658
	At 8th Street	686
	Just upstream of Duluth Mesabi and Iron Range Railroad Culvert.	722
	Just upstream of Patterson Street.	756
Miller Creek	Approximately 4,640 feet upstream from U.S. Highway 53.	1,225
	Approximately 1,800 feet downstream of Anderson Road.	1,240
	At Anderson Road	1,281
	Approximately 200 feet upstream from Chambersburg Avenue.	1,289
	At Decker Road	1,316
	Downstream U.S. Highway 53 (Minnesota Highway 194).	1,320
	Upstream U.S. Highway 53 (Minnesota Highway 194).	1,324
	Approximately 1,500 feet upstream from Minnesota Highway 194.	1,334
	At Haines Road (Duluth corporate limits).	1,335
	At Airport Road	1,374
	Approximately 200 feet upstream of downstream Airport Service Road Bridge.	1,380
	At Ridgeview Road (corporate limits).	1,394
Coffee Creek	At Piedmont Avenue	855
	Tenth Street	903
	Approximately 300 feet upstream from Tenth Street.	920
	At a private drive 570 feet upstream of 10th Street.	958
	Approximately 430 feet downstream from Skyline Parkway.	1,040
	Upstream Skyline Parkway.	1,068
	Approximately 200 feet upstream from Rock Dam.	1,112
	Downstream side Arlington Avenue.	1,125
	Upstream side Arlington Avenue.	1,132
	At a Private Driveway 690 feet upstream of Arlington Avenue.	1,149
	At Stop Log Dam	1,162
	Approximately 1,800 feet upstream of Stop Log Dam.	1,180
	Approximately 2,770 feet downstream from Orange Street.	1,220
	At Orange Street	1,267
	Approximately 110 feet upstream from Palm Street.	1,276
	At U.S. Highway 53	1,286
Buckingham Creek.	At Superior Street	773
	At downstream side of 2nd Street East Culvert.	794
	At 2nd Street East upstream side.	818
	Downstream side of 3rd Street East Culvert.	852
	Upstream side of 3rd Street East Culvert.	870
	Downstream side of 4th Street East Culvert.	915
	At upstream side of 4th Street East Culvert.	935
	At an Alley 230 feet upstream of 4th Street East.	951
	At downstream side of 5th Street East Culvert.	960
	Approximately 60 feet upstream from 5th Street East.	988
	Approximately 60 feet downstream from Natural Waterfall.	1,040
	At upstream side of Natural Waterfall.	1,064
	Approximately 1,060 feet upstream from Skyline Parkway.	1,070
	Approximately 2,480 feet upstream from Skyline Parkway.	1,100
	Approximately 380 feet downstream from Observation Road.	1,140
	Downstream side of Observation Road.	1,147
	Upstream side of Observation Road.	1,154
	Approximately 630 feet upstream from Observation Road.	1,162
	Approximately 1,600 feet upstream from Observation Road.	1,202
	Approximately 880 feet downstream from Arlington Avenue.	1,240
	Approximately 50 feet downstream from Arlington Avenue.	1,296
North Branch of Buckingham Creek.	Approximately 45 feet upstream from the confluence with Buckingham Creek.	842
	Downstream side of 3rd Street East.	854
	Approximately 100 feet upstream from 3rd Street East.	873
	Approximately 110 feet downstream of 4th Street East Culvert.	904
	At upstream side of 4th Street East Culvert.	928
	Downstream side of 10th Avenue West.	935
	Approximately 40 feet upstream from 10th Avenue West.	951
	Downstream side of 5th Street Culvert.	951
	Upstream side of 5th Street Culvert.	972
	At downstream side of 6th Street Culvert.	1,001
	At upstream side of 6th Street Culvert.	1,016
Brewery Creek	Upstream side of Central Entrance.	1,006
	Downstream side of Skyline Parkway Culvert.	1,037
	Upstream side at Skyline Parkway Culvert.	1,076
	Downstream side of Mesaba Avenue Culvert.	1,087
	Upstream side of Mesaba Avenue Culvert.	1,109
	At the confluence with North Branch of Brewery Creek.	1,117
	Upstream side of Pecon Street and Central Entrance Culvert.	1,193
	At upstream side of Abandoned Road, downstream of Blackman Avenue.	1,206
	Upstream side of Blackman Avenue.	1,220
North Branch of Brewery Creek.	At Rice Lake Road	1,186
	Downstream side of Baylis Street.	1,202
	40 feet upstream from Baylis Street.	1,210
	Approximately 1,340 feet upstream from Baylis Street.	1,233

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Chester Creek.....	At Chester Park Dam No. 2.	1,092
	Downstream side of Kenwood Avenue.	1,168
	Upstream side of Kenwood Avenue.	1,182
	Upstream side of St. Scholastica Drive.	1,187
	Approximately 120 feet upstream of Niagara Street.	1,202
	100 feet upstream from confluence with East Branch of Chester Creek.	1,224
	At Madison Avenue.....	1,233
	Downstream side of Rice Lake Road.	1,263
	Approximately 100 feet upstream from Rice Lake Road.	1,272
	Downstream side of Arrowhead Road.	1,289
	Approximately 150 feet upstream from Arrowhead Road.	1,296
	At Rice Lake Road.....	1,308
	Upstream side of Abandoned Road.	1,311
	Approximately 1,900 feet upstream from Abandoned Road.	1,320
	Approximately 4,000 feet upstream from Abandoned Road.	1,360
	Approximately 7,800 feet upstream of Rice Lake Road.	1,384
East Branch of Chester Creek.	Upstream side of Toledo Street.	1,226
	Approximately 25 feet upstream from Triggs Avenue.	1,232
	Approximately 200 feet upstream from McFarland Road.	1,296
	Upstream side of Norton Road.	1,329
West Branch of Chester Creek.	Confluence with Chester Creek.	1,234
	Downstream side of Rice Lake Road.	1,240
	Upstream side of Rice Lake Road.	1,249
	Downstream side of Arlington Avenue.	1,271
	Upstream side of Arlington Avenue.	1,279
	Approximately 400 feet upstream of Arlington Avenue.	1,280
	Downstream side of Basswood Avenue.	1,289
	Upstream side of Basswood Avenue.	1,298
	Downstream side of Stanford Avenue.	1,309
	Upstream side of Stanford Avenue.	1,321
	Upstream side of Swan Lake Road.	1,323
	Approximately 280 feet upstream from Ideal Street.	1,344
	Approximately 860 feet upstream from Ideal Street.	1,352
	Approximately 120 feet upstream from Farrell Road.	1,380
Tischer Creek.....	Upstream side of Vermilion Road.	1,022
	At Wallace Avenue.....	1,050
	At Private Drive 640 feet upstream of Wallace Avenue.	1,060
	At Woodland Avenue.....	1,069
	Approximately 50 feet upstream from Columbus Avenue.	1,082
	Approximately 120 feet upstream from Lewis Street.	1,098
	Approximately 50 feet upstream from Ford Avenue.	1,114
	50 feet upstream of Fairmont Street.	1,143
	At Hartley Road.....	1,190
West Branch of Ticher Creek.	At Norton Street	1,069
	At Waverly Avenue.....	1,073
	Approximately 150 feet upstream from St. Marie Street.	1,090
	Upstream side of Arrowhead Road.	1,128
43rd Avenue East Creek.	At Lake Superior.....	605
	Approximately 60 feet upstream from London Road.	630
	Approximately 80 feet upstream from 43rd Avenue East.	646
	Approximately 40 feet upstream from Luvern Street.	672
	Upstream side of Duluth, Mesabi and Iron Range Railroad.	677
	At upstream side of Gilliat Street Culvert.	681
	Approximately 40 feet upstream from Superior Street.	694
	At the downstream side of Regent Street Culvert.	701
	Approximately 330 feet upstream from 41st Avenue East.	729
	Downstream side of 40th Avenue East.	734
	Approximately 60 feet upstream from Howard Mills Road.	1,040
	Downstream side of Glenwood Street.	1,066
	Approximately 80 feet upstream of Glenwood Street.	1,071
	Approximately 35 feet upstream from Jean Duluth Road.	1,096
	Approximately 750 feet upstream from Jean Duluth Road.	1,120
50th Avenue East Creek.	At Lake Superior.....	605
	Approximately 130 feet upstream from Lake Superior.	611
	Downstream side of U.S. 61.	626
	Upstream side of U.S. 61	650
	Approximately 50 feet upstream from Jay Street.	734
	Downstream side of 45th Avenue East.	783
	Upstream side of 45th Avenue East.	789
	Approximately 100 feet upstream of Colorado Street.	827
	Approximately 410 feet upstream from Colorado Street.	839
	Approximately 800 feet upstream from Colorado Street.	841
	570 feet downstream from Glenwood Street.	855
	Downstream side of Glenwood Street.	927
58th Avenue East Creek.	90 feet upstream from U.S. Highway 61.	622
	Downstream side of Duluth, Mesabi and Iron Range Railroad.	640
	Approximately 70 feet upstream from Duluth Mesabi and Iron Range Railroad.	650
	Downstream side of Minnesota Highway 23.	650
	Upstream side of Minnesota Highway 23.	662
	Downstream side of Tioga Street Culvert.	668
	Upstream side of 54th Avenue and Otsego Street Culvert.	688
	Approximately 20 feet upstream Glenwood Street.	724
	At the upstream side of 52nd Avenue Culvert.	776
	At Crosely Avenue	824
	At the upstream side of Oakley Street Culvert.	858
	Approximately 900 feet upstream from Oakley Street.	880
Amity Creek.....	Approximately 100 feet upstream from the confluence with East Branch.	1,014
	Approximately 2,150 feet upstream from the confluence with East Branch.	1,040
	Approximately 100 feet upstream from Colby Avenue.	1,112
	Approximately 20 feet upstream from Jean Duluth Road.	1,128
	Approximately 100 feet upstream from Woodland Avenue.	1,282
	Approximately 1,500 feet upstream from Woodland Avenue.	1,308
	Approximately 100 feet upstream from Quarry Road.	1,320
	At Martin Road	1,338
St. Louis River.....	Approximately 2,800 feet upstream from Minnesota Highway 39.	604
	Approximately 8,000 feet upstream from Minnesota Highway 39.	605
	Approximately 12,000 feet upstream from Minnesota Highway 39.	606
	Approximately 16,400 feet upstream from Minnesota Highway 39.	607
	Minnesota Highway 23...	609
Clarkhouse Creek.	At the upstream side of 7th Street West Culvert.	944
	At the downstream side of 8th Street West.	977
	At the upstream side of 8th Street West.	998
	At downstream side of 9th Street West.	1,003
	At upstream side of 9th Street West.	1,034

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Downstream side of Alley between Skyline and 8th Street West.	1,037
	At upstream side of Alley between Skyline and 8th Street West.	1,055
	Downstream side of Skyline Parkway.	1,058
	Upstream side of Skyline Parkway.	1,078
	Approximately 290 feet upstream Skyline Parkway.	1,104
	Approximately 600 feet upstream from Skyline Parkway.	1,130
	Approximately 270 feet downstream from 13th Street West.	1,180
	Downstream side of 13th Street West.	1,196
	Upstream side of 13th Street West.	1,205
	Approximately 600 feet upstream from 13th Street West.	1,225
	At Blackman Avenue.....	1,237

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 43 FR 7719.)

In accordance with Section 7(o)(4) of the Department of HUD Act, Section 324 of the Housing and Community Amendments of 1978, P.L. 95-557, 92 Stat. 2080, this proposed rule has been granted waiver of Congressional review requirements in order to permit it to take effect on the date indicated.

Issued: March 13, 1979.

GLORIA M. JIMENEZ,
Federal Insurance Administrator.

[FR Doc. 79-8654 Filed 3-22-79; 8:45 am]

[4830-01-M]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

ACTIVE PARTICIPANT FOR INDIVIDUAL RETIREMENT ACCOUNT PURPOSES

Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations defining the term "active participant" for purposes of determining who can make deductible contributions to an individual retirement account. Changes to the applicable tax law were made by the Employee Retirement Income Security Act of 1974 ("ERISA"). The regulations would provide the public with the guidance needed to comply with that Act and would affect certain individuals not covered by retirement plans.

DATE: Written comments and requests for a public hearing must be delivered or mailed by May 22, 1979. The amendments are proposed to be effective for taxable years beginning after December 31, 1978.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: William D. Gibbs of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3430) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 219 of the Internal Revenue Code of 1954. On February 21, 1975, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 219 of the Internal Revenue Code (40 FR 7661). In Technical Information Release 1425, December 15, 1975, the Internal Revenue Service announced that, with certain exceptions not relevant to this document, taxpayers may rely on the proposed regulations pending the issuance of final regulations. Those parts of the proposed regulations defining the term "active participant" are being withdrawn. The regulations in this document are being proposed in order to replace the withdrawn regulations. However, for taxable years which begin on or before December 31, 1978, the Internal Revenue Service will administer the law in accordance with the regulations withdrawn by this notice.

These amendments are proposed to conform the regulations to section 2002 of the Employee Retirement Income Security Act of 1974 (88 Stat. 958) and are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

ACTIVE PARTICIPANT

Internal Revenue Code section 219(b)(2) disallows a deduction to an individual for contributions made by or on behalf of such individual to an individual retirement account, individual retirement annuity or for an individual retirement bond if for any part of his taxable year such individual was an active participant in certain retirement plans. The proposed regulations define the term active participant for certain types of plans in which individuals may participate. The general rules are set forth below. The regulations contain further special rules and exceptions.

Generally, an individual is an active participant in a defined benefit plan if for any portion of the plan year ending with or within such individual's taxable year, he is not excluded under the eligibility provisions of the plan.

An individual is an active participant in a profit-sharing or stock bonus plan if a forfeiture is allocated to his account as of a date in his taxable year or if a contribution is added to his account in such taxable year.

An individual is an active participant in a money purchase plan if under the terms of the plan employer contributions or forfeitures must be allocated to the individual's account within the plan year ending with or within the individual's taxable year.

These revised rules reflect a balance between the conflicting objectives of equity for individual taxpayers and ease of administration for plan administrators. It is recognized that under the new rules there are circumstances under which an employee will be treated as an active participant although the employee has not actually accrued a benefit for the year, but there will also be cases where an employee is excluded from the class of active participants although he or she may have accrued a benefit. However, this approach is necessary in order to provide a rule which can be reasonably applied by plan administrators. With respect to the comment period described above, it is requested that if a lack of equity is noted, the interested party also indicate the change in the rule which would be required in order to benefit employees, and further indicate why it is believed that such a change would not increase the burden on plan administrators.

COMMENTS AND REQUESTS FOR A PUBLIC HEARING

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight 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 these proposed regulations was William D. Gibbs of the Employee Plans and Exempt Organizations 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

1. Paragraph (c) of § 1.219-1 as set forth in paragraph (3) of the notice of proposed rulemaking published in the FEDERAL REGISTER for February 21, 1975 (40 FR 7661) is withdrawn.

2. The proposed amendments to 26 CFR Part 1 are as follows:

PARAGRAPH 1. The following new paragraph is added immediately after § 1.219-1(b):

§ 1.219-1 Deduction for retirement savings.

* * * * *

(c) *Definitions and special rules*—(1) *Compensation.* For purposes of this section, the term "compensation" means wages, salaries, professional fees, or other amounts derived from or received for personal service actually rendered (including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips, and bonuses) and includes earned income, as defined in section 401(c)(2), but does not include amounts derived from or received as earnings or profits from property (including, but not limited to, interest and dividends) or amounts not includible in gross income such as income from sources without the United States excluded from gross income under section 911.

(2) *Active participant.* For the definition of active participant, see § 1.219-2.

(3) *Special rules.* (i) The maximum deduction allowable under section 219(b)(1) is computed separately for each individual. Thus, if a husband and wife each has compensation of $10,000 for the taxable year and they are each otherwise eligible to contribute to an individual retirement account and they file a joint return, then the maximum amount allowable as a deduction under section 219 is $3,000, the sum of the individual maximums of $1,500. However, if, for example, the husband has compensation of $20,000, the wife has no compensation, each is otherwise eligible to contribute to an individual retirement account for the taxable year, and they file a joint return, the maximum amount allowable as a deduction under section 219 is $1,500.

(ii) Section 219 is to be applied without regard to any community property laws. Thus, if, for example, a husband and wife, who are otherwise eligible to contribute to an individual retirement account, live in a community property jurisdiction and the husband alone has compensation of $20,000 for the taxable year, then the maximum amount allowable as a deduction under section 219 is $1,500.

(4) *Employer contributions.* For purposes of this chapter, any amount paid by an employer to an individual retirement account or for an individual retirement annuity or retirement bond constitutes the payment of compensation to the employee (other than a self-employed individual who is an employee within the meaning of section 401(c)(1)) includible in his gross income, whether or not a deduction for such payment is allowable under section 219 to such employee after the application of section 219(b). Thus, an employer will be entitled to a deduction for compensation paid to an employee for amounts the employer contributes on the employee's behalf to an individual retirement account, for an individual retirement annuity, or for a retirement bond if such deduction is otherwise allowable under section 162.

Par. 2. The following new section as added immediately after § 1.219-1:

§ 1.219-2 Definition of active participant.

(a) *In general.* This section defines the term "active participant" for individuals who participate in retirement plans described in section 219(b)(2). Any individual who is an active participant in such a plan is not allowed a deduction under section 219(a) for contributions to an individual retirement account.

(b) *Defined benefit plans*—(1) *In general.* Except as provided in subparagraphs (2), (3) and (4) of this paragraph, an individual is an active participant in a defined benefit plan if for any portion of the plan year ending with or within such individual's taxable year he is not excluded under the eligibility provisions of the plan. An individual is not an active participant in a particular taxable year merely because the individual meets the plan's eligibility requirements during a plan year beginning in that particular taxable year but ending in a later taxable year of the individual. However, for purposes of this section, an individual is deemed not to satisfy the eligibility provisions for a particular plan year if his compensation is less than the minimum amount of compensation needed under the plan to accrue a benefit. For example, assume a plan is integrated with Social Security and only those individuals whose compensation exceeds a certain amount accrue benefits under the plan. An individual whose compensation for the plan year ending with or within his taxable year is less than the amount necessary under the plan to accrue a benefit is not an active participant in such plan.

(2) *Rules for plans maintained by more than one employer.* In the case of a defined benefit plan described in section 413(a) and funded at least in part by service-related contributions, *e.g.*, so many cents-per-hour, an individual is an active participant if an employer is contributing or is required to contribute to the plan an amount based on that individual's service taken into account for the plan year ending with or within the individual's taxable year. The general rule in paragraph (b)(1) of this section applies in the case of plans described in section 413(a) and funded only on some non-service-related unit, *e.g.*, so many cents-per-ton of coal.

(3) *Plans in which accruals for all participants have ceased.* In the case of a defined benefit plan in which accruals for all participants have ceased, an individual in such a plan is not an active participant. However, any benefit that may vary with future compensation of an individual provides additional accruals. For example, a plan in which future benefit accruals have ceased, but the actual benefit depends upon final average compensation will not be considered as one in which accruals have ceased.

(4) *No accruals after specified age.* An individual in a defined benefit plan who accrues no additional benefits in a plan year ending with or within such individual's taxable year by reason of attaining a specified age is not an active participant by reason of his participation in that plan.

(c) *Money purchase plan.* An individual is an active participant in a money purchase plan if under the terms of the plan employer contributions or forfeitures must be allocated to the individual's account with respect to the plan year ending with or within the individual's taxable year. This rule applies even if an individual is not employed at any time during the individual's taxable year.

(d) *Profit-sharing and stock-bonus plans*—(1) *In general.* This paragraph applies to profit-sharing and stock bonus plans. An individual is an active participant in such plans in a taxable year if a forfeiture is allocated to his account as of a date in such taxable year. An individual is also an active participant in a taxable year in such plans if an employer contribution is added to the participant's account in such taxable year. A contribution is added to a participant's account as of

the later of the following two dates: the date the contribution is made or the date as of which it is allocated. Thus, if a contribution is made in an individual's taxable year 2 and allocated as of a date in individual's taxable year 1, the later of the relevant dates is the date the contribution is made. Consequently, the individual is an active participant in year 2 but not in year 1 as a result of that contribution.

(2) *Special rule.* An individual is not an active participant for a particular taxable year by reason of a contribution made in such year allocated to a previous year if such individual was an active participant in such previous year by reason of a prior contribution that was allocated as of a date in such previous year.

(e) *Employee contributions.* If an employee makes a voluntary or mandatory contribution to a plan described in paragraphs (b), (c), or (d) of this section, such employee is an active participant in the plan for the taxable year in which such contribution is made.

(f) *Certain individuals not active participants.* For purposes of this section, an individual is not an active participant under a plan for any taxable year of such individual in which such individual elects, pursuant to the plan, not to participate in such plan.

(g) *Retirement savings for married individuals.* The provisions of this section apply in determining whether an individual or his spouse is an active participant in a plan for purposes of section 220 (relating to retirement savings for certain married individuals).

(h) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). The X Corporation maintains a defined benefit plan which has the following rules on participation and accrual of benefits. Each employee who has attained the age of 25 or has completed one year of service is a participant in the plan. The plan further provides that each participant shall receive upon retirement $12 per month for each year of service in which the employee completes 1,000 hours of service. The plan year is the calendar year. B, a calendar-year taxpayer, enters the plan on January 2, 1980, when he is 27 years of age. Since B has attained the age of 25, he is a participant in the plan. However, B completes less than 1,000 hours of service in 1980 and 1981. Although B is not accruing any benefits under the plan in 1980 and 1981, he is an active participant under section 219(b)(2) because he is a participant in the plan. Thus, B cannot make deductible contributions to an individual retirement arrangement for his taxable years of 1980 and 1981.

Example (2). The Y Corporation maintains a profit-sharing plan for its employees. The plan year of the plan is the calendar year. C is a calendar-year taxpayer and a participant in the plan. On June 30, 1980, the employer makes a contribution for 1980 which is allocated on July 31, 1980. In 1981 the employer makes a second contribution for 1980, allocated as of December 31, 1980. Under the general rule stated in § 1.219-2(d)(1), C is an active participant in 1980. Under the special rule stated in § 1.219-2(d)(2), however, C is not an active participant in 1981 by reason of that contribution made in 1981.

(i) *Effective date.* The provisions set forth in this section are effective for taxable years beginning after December 31, 1978.

WILLIAM E. WILLIAMS,
Acting Commissioner of Internal Revenue.

[FR Doc. 79-8870 Filed 3-20-79; 12:38 pm]

[4830-01-M]

[26 CFR Part 1]

[LR-233-78]

INDUSTRIAL DEVELOPMENT BONDS; DEFINITION OF AN AIRPORT

Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice on a public hearing on proposed regulations relating to the financing of airports and related facilities with industrial development bonds. In the notice of proposed rulemaking published in the FEDERAL REGISTER for January 5, 1979 (44 FR 1412), there was information concerning the filing of written comments and requests for a public hearing. Since a request for a public hearing was received, one is hereby scheduled.

DATES: The public hearing will be held on May 1, 1979, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by April 17, 1979.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-233-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202-566-3935, not a toll-free call,

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 103 of the Internal Revenue Code of 1954. The regulations are intended to clarify the treatment of bonds issued to finance certain facilities related to an airport. The proposed regulations appeared in the FEDERAL REGISTER for Friday, January 5, 1979, at page 1412 (44 FR 1412).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by April 17, 1979. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the FEDERAL REGISTER for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc. 79-8806 Filed 3-22-79; 8:45 am]

[4410-01-M]

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

IMPROVING GOVERNMENT REGULATIONS

Semi-Annual Agenda of Regulations

AGENCY: United States Parole Commission.

ACTION: Publication of semi-annual agenda of regulations under development or review.

SUMMARY: The United States Parole Commission is providing public notice of significant regulations presently

under development or review, pursuant to Executive Order No. 12044.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537; (202) 724-1991.

SUPPLEMENTARY INFORMATION: The United States Parole Commission anticipates having the following policy matters under consideration for rulemaking during the period from February 1 through August 1, 1979. Supplements to this agenda may be published when necessary.

AGENDA

A. PROPOSED GUIDELINE REVISIONS

ANTICIPATED ACTION: On October 11, 1978, the Commission published a proposal to make certain detailed revisions in the offense severity categories of its Paroling Policy Guidelines at 28 CFR § 2.20. See 43 FR 46859. These proposals covered the following major subjects:

(1) Income tax law violations and motor vehicle thefts;
(2) Counterfeiting offenses;
(3) Breaking and entering (and burglary);
(4) Gambling law violations;
(5) Violent crimes (arson, murder, kidnapping);
(6) Extortions and threatening communications;
(7) Bribery of a public official;
(8) Drug law violations (marijuana, hashish, soft drugs, cocaine, and opiates);
(9) Alcohol law violations;
(10) Possession and transportation of explosives;
(11) Obstruction of justice;
(12) Selective Service violators.

The Commission has completed a series of public hearings and has received extensive comment from both prisoners and interested members of the public. The Commission will be considering this comment during the coming months and anticipates the publication of a final rule containing all of its approved revisions during the month of June 1979.

AUTHORITY: 18 U.S.C. §§ 4203(a)(1) and 4206.

STAFF CONTACT: Rockne Chickinell, Office of the General Counsel (202) 724-1991.

2. PROPOSED YOUTH OFFENDER POLICY

ANTICIPATED ACTION: On December 4, 1978, the Commission published a proposal to apply its Youth Guidelines to all prisoners who were under the age of 22 at the time of conviction, instead of restricting application of the Youth Guidelines to prisoners sentenced under the Youth Corrections Act. See 43 FR 56681. The major issue involved in this proposal is whether the Congressional mandate that the Commission's guidelines serve the purpose of evening out sentencing disparities makes it necessary for the Commission to avoid making critical distinctions purely on the basis of the type of sentence selected by the Court. It also reflects a concern on the part of some judges that the mandatory six-year term required under the Federal Youth Corrections Act can be unfair, and that youthful persons given shorter adult sentences should not necessarily be treated as adults by the Parole Commission. The Commission anticipates publication of a final rule in June of 1979.

AUTHORITY: 18 U.S.C. §§ 4203(a)(1), 4206, 5010 and 5017.

STAFF CONTACT: Michael A. Stover, Office of the General Counsel (202) 724-1991.

3. RESCISSION GUIDELINES AND PROCEDURES

ANTICIPATED ACTION: On January 16, 1979, the Commission published for public comment a proposed rule setting forth guidelines for the length of time a prisoner should serve if a previously announced parole date is rescinded for disciplinary violations prior to actual release. See 44 FR 3404. The rule also specified procedures to be followed in rescinding parole grants. The rule will be implemented as an interim rule beginning March 5, 1979. Promulgation of a final rule is anticipated during May 1979.

AUTHORITY: 18 U.S.C. §§ 4203(a)(1), and 4206.

STAFF CONTACT: Michael A. Stover, Office of the General Counsel phone (202) 724-1991.

4. RECOMMENDATIONS REGARDING PAROLE

ANTICIPATED ACTION: On September 20, 1978, the Parole Commission published for public comment a proposed rule clarifying its position with regard to recommendations for and against the release on parole of particular prisoners, incuding recommendations pursuant to plea agreements. See 43 FR 42282. Publication of a final rule is anticipated during May 1979.

AUTHORITY: 18 U.S.C. §§ 4203(a)(1) and 4206.

STAFF CONTACT: Michael A. Stover, Office of the General Counsel, phone (202) 724-1991.

5. STANDARD OF PROOF IN PAROLE-RELATED FACTUAL DETERMINATIONS

ANTICIPATED ACTION: On March 8, 1979, the Commission published a proposed rule that would adopt a "preponderance of the evidence" test to govern the resolution of disputed factual issues as parole determinations proceedings. See 44 FR 12692.

AUTHORITY: 18 U.S.C. §§ 4203(a)(1) and 4206.

STAFF CONTACT: Michael A. Stover, Office of the General Counsel, phone (202) 724-1991.

Comments on this agenda should be submitted in writing to the Office of the General Counsel, United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537.

REGULATORY ANALYSIS

The Commission has determined that none of the above proposed rulemaking actions would involve major economic consequences as defined by Section 3 of Executive Order 12044, and therefore will not require regulatory analysis.

STATUS OF REGULATIONS CHOSEN FOR INITIAL REVIEW

The regulations chosen for initial review pursuant to Executive Order 12044 were the Commission's rules for processing applications from convicted felons for exemptions from statutory employment prohibitions contained in the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA) and the Employment Retirement Income Security Act of 1974 (ERISA). The new consolidated regulations may be found at 44 FEDERAL REGISTER Part IV (February 2, 1979).

Dated: March 15, 1979.

CECIL C. MCCALL,
Chairman,
United States Parole Commission.

[FR Doc. 79-8901 Filed 3-22-79; 8:45 am]

[4510-26-M]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket S-004]

OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Means of Egress; Hazardous Materials and Fire Protection; Extension of Time for Written Comments

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of Time for Written Comment.

SUMMARY: This notice extends the time for written comments concerning the rulemaking proceeding on the proposed changes to three subparts in the

present OSHA safety standards found in 29 CFR Part 1910. The specific subparts to be amended or revised are Subpart E—Means of Egress, Subpart H—Hazardous Materials, and Subpart L—Fire Protection. The changes were proposed on December 22, 1978 (43 FR 60048). The notice had requested the submission of written comments not later than March 16, 1978. Subsequently, several interested parties requested extensions of time to submit their comments. The basis for the requests is their delayed receipt of the proposal, the broad scope of its content, and the major importance of this proposal relating to workplace safety.

OSHA finds validity in these requests and has decided to grant an extension of time to submit written comments.

DATES: Written comments must be received by April 16, 1979.

ADDRESS: Comments should be sent to: Docket Officer, Docket S-004, Room S-6212, U.S. Department of Labor, Washington, D.C. 20210.

FOR FURTHER INFORMATION:

Mr. Michael B. Moore, Occupational Safety and Health Administration, Room N-3463, U.S. Department of Labor, Washington, D.C. 20210, (202) 523-7225.

SUBMISSION OF WRITTEN COMMENTS: Written comments from interested parties must be received by April 16, 1979. Comments must be submitted to the Docket Officer, Docket S-004, Room S-6212, U.S. Department of Labor, Washington, D.C. 20210, (202) 523-7894.

Signed at Washington, D.C., this 19th day of March 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-8988 Filed 3-22-79; 8:45 am]

[1505-01-M]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

FIRE ISLAND NATIONAL SEASHORE

Operation of Motor Vehicles

Correction

In FR Doc. 79-8086, appearing at page 16021 in the issue of Friday, March 16, 1979, the third word in the seventh line of § 7.20(a)(10)(ii) should read, "or".

[7710-12-M]

[39 CFR Part 111]

OFFICIAL MAIL

Restrictions on Use of Penalty Indicia

AGENCY: Postal Service.

ACTION: Proposed Rule.

SUMMARY: This proposed regulation would prohibit the use of official mail (penalty) indicia on items carried outside the U.S. Mail. The official mail indicium includes, among other things, the information that "Postage and Fees [have been] Paid" and that there is a "Penalty for Private Use, $300". The use of official mail covers or labels for transporting matter outside the mails may mislead the public and may inhibit the ability of the Postal Service to insure that postage is paid if the item is subsequently deposited in the mails.

DATE: Comments must be received on or before April 23, 1979.

ADDRESS: Written comments should be directed to the Manager, Government Revenue and Examination Branch, Finance Department, U.S. Postal Service, Washington, D.C. 20260. Copies of written comments received will be available for public inspection and photocopying between 9 A.M. and 4 P.M., Monday through Friday, in Room 8402, 475 L'Enfant Plaza West, SW, Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

James S. Standford, Manager, Government Revenue and Examination Branch, (202) 245-5001.

SUPPLEMENTARY INFORMATION: The Postal Service is aware that some Federal government agencies have been using official mail envelopes and labels bearing the indicia and statements prescribed by section 137.24 of the Postal Service Manual when they send matter outside the mail by private carriers. The use of such penalty indicia misrepresents that postage has been paid and may misrepresent that a statutory $300 penalty applies if someone should reuse the wrapper for a similar purpose outside the mails. In addition, the public may be led to believe that privately carried matter is official mail delivered by the U.S. Postal Service.

In the event such privately carried matter is misdelivered, or needs to be forwarded, recipients might be inclined to drop it into the mailstream on the assumption that it is official mail. At that point, the Postal Service would likely be called upon to carry the piece to its destination for free, since the indicia indicate postage has already been paid. Moreover, if any such material is left at a recipient's doorstep in a damaged condition, or if there is any other mistake in delivery, the damage or mistake might well be attributed to the Postal Service.

In order to counteract these ill effects, the Postal Service proposes to revise 137.247 of the Postal Service Manual to prohibit the use of official mail indicia on any matter carried outside the mails.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of the Postal Service Manual:

PART 137—OFFICIAL MAIL

In 137.24 amend .247 to read as follows:

.24 Indicium

* * * * *

.247 The markings required in 137.242 through .246

(a) may be used only to transmit official mail, and

(b) shall not be used on items carried outside the U.S. Mail.

An appropriate amendment of 39 CFR 111.3 to reflect this change will be published if the proposal is adopted.

(39 U.S.C. 401(2), (10); 404(a)(2), (4).)

W. ALLEN SANDERS,
Acting Deputy General Counsel.

[FR Doc. 79-8920 Filed 3-22-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1081-4]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Approval of an Administrative Order Issued by Ohio Environmental Protection Agency to Blanchester Foundry Company

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: U.S. Environmental Protection Agency proposes to approve an Administrative Order issued by the Ohio Environmental Protection Agency to Blanchester Foundry Company. The Order requires the Company to bring air emissions from its grey iron cupola in Blanchester, Ohio, into compliance with certain regulations contained in the federally approved Ohio State Implementation Plan (SIP) by July 1, 1979. Because the Order has

been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by U.S. Environmental Protection Agency before it becomes effective as a Delayed Compliance Order under the Clean Air Act (the Act). If approved by U.S. Environmental Protection Agency, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on U.S. Environmental Protection Agency's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before April 23, 1979.

ADDRESS: Comments should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Cynthia Colantoni, Enforcement Division, United States Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone: (312) 353-2082.

SUPPLEMENTARY INFORMATION: Blanchester Foundry Company operates a foundry at Blanchester, Ohio. The Order under consideration addresses emissions from the grey iron cupola at the facility, which is subject to OAC 3745-17-07 and OAC 3745-17-11. The regulations limit the emissions of particulate matter and visible emissions, and are part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulation by July 1, 1979, through the installation of a high efficiency wet scrubber.

Because this Order has been issued to a major source of particulate matter emissions and visible emissions and permits a delay in compliance with the applicable regulations, it must be approved by U.S. Environmental Protection Agency before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Act. U.S. Environmental Protection Agency may approve the Order only if it satisfies the appropriate requirements of this subsection.

If the Order is approved by U.S. Environmental Protection Agency, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against source for violations of the regulations covered by the order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Ohio SIP.

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether U.S. Environmental Protection Agency may approve the Order. After the public comment period, the Administrator of U.S. Environmental Protection Agency will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

AUTHORITY: 42 U.S.C. 7413, 7601.

Dated: March 14, 1979.

JOHN MCGUIRE,
Regional Administrator.

Before the Ohio Environmental Protection Agency. In the matter of: Blanchester Foundry Co.

ORDER

The Director of Environmental Protection (herinafter "Director") hereby makes the following Findings of Fact and, pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, issues the following Orders, which will not take effect until the Administrator of the Untied States Environmental Protection Agency has approved their issuance under the Clean Air Act.

FINDINGS OF FACT

1. Blanchester Foundry Company (hereinafter "Blanchester Fdy"), located at Cherry Street, Blanchester, Ohio 45107, owns and operates a grey iron cupola.

2. In the course of operation of the cupola, air contaminants are emitted in violation of OAC Rule 3745-17-11 and OAC Rule 3745-17-07.

3. Blanchester Fdy is unable to immediately comply with OAC Rule 3745-17-11 and OAC Rule 3745-17-07.

4. Potential emissions of air pollutants from Blanchester Fdy are greater than 100 tons per year; therefore, this constitutes a major stationary source as defined in Section 302 (j) of the Clean Air Act, as amended.

5. Due to the size of the cupola, the type of control equipment which will be installed (i.e. a high efficiency scrubber), and the fact that the cupola is currently in violation of OAC Rule 3745-17-07, it is technically and economically unreasonable to require Blanchester Fdy to install continuous opacity monitoring equipment prior to the final compliance date specified in the Orders below.

6. Implementation by Blanchester Fdy of interim control measures contained in the Orders below will fulfill the requirements of Section 113(d)(7) of the Clean Air Act, as amended.

7. The compliance schedule set forth in the Orders below requires compliance with the applicable emission regulations as expeditiously as practicable.

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

ORDERS

Whereupon, after due consideration of the above Findings of Fact, the Director hereby issues the following Orders pursuant to Sections 3704.03 (S) and (I) and 3704.031 of the Ohio Revised Code and in accordance with Section 113(d) of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, which will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

1. Blanchester Fdy shall bring the cupola into final compliance with OAC Rule 3745-17-11 and OAC Rule 3745-17-07 by installing a high efficiency wet scrubber on the cupola not later than July 1, 1979.

2. Compliance with Order (1) above, shall be achieved in accordance with the following schedule:

Submit final control plans: completed.
Award contracts: November 30, 1978.
Initiation of on-site construction and installation of control equipment: December 1, 1978.
Complete construction: June 8, 1979.
Testing of equipemt: June 15, 1979.
Achieve final compliance with OAC Rules 3745-17-07 and 3745-17-11: July 1, 1979.

3. Pending achievement of compliance with Order (1) above, Blanchester Fdy shall comply with the following interim requirements which are determined to be reasonable and to be the best practicable systems of emission reduction, and which are necessary to ensure compliance with OAC Rules 3745-17-07 and 3745-17-11 insofar as Blanchester Fdy is able to comply with those regulations during the period this Order is in effect in accordance with Section 113(d)(7) of the Clean Air Act, as amended. Such interim requirements shall include:

a. Immediate initiation of an operation and maintenance procedure which will minimize particular matter emissions from the cupola on a day to day basis.

b. Continued operation of existing control equipment on the cupola.

4. Blanchester Fdy shall submit a progress report to the Southwest District Office of Ohio EPA within five (5) days after the scheduled achievement date of each of the increments of progress specified in the compliance schedule in Order (2) above. The person submitting these reports shall certify whether each increment of progress has been achieved. If it has not been achieved, the report shall contain a detailed explanation of the reasons for the failure to achieve that increment of progress. Submission of such explanation does not excuse the failure to achieve the increment of progress.

5. Quarterly reports concerning compliance with interim requirements specified in Order (3) above shall be submitted to the Southwest District Office by Blanchester Fdy with the first report due December 1, 1978.

6. Blanchester Fdy shall conduct emission tests on said cupola to verify compliance with Order (1) above. Such tests shall be conducted no later than the date specified in the compliance schedule in Order (2) above in accordance with procedures approved by the Director. Written notification of intent to test shall be provided to the Southwest District Office thirty (30) days prior to the testing date. Test results shall be submitted to and received by that office no later than July 15, 1979.

7. Blanchester Fdy is hereby notified that unless it is exempted under Section 120 (a)(2) (B) or (C) of the Clean Air Act, as amended, failure to achieve final compliance with Order (1) above by July 1, 1979, will result in a requirement to pay a noncompliance penalty under Section 120 of the Clean Air Act, as amended.

These orders will not take effect until the Administrator of the United States Environmental Protection Agency has approved their issuance under the Clean Air Act.

Dated: February 12, 1979.

JAMES F. MCAVOY,
Director of Environmental Protection.

WAIVER

The Blanchester Foundry Co. agrees that the attached Findings and Orders are lawful and reasonable and agrees to comply with the attached Orders. The Blanchester Foundry Co. hereby waives the right to appeal the issuance or terms of the attached Findings and Orders to the Environmental Board of Review, and it hereby waives any and all rights it might have to seek judicial review of said Findings and Orders either in law or equity. The Blanchester Foundry Co. also waives any and all rights it might have to seek judicial review of any approval by U.S. EPA of the attached Findings and Orders or to seek a stay of enforcement of said Findings and Orders in connection with any judicial review of Ohio's air implementation plan or portion thereof.

ROBERT BALLINGER,
Authorized Representative of Blanchester Foundry Co.

Name: Robert Ballinger.
Date: October 6, 1978.
Title: Secretary-Treasurer.

Blanchester Foundry Company has read the attached revised 113(d) Order (revisions underlined in red) and finds no problems with these revisions. Blanchester Foundry Company continues to agree with this 113(d) Order, as revised.

Dated: November 13, 1978.

ROBERT BALLINGER,
Secretary-Treasurer, Blanchester Foundry Co.

[FR Doc. 79-8981 Filed 3-22-79; 8:45 am]

[4110-83-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[42 CFR Part 121]

NATIONAL GUIDELINES FOR HEALTH PLANNING

Computed Tomographic Scanners; Request for Comment

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of Request for Comment.

SUMMARY: This request for comment invites all interested parties to submit written comments and recommendations concerning the existing National Guidelines for Health Planning which relate to computed tomographic scanners. After consideration of the material received in response to this request, the Secretary of Health, Education, and Welfare will review whether changes should be made in the existing final Guideline which relates to computed tomographic scanners.

DATE: May 7, 1979.

ADDRESS: Written comments and recommendations should be submitted, preferably in duplicate, to: Office of Planning, Evaluation, and Legislation, Health Resources Administration, Room 10-22, 3700 East-West Highway, Hyattsville, MD 20782. All materials received in response to this Notice will be available for public inspection and copying at the above location during business hours.

FOR FURTHER INFORMATION CONTACT:

James W. Stockdill, Associate Administrator for Planning, Evaluation, and Legislation, Health Resources Administration, Center Building, Room 10-22, 3700 East-West Highway, Hyattsville, MD 20782, 301/436-7270.

SUPPLEMENTARY INFORMATION: On March 28, 1978, the Secretary of Health, Education, and Welfare published as final regulations the first issuance of National Guidelines for Health Planning (42 CFR Part 121; 43 FR 13040). Those regulations, which consist of Subpart A—General Provisions and Subpart C—Standards Respecting the Appropriate Supply, Distribution, and Organization of Health Resources included a provision (§ 121.210) setting forth a specific standard respecting computed tomographic (CT) scanners. Paragraph (a) of § 121.210 reads as follows:

Standard. (1) A Computed Tomographic Scanner (head and body) should operate at a minimum of 2,500 medically necessary patient procedures per year, for the second year of its operation and thereafter.

(2) There should be no additional scanners approved unless each existing scanner in the health service area is performing at a rate greater than 2,500 medically necessary patient procedures per year.

(3) There should be no additional scanners approved unless the operators of the proposed equipment will set in place data collection and utilization review systems.

Latitude was given to the HSAs both within the standard itself (see the Discussion portion of § 121.210) and in § 121.6 (Adjustments of standards for particular Health Systems Plans) to adjust the standard where special local circumstances warrant, after careful analysis and consideration of extraordinary conditions.

The preamble to the final regulations, in discussing the CT Scanner Standard (see 43 FR 13043-4), recognized that CT scanning is a rapidly changing field and stated that:

> developments in this field will be carefully and continually monitored and changes proposed and made periodically as indicated.

The Department also indicated the desirability of directing efforts towards increasing knowledge necessary for the development of population-based techniques for measuring the need for CT scanners.

Since publication of the standards on March 28, 1978, additional information on various aspects of CT scanning and the factors determining the population's need for CT scanning services and the efficient utilization of CT units has become available through experience with the application of the standard by health planning agencies, and the completion of studies in progress. Further information has also become available in response to the Department's request for submission of additional information related to CT scanning on a continuing basis. The Department is seeking to develop more sophisticated techniques than are now available for measuring the need for CT scanners and the efficiency with which existing ones are being used in varying situations.

Comments have been received expressing concern that in the absence of a population-based target for the number of units within an area, that the existing Guideline may create an incentive for excess utilization of CT scanners to reach the target levels. Thus, the Department is soliciting information on the development of population-based standards which would assist in determining the need for and appropriate distribution of CT units to complement the existing utilization standards which are designed to promote the efficient use of CT scanners.

The Department invites comments on the complementary use of population-based and utilization-based stand-

ards in planning for CT scanners, and suggestions for specific population-based standards. The Department is also interested in receiving recommendations on the existing standards for the full and efficient utilization of CT scanners.

In issuing the standard, the Department recognized that a variety of factors were involved in determining full and efficient utilization of CT scanners. These included that relative proportion of head and body scans; the need for scans involving contrast media for some patients; variations in patient mix; time required for maintenance, both scheduled and unscheduled; hours of operation; and other factors.

Since the average time for body scans is longer than for head scans, it is clear that a significant increase in the number of body scans or in the relative proportion of body scans to head scans would require reexamination of the CT Scanner Standard. There is some indication that the number of body scans has been increasing, both in absolute terms and relative to the number of head scans, although improved information in this area is needed.

Another major factor affecting the establishment of a target for minimum utilization of CT scanners is the definition of a "patient procedure." The current final Guideline defines this in the Discussion section as follows: "One patient procedure includes, during a single visit, the initial scan plus any additional scans of the same anatomic area of diagnostic interest." Some have suggested that this definition should take into account the difference between unenhanced scans, and unenhanced scans with follow-up enhanced scans. Some respondents suggest that these should be counted as two separate procedures. Others have suggested that these should continue to be counted as one procedure.

A number of specific suggestions for change have been received concerning the minimum of 2,500 patient procedures per year and the standard calling for approval of no additonal scanners unless each existing scanner in the health service area is performing at a rate greater than 2,500 patient procedures year. These recommendations include lowering the target to 2,000 patient procedures per year.

In issuing the standard it was recognized that the target of 2,500 procedures can be significantly exceeded, particularly for those units with faster average slice times and units performing a greater porportion of head to body scans. Recent studies of actual operating experience of hospitals have confirmed the potential for exceeding the standard.

For example, studies recently carried out by the Health Care Technology Center of the University of Missouri-Columbia, observed a scanner with an average slice time of 75 seconds with average room times of 26.0 minutes for head scans and 40.9 minutes for body scans. According to their calculations, this scanner, operating on a 55-hour week, with a 75 percent scheduling efficiency (room time divided by total operating time), performing 60 percent head scans and 40 percent body scans, would be able to perform 4,027 patient procedures per year. In the report, a scanner with an average slice time of 20 seconds performed an average of 65 procedures per week, a calculated rate of 3,380 procedures per year. On the other hand, concern was expressed that for those units with slower average slice times and units performing a greater proportion of body to head scans, that the target of 2,500 patient procedures may not be achieved.

Comments have been received suggesting that the Department establish separate standards for utilization of machines performing only head scans and those performing only body scans. It has been further recommended that for units performing both body and head scans, the number of procedures would be set proportional to the number of body and head scans performed. Comments have also been received suggesting lowering the target levels established by 10 percent for those machines whose average slice time is two minutes or more.

Thus, comments are sought concerning the use of population-based standards for measuring the need for CT scanners, and recommendations for specific population-based standards as well as recommendations concerning the existing Guidelines for utilization of CT scanners. The Department is also interested in additional data or other evidence concerning the costs and benefits of CT scanning as the number of scanners in a service area increases. In addition, the Department seeks data on evidence comparing the costs and benefits of CT scanning with other diagnostic procedures.

The Department recognizes that there are differing views on these issues and welcome additional comments on these suggestions. In addition, further comments and recommendations are also invited conserning other approaches to planning for CT scanners, other factors which affect utilization of CT scanners, and the cost-benefit of CT scanning in comparison to other diagnostic procedures.

Dated: February 23, 1979.

CHARLES MILLER,
Acting Assistant Secretary for Health.

Approved: March 3, 1979.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 79-8883 Filed 3-22-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 94]

[SS Docket No. 79-18; RM-2824; RM-1635; RM-1849; RM-2045]

PUBLIC UTILITY DISTRIBUTION AUTOMATION SYSTEMS

Providing Regulations for Use of Radio, Correction

AGENCY: Federal Communications Commission.

ACTION: Correction of proposed rule.

SUMMARY: The Commission is correcting FR Doc. 79-6625 concerning use of radio in Public Utility Distribution Automation Systems. The proposed rule appeared at page 12221 in the issue for Tuesday, March 6, 1979.

DATES: Comments must be received on or before April 30, 1979, and replies by May 30, 1979.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, Room 5120.

FOR FURTHER INFORMATION CONTACT:

Eugene Thomson, Private Radio Bureau, (202) 632-6497.

Released: March 14, 1979.

In the matter of amendment of Part 94 of the rules to provide regulations for use of radio in public utility distribution automation systems, SS DOCKET NO. 79-18, RM-2824 RM-1635, RM-1849, RM-2045, Correction (*See also* 44 FR 12221, March 6, 1979).

In the Notice of Proposed Rule Making, FCC 79-93, adopted February 14, 1979, and released March 1, 1979, the appendix is corrected as follows:

In § 94.71, the entry for the 952-960 MHz band in paragraph (b) is amended.

§ 94.71 Emission and bandwidth limitations.

(a) * * *

(b) The maximum bandwidth which will be authorized per frequency assigned, is as follows:

Frequency band MHz	*Maximum authorized bandwidth*
952-960 MHz.....	25, 50, 100 or 200 kHz[1,3]

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 79-8811 Filed 3-22-79; 8:45 am]

[4310-55-M]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Rulemaking to Provide for the Establishment of Manatee Protection Areas; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Extension of Comment Period for Proposed Rulemaking.

SUMMARY: On January 23, 1979, the Fish and Wildlife Service published a "Proposed Rulemaking to Provide for the Establishment of Manatee Protection Areas" (44 FR, 4745). The proposal provided for a comment period of 30 days, ending February 22, 1979. Several persons and organizations have informed the Service that they wanted to submit comments but were unable to do so by the closing date. In order to allow receipt of these comments, and to provide the Service with a full complement of comments on which to base its decision, the Service is extending the comment period to April 24, 1979.

DATES: Public comment: To be considered, comments must be received by April 24, 1979.

ADDRESSES: Comments should be submitted to the Director (FWS/LE), U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C. 20036. Comments should include the file number, REG 17-02-76. Comments and materials received will be available for public inspection during normal business hours at the Service's Division of Law Enforcement, Suite 600, 1612 K Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Marshall L. Stinnett, Special Agent in Charge, Regulations and Penalties, Division of Law Enforcement, Fish and Wildlife Service, Suite 600, 1612 K Street, N.W., Washington, D.C., 202-343-9237.

Dated: March 19, 1979.

LYNN A. GREENWALT,
Director.

[FR Doc. 79-9082 Filed 3-22-79; 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.

[3410-30-M]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

FOOD STAMP PROGRAM STAFFING REQUIREMENTS PROJECT

Participation of State Welfare Agencies

The Food and Nutrition Service (FNS), United States Department of Agriculture (USDA), has recently issued RFP 3-FNS-79 soliciting bids for a major contract to design, develop and test a method for quantifying staffing requirements at the State level. This effort is pursuant to Pub. L. 95-113, Section 16(b)(1) of the Food Stamp Act of 1977, which states that the Secretary of Agriculture must "* * * establish standards for the efficient and effective administration of the Food Stamp Program by the States, including, but not limited to, staffing standards * * *"

The project is structured into three phases, each requiring state involvement. April 1979 is the anticipated project start-up month. This Notice solicits an indication of interest from State Welfare agencies wishing to work with FNS and the contractor in this effort.

Phase I, scheduled for six months, will involve data gathering in up to ten States to identify the administrative, operational, and other features which vary among States and result in different staffing requirements.

Phase II, scheduled for six months, will take the design produced in Phase I and test it in seven pilot sites, one per State in each of the FNS/USDA administrative regions. In Phase III, scheduled for 12 months, the refined project from Phase II will be implemented with contractor assistance in seven States, again one for each of the FNS/USDA administrative regions.

Responsibilities of participating State Welfare agencies will include:

1. Providing the contractor with any required information regarding State/county agency organization, procedures, personnel standards, payroll records and similar materials and information required.

2. Requiring all necessary personnel in the selected project areas, to provide data in accordance with guidance provided by the contractor.

3. Transmitting the data and any or all of the needed additional information to the contractor.

4. Ensuring that maximum cooperation and coordination is obtained from and between the various project areas involved in the project to ensure the completion of assigned tasks.

5. Designating a project coordinator(s) and making arrangements necessary for training the local office staffs in obtaining data or monitoring resulting systems.

6. Obtaining any required State clearances needed in the data collection or other related activities.

State Welfare officials interested in cooperating in one or more phases of this project should contact:

Marilyn Carpenter, Family Nutrition Programs, Food and Nutrition Programs, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-8332.

(91 Stat. 958, as amended (7 U.S.C., 2011-2027).)

NOTE.—The Food and Nutrition Service 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.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: March 19, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 79-8869 Filed 3-22-79; 8:45 am]

[3410-02-M]

Office of Transportation

RURAL TRANSPORTATION ADVISORY TASK FORCE

Meeting

AGENCY: Office of Transportation, U.S. Department of Agriculture.

ACTION: Notice of Public Meeting of the Rural Transportation Advisory Task Force.

DATES: April 3, 1979, 7:00 p.m., April 4, 1979, 8:30 a.m., April 5, 1979, 8:30 a.m.

ADDRESS: U.S. Department of Transportation, 400 7th Street, S.W., Room 4234, Washington, D.C. 20590.

SUMMARY: The task force will study methods for enhancing the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs and recommend approaches for establishing a national agricultural transportation policy and for identifying impediments to a railroad transportation system adequate for the needs of agriculture. At its first meeting the task force determined that in order to carry out its charge, it must adopt a rigorous meeting schedule and that the next meeting must be held on short notice, April 3, 4, and 5, 1979. The purpose of the next meeting is to define further the scope of work the task force will undertake, to consider the nature of an interim report, and finalize a schedule of public hearings. The evening session on April 3 will be primarily devoted to meetings of the three subcommittees on policy and essential transportation needs of agriculture; railroad problems of agriculture; and highway, waterway, and air transportation problems of agriculture.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Tosterud, U.S. Department of Agriculture, Office of Transportation, Washington, D.C. 20250, Phone: (202) 447-7690.

Dated: March 19, 1979.

JAMES H. LAUTH,
Acting Director,
Office of Transportation.

[FR Doc. 8974 Filed 3-22-79; 8:45 am]

[6320-01-M]

CIVIL AERONAUTICS BOARD

DALLAS/FORT WORTH-LOS ANGELES

Show Cause Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-96, *Dallas/Fort Worth-Los Angeles Show-Cause Proceeding.*

SUMMARY: The Board is proposing to grant Dallas/Ft. Worth-Los Angeles nonstop authority to Braniff Airways, Northwest Airlines, Ozark Air Lines, and Western Air Lines, and any other fit, willing and able applicant whose fitness can be established by officially noticeable data, and to remove restrictions on Texas International Airlines and Continental Air Lines in the Above market. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than April 20, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) and estimate of fuel to be consumed in the first year are directed to do so no later than April 5, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35061, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

Mark Atwood, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., Washington, D.C. 20428, (202) 673-5334.

SUPPLEMENTARY INFORMATION: The complete test of Order 79-3-96 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-96 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 15, 1979.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-8957 Filed 3-22-79; 8:45 am]

[6320-01-M]

[DOCKET 34965]

DIRECT SALE OF CHARTER AIR TRANSPORTATION

Oral Argument

This notice advises interested persons that the Board will hold oral argument on April 2, 1979 from 1:30 to 4:30 p.m. in Room 1027, Universal Building North, 1825 Connecticut Avenue, N.W., Washington, D.C. The issues involve the Board's anticipated report to Congress, required by section 108 of the Federal Aviation Act, about direct sale of charter air transportation and control of charter operators by direct air carriers. The Board is scheduling this oral argument at the request of the National Air Carrier Association.

On March 8, 1979, the Board issued a request for public comments about a matter upon which it must report to Congress by May 1, 1979. The report will make recommendations on the question whether air carriers should be permitted to sell charter tours directly to the public or to acquire control of persons authorized to sell tours (44 FR 14609, March 13, 1979). The request discusses the implications, both pro and con, of allowing such changes and invites public comment to assist it in making a recommendations to Congress. Comments are due April 9, 1979.

Each party which wishes to participate in the oral argument shall so advise the Secretary, in writing, *on or before March 27, 1979,* together with the name of the person who will represent it at the argument. Requests received after Tuesday, March 27, 1979 will be considered only to the extent feasible. The letter should state briefly the issues to be discussed and the positions to be taken. Depending on the responses, our staff may establish separate panels of speakers.

Since the time we devote to oral argument is necesarily limited, we cannot guarantee that all persons wishing to speak will be able to do so. We therefore, encourage joint presentations by persons with the same position.

Dated at Washington, D.C., March 19, 1979.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-8959 Filed 3-22-79; 8:45 am]

[6320-01-M]

ST. LOUIS-FLORIDA

Show-Cause

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 79-3-83, St. Louis-Florida Show-Cause Proceeding.

SUMMARY: The Board is proposing to grant nonstop route authority: (a) between St. Louis on the onc hand and Orlando, Ft. Lauderdale and Miami on the other to Trans World Airlanes, American Airlines, Northwest Airlines, Southern Airways, Western Air Lines, and any other fit, willing and able applicant whose fitness can be established by officially noticeable data; and (b) between St. Louis on the one hand and Tampa and Orlando on the other to Ozark Air Lines and any other fit, willing and able applicant whose fitness can be established by officially noticeable data. Under the proposed award, nonstop flights between the Florida points will be allowed, provided they also serve St. Louis. The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than April 19, 1979, a statement of objection, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

Additional Data: All existing and would-be applicants who have not filed (a) illustrative service proposals, (b) environmental evaluations, and (c) an estimate of fuel to be consumed in the first year are directed to do so no later than April 4, 1979.

ADDRESSES: Objections or Additional Data should be filed in Docket 35060, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT:

M. Mikolajczyk or Tadas Osmolskis, Bureau of Pricing and Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Ave., Washington, D.C., 20428, (202) 673-5918 or 673-5349.

SUPPLEMENTARY INFORMATION: Objections should be served upon the following persons: Trans World Airlines, American Airlines, Northwest Airlines, Southern Airways, Western Air Lines, Ozark Air Lines and Eastern Air Lines.

The complete text of Order 79-3-83 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-3-83 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: March 15, 1979.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 79-8958 Filed 3-22-79; 8:45 am]

[6335-01-M]

COMMISSION ON CIVIL RIGHTS

KANSAS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, prusuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Kansas Acvisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 1:00 p.m. on April 21, 1979, in the Holiday Inn Downtown, Don Quixote Room, 914 Madison Street, Topeka, Kansas 66607.

Persons wishing to attend this open meeting should contact the Committee Chairperson or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106.

The purpose of the meeting is to hold the inaugural meeting of the Kansas SAC: review the status of the Wichita Police Study and the follow-up efforts regarding the 4-State Report on Affirmative Action.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 20, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-8924 Filed 3-22-79; 8:45 am]

[6335-01-M]

MAINE ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m. on April 17, 1979, in the Augusta Civil Center, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, New York 10007.

The purpose of this meeting is to discuss program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 20, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-8925 Filed 3-22-79; 8:45 am]

[6335-01-M]

NEW MEXICO ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the New Mexico Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 5:00 p.m. on April 18, 1979, in the Holiday Inn (Bennett Room) I-40 and Grants-Spur (Exit 85), Grants, New Mexico 87020.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southwestern Regional Office of the Commission, Heritage Plaza, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is for the full New Mexico SAC as well as the Educational and Energy Development Subcommittees to discuss future plans.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 20, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-8926 Filed 3-22-79; 8:45 am]

[6335-01-M]

NORTH DAKOTA ADVISORY COMMITTEE

Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the North Dakota Advisory Committee (SAC) of the Commission originally scheduled for April 12, 1979, in the FEDERAL REGISTER (FR Doc. 79-8148) on page 16466 has been changed.

The new meeting date will be April 11, 1979. The time and place of the meeting will remain the same.

Dated at Washington, D.C., March 20, 1979.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 79-8927 Filed 3-22-79; 8:45 am]

[3510-07-M]

DEPARTMENT OF COMMERCE

Bureau of the Census

1977 CENSUS OF MINERAL INDUSTRIES SUPPLEMENTAL INQUIRY OF SUPPLIES USED

Consideration

Notice is hereby given that the Bureau of the Census is planning to conduct, as part of the 1977 Census of Mineral Industries, a sample survey requesting supplementary information on supplies consumed under authority of title 13, United States Code, sections 193 and 225. This survey will provide basic statistical data needed by the Bureau of Economic Analysis, Department of Commerce, to prepare the input-output tables that provide the benchmark for the gross national product estimates.

The Bureau of the Census presently collects data once every 5 years on the supplies used by mining establishments in its census of mineral industries program. However, the industries covered in this supplemental inquiry are characterized by the Bureau of Economic Analysis as being substantially undercovered in terms of the reporting of the consumption of specific supplies on the 1977 Census of Mineral Industries report forms. There are no other sources for this kind of consumption information.

This survey shall begin not earlier than April 23, 1979.

Copies of the proposed forms are available on request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of this survey should be submitted in writing to the Director of the Bureau of the Census within 30 days after the date of this publication to receive consideration.

Dated: March 20, 1979.

MANUEL D. PLOTKIN
Director, Bureau of the Census.

[FR Doc. 79-8984 Filed 3-22-79; 8:45 am]

[3510-17-M]

Office of the Secretary

PUBLIC ADVISORY COMMITTEE FOR TRADEMARK AFFAIRS

Reestablishment

In accordance with the provisions of the Federal Advisory Committee Act 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, it has been determined that the reestablishment of the Public Advisory Committee for Trademark Affairs is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established in September, 1970, and its present charter expired on January 10, 1979. Since its inception the purpose of the Committee has been to advise the Patent and Trademark Office concerning steps which can be taken to increase the efficiency and effectiveness of administration of the Trademark Act and to provide a continuing flow of knowledge from the private sector to the government in the field of trademarks. Approximately seventy-five per cent of the over one hundred twenty-five specific recommendations have been implemented at least in part. There is no question that the Committee has contributed greatly to the efficiency and effectiveness of the administration of the statute. In reviewing the Committee, the Secretary has sought continued effort towards this objective. The Committee's function cannot be accomplished by any organizational element or other committee of the Department.

As it was initially established, the Committee will continue to comprise the members of the Advisory Committee for Trademark Affairs of the United States Trademark Association. The membership is balanced and is under the control of the President of the Association. The Committee will continue to operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of Congress.

Any inquiries or comments may be addressed to Patricia M. Davis, Committee Control Officer, Office of Trademark Program Control, U.S. Patent & Trademark Office, Washington, D.C. 20231; telephone (703) 557-3881.

Dated: March 15, 1979.

GUY W. CHAMBERLIN,
Assistant Secretary for Administration.

[FR Doc. 79-8929 Filed 3-22-79; 8:45 am]

[3510-17-M]

TRAVEL ADVISORY BOARD

Reestablishment

In accordance with the provisions of the Federal Advisory Committee Act, (5 U.S.C. App. (1976)) and the Office of Management and Budget Circular A-63 of March 1974, and after consultation with the General Services Administration, it has been determined that the reestablishment of the Travel Advisory Board is in the public interest in connection with the performance of duties imposed on the Department by law.

The Travel Advisory Board was first established by the Secretary of Commerce on July 18, 1968 and initially chartered under the Federal Advisory Committee Act in January 1973. Its purpose is to advise the Secretary of Commerce on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended (22 U.S.C. 2121 et seq.), which are to strengthen the domestic and foreign commerce of the United States and promote friendly understanding and appreciation of the United States by encouraging foreign residents to visit the United States and by facilitating international travel generally.

The Travel Advisory Board has discharged this mission regularly by convening generally on a quarterly basis to discuss various specific industry situations and by providing advice and recommendations to the Secretary on matters relating to the development of policies on major tourism issues.

The Travel Advisory Board will continue with a balanced representation of 15 members who provide industry-wide and consumer expertise. The Secretary of Commerce will appoint an official of the Department to serve as Chairperson of the Board and the Chairperson will operate in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the committee's revised charter will be filed with appropriate committees of the Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Ms. Sue Barbour, Office of the Assistant Secretary of Commerce for Tourism, Room 1856, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-4752.

Dated: March 15, 1979.

GUY W. CHAMBERLIN,
Assistant Secretary for Administration.

[FR Doc. 79-8928 Filed 3-22-79; 8:45 am]

[6820-33-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1979 a service to be provided by and commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: March 23, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On November 13, 1978 and January 12, 1979, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (43 FR 52510 and 44 FR 2673) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the service and the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following service and commodities are hereby added to Procurement List 1979:

SIC 7399

Microfilm Reproduction, Naval Submarine Base Bangor, Silverdale, Washington.

CLASS 8430

Footwear Cover, Radioactive Contaminants Protective, 8430-00-580-1205, 8430-00-580-1206, 8430-00-591-1359.

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-8893 Filed 3-22-79; 8:45 am]

[6820-33-M]

PROCUREMENT LIST 1979

Correction of Proposed Addition

The document published in the FEDERAL REGISTER on March 16, 1979 (44 FR 16030) proposing the addition to Procurement List 1979 is amended to correct the following:

CLASS 8970

Food Packet, Survival, Aircraft, Life Raft, Individual, 8970-01-028-9406.

Comments on the proposed addition to the Procurement List of the above food packet must be received on or before April 25, 1979.

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-8895 Filed 3-22-79; 8:45 am]

[6820-33-M]

PROCUREMENT LIST 1979

Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Deletion from Procurement List.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1979 commodities produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 25, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following commodities from Procurement List

1979, November 15, 1978 (43 FR 53151):

CLASS 7520

Pencil, Mechanical (China Marking) 7520-00-223-6674, 7520-00-268-9912, 7520-00-577-4570.

C. W. FLETCHER,
Executive Director.

[FR Doc. 79-8896 Filed 3-22-79; 8:45 am]

[6351-01-M]

COMMODITY FUTURES TRADING COMMISSION

CHICAGO MERCANTILE EXCHANGE

Proposed Futures Contract; Availability

Correction

In FR Doc. 79-7266, appearing at page 13557, in the issue for Monday, March 12, 1979, the words Frozen Broiler Chickens futures contract should be corrected to read Fresh Broiler Chickens futures contract.

GARY L. SEEVERS,
Acting Chairman.

MARCH 19, 1979.

[FR Doc. 79-8791 Filed 3-22-79; 8:45 am]

[3910-01-M]

DEPARTMENT OF DEFENSE

Department of the Air Force

FLIGHT OPERATIONS IN THE SELLS AIRSPACE OVERLYING THE PAPAGO INDIAN RESERVATION, PIMA COUNTY, ARIZ.

Environmental Impact Statement, Review Period Extension

MARCH 13, 1979.

The public review period for the Environmental Impact Statement on flight operations in the Sells Airspace, Pima County, Arizona (FEDERAL REGISTER February 20, 1979) has been extended from April 2 to April 16, 1979.

Comments should be forwarded to Carlos Stern, Ph.D., Deputy for Environment and Safety, Office of the Assistant Secretary of the Air Force (SAF/MIQ), Washington, D.C. 20330, (202) 697-0800.

CAROL M. ROSE,
Air Force Federal Register, Liaison Officer.

[FR Doc. 79-8378 Filed 3-22-79; 8:45 am]

[3710-08-M]

Department of the Army

PRIVACY ACT OF 1974

Deletions and Amendments to Systems of Records

AGENCY: Department of the Army.

ACTION: Notice of deletions and amendments to systems of records.

SUMMARY: The Army proposes to delete 3 and amend 15 systems of records subject to the Privacy Act. Specific changes to the systems being amended are set forth below followed by the systems published in their entirety as amended.

DATES: The systems shall be amended as proposed without further notice on April 23, 1979, unless comments are received on or before April 23, 1979 which would result in a contrary determination and require republication for further comments.

ADDRESS: Any comments, including written data, views or arguments concerning the amendments should be addressed to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Cyrus H. Fraker, The Adjutant General Center (DAAG-AMR-R), Department of the Army, 1000 Independence Avenue, SW, Washington, DC 20314; telephone 202/693-0973.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices, as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50396) September 28, 1977
FR Doc. 78-23952 (43 FR 38070) August 25, 1978
FR Doc. 78-25562 (43 FR 40272) September 11, 1978
FR Doc. 78-26732 (43 FR 42026) September 19, 1978
FR Doc. 78-25819 (43 FR 42374) September 20, 1978
FR Doc. 78-26699 (43 FR 43059) September 22, 1978
FR Doc. 78-26996 (43 FR 43539) September 26, 1978
FR Doc. 78-29130 (43 FR 47604) October 16, 1978
FR Doc. 78-29211 (43 FR 48894) October 19, 1978
FR Doc. 78-29982 (43 FR 49557) October 24, 1978
FR Doc. 78-31795 (43 FR 52512) November 13, 1978
FR Doc. 78-34539 (43 FR 58111) December 12, 1978
FR Doc. 78-35523 (43 FR 59869) December 22, 1979
FR Doc. 79-5788 (44 FR 11105) February 27, 1979
FR Doc. 79-6621 (44 FR 12231) March 6, 1979

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

H. E. LOFDAHL,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MARCH 16, 1979.

DELETIONS

A0225.11hAMC

System name: 225.11 ADP Master and Operating Files (42 FR 50443) September 28, 1977.

Reason: Records are not retrieved by a personal identifier.

A0225.11jDASG

System name: 225.11 AMEDD Officer Variable Incentive Pay (42 FR 50444) September 28, 1977.

Reason: Records are now covered by A0708.08aDAPC (42 FR 50533) September 28, 1977, and A0714.06cDASG (43 FR 43539) September 28, 1978, as amended below.

A0225.11mTRADOC

System name: 225.11ADP Master and Operating Files (42 FR 50445) September 28, 1977.

Reason: Records are covered by A0309.05aDAAG (42 FR 50456) September 28, 1977.

AMENDMENTS

A0102.02aAMC

System name: 102.02 Office Personnel Register Files (42 FR 50429) September 28, 1977.

Changes:

ID changed: Delete "A0102.02aAMC" and substitute: "A0102.02aDARCOM".

System location: Delete entry and substitute: "Visitor registration forms are maintained at the US Army Materiel Development and Readiness Command (DARCOM)."

Categories of individuals covered by the system: After the words "transactions involving", delete "the Army Materiel Command." and substitute: "DARCOM."

System manager(s) and address: Delete "US Army Materiel Command" and substitute: "US Army Materiel Development and Readiness Command".

A0225.09bAMC

System name: 225.09 Visual Information System (VIS) Utilization (42 FR 50440) September 28, 1977.

Changes:

ID changed: Delete "A0225.09bAMC" and substitute: "A0225.09bDARCOM".

System location: Delete entry and substitute: "Directorate/Management Information systems (DESMIS), US Army Depot System Command, Chambersburg, PA 17201."

Routine use of records maintained in the system, including categories of users and the purposes of such uses: Delete first entry and substitute: "Chief, Systems Design, Programming and Integration Division, DESMIS—To determine the degree of utilization of the system."

In second entry, after "Branch project officer," delete "MISD" and substitute: "DESMIS".

System manager(s) and address: Delete entry and substitute: "Director/Management Information Systems, US Army Depot System Command."

Notification procedure: Delete entry and substitute: "Information may be obtained from: Directorate/Management Information Systems, Building 10, Litterkenny Army Depot, Chambersburg PA 17201, Telephone: Area Code 717/263-7004".

A0225.11dDAPC

System name: 225.11 Officer Master File (OMF) (42 FR 50441) September 28, 1977.

Changes:

Categories of records in the system: After "mailing address.", add the sentence: "Also, summary of manner of performance code for the quality distribution of MILPERCEN managed officers only."

A0225.11gDAPC

System name: 225.11 Recruit Quota System (REQUEST) (42 FR 50443) September 28, 1977.

Changes:

Categories of individuals covered by the system: Delete entry and substitute: "Non-prior and prior service personnel who have or indicated a desire to enlist in the US Army, USARNG or USAR."

Categories of records in the system: Delete entry and substitute: "Name; social security number (SSN); sex; citizenship; date of birth; education level achieved and school subjects; driver's license; physical profile; color perception; Army standard scores from the Armed Services Vocational Aptitude Battery; Audio Perception score; Defense Language Aptitude Battery (DLAB) score; Motor Vehicle Battery Test score; type of enlistment; enlistment date, term, and option; military occupational specialty; enlistee's initial processing and training assignments, type, locations, and dates; unit of assignment identification; system identification of location that created an accession record; recruiter identification; and recruiting area credit code."

A0702.08aDASG

System name: 702.08 Army Medical Procurement Applicant Files (43 FR 42390) September 20, 1978.

Changes:

System location: After "Primary System:", delete "Forrestal Building, Washington, D.C. 20314." and substitute: "1900 Half Street, SW, Washington, DC 20324."

Categories of records in the system: Delete entry and substitute: "Interview sheets; counselor evaluations; resume; Cirriculum Vitae; autobiography; letters of recommendation; selection/nonselection letters; Special Orders; all correspondence to, from, and about applicant; Selection Board/committee results; Statement of Interests; Objectives and Motivation; Letter of Appointment; US Army Reserve Components Personnel and Administration Center Transcript; Service Agreement."

Storage: Delete the last sentence.

Retrievability: Delete entry and substitute: "File folders are filed alphabetically by last name of applicant."

Safeguards: Delete entry and substitute: "File folders are maintained in areas accessible only to authorized personnel."

Retention and disposal: Delete entry and substitute: "File folders are cut off at the end of the year in which action is completed, held 10 years, and destroyed, for selected individuals; for individuals not selected, records are cut off at the end of the year, held 1 year and destroyed."

Notification precedure: Delete "Room 7B054, Forrestal Building, Washington, D.C. 20314." and substitute: "1900 Half Street, SW, Washington, DC 20324."

A0708.02aDAPC

System name: 708.02 Official Military Personnel File (42 FR 59529) September 20, 1978.

Changes:

System location: After "Primary System:", change "Personnel Actions and Reports Directorate" to read: "Personnel Information Systems Directorate".

After "Decentralized Segments:", change "US Army Enlisted Records Center" to read: "US Army Enlisted Records and Evaluation Center".

Storage: Delete entry and substitute: "Microfiche in plastic carriers stored randomly in electro-mechanical storage/retrieval devices. Temporary files consist of paper records in file folder/jacket; selected data automated for management facility in a perishable manner on tapes, disks, cards or other computer media."

Retention and disposal: At beginning of line 1, insert the words "Microfiche and".

Notification procedure: Change "Personnel Actions and Records Directorate" to read: "Personnel Information Systems Directorate"; "US Army Enlisted Records Center" to read: "US Army Enlisted Records and Evaluation Center"; and words "subsequent to" to read: "after".

Delete the phrase "and General Officers (any component) in any status, active, inactive, or retired." and the parenthetical phrase "(except General Officers)".

Contesting record procedures: Change "DAPC-POO" to read: "DAPC-MSO".

A0708.08aDAPC

System name: 708.08 Career Management Individual Files (42 FR 50533) September 20, 1978.

Changes:

Categories of records in the system: Delete word "duplicate" and insert: "original".

Following the item "service agreements;", insert "variable incentive pay data;".

A0714.06cDASG

System name: 714.06 AMEDD Personnel Management System (43 FR 43539) September 26, 1978.

Changes:

Record source categories: Delete the first item; i.e., "(1) AMEDD Officer Variable Incentive Pay," and the parenthetical number preceding each of the remaining items.

A0725.01aDAAG

System name: 725.01 Child Care Centers-Registration Files (42 FR 50561) September 28, 1977.

Changes:

Storage: Delete entry and substitute: "Card files and paper files in folders/machine readable disks."

Retrievability: Delete entry and substitute: "Alphabetically by surname of parent/guardian/SSN."

Safeguards: Delete entry and substitute: "Records are maintained in the Child Care Center office and are accessible only to authorized personnel. Personal data is safeguarded to the same degree as material marked "FOR OFFICIAL USE ONLY"; positive identification and authorization to access data is established prior to releasing personal data to an individual. Output products and storage media of automated files are labeled "PERSONAL DATA-PRIVACY ACT OF 1974 (PL 93-579); paper products, such as listings, cards, paper tape, and carbons, are disposed of by tearing into pieces

to render unreadable, shredding, pulping, macerating, burning, or burial. For computerized segments, computer system(s)/remote terminal(s) are housed in designated controlled areas. The entire system is under lock and key when not in use.

System manager(s) and address: Change "Director" to read: "Directors".

A0912.01aDASG

System name: 912.01 Medical Staff Credentials File (42 FR 50583) September 28, 1977.

Changes:

Retention and disposal: Delete entry and substitute: "Records are destroyed 5 years after separation, retirement, or termination of employment. Records are retained in last medical treatment facility of appointment or employment until destroyed. (This retention period is subject to approval by the National Archives and Records Service.)"

A0917.01aDASG

System name: 917.01 Medical Treatment Record Files (42 FR 50588) September 28, 1977.

Changes:

Storage: After last word "printouts", delete the period and add: ", and magnetic tapes and disks."

Retention and disposal: After "American Red Cross Clinical and Outpatient Record Files:", delete: "Destroyed after 25 years."

A0920.04DASG

System name: 920.04 American Red Cross Consultation Service Case Files (42 FR 50593) September 28, 1977.

Changes:

Retention and disposal: Delete entry and substitute: "Records are retained in the inactive file for 1 year after the end of the year in which last medical treatment was given and subsequently retired to the Medical Officer, American National Red Cross, 18th and D Streets, NW, Washington, DC 20006."

A1002.05aDAPC

System name: 1002.05 Enlisted Training Base (ACT) (42 FR 50602) September 28, 1977.

Changes:

System location: Change "(USAMILPERCEN)" to read: "(MILPERCEN)".

Categories of individuals covered by the system: Delete entry and substitute: "Active Army enlisted personnel prior service, non-prior service, US Army National Guard, and Reserve initial active duty for training (IADT) who are undergoing basic training/advanced individual training (BT/AIT)."

System manager(s) and address: Change "Commanding General, USAMILPERCEN (DAPC-POO)" to read: "Commander, MILPERCEN (DAPC-MSO)".

Notification procedure: Change "USAMILPERCEN (DAPC-PSS)" to read: "MILPERCEN (DAPC-MSO)".

Record access procedures: In both instances, change "USAMILPERCEN (DAPC-POO)" to read: "MILPERCEN (DAPC-MSO)".

Contesting record procedures: Change "USAMILPERCEN (DAPC-POO)" to read: "MILPERCEN (DAPC-MOS)".

A1011.04aDAPE

System name: 1011.04 USMA Institutional Research Survey File (42 FR 50606) September 28, 1977.

Changes:

Categories of individuals covered by the system: Change "United States Military Academy" to read: "USMA".

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In first entry, change "United States Military Academy" to read: "USMA".

Retention and disposal: Delete entry and substitute: "Data collection instruments and punched cards are destroyed after 1 year by shredding or burning. Magnetic disk and magnetic tape records are permanent."

System manager(s) and address: Change "United States Military Academy" to read: "USMA".

A1013.01DAPC

System name: 1013.01 Civiliam School Files (42 FR 50620) September 28, 1977.

Changes:

System location: After "Primary System", change "United States (US) Army Military Personnel Center," to read: "United States Army Military Personnel Center (MILPERCEN),".

Authority for maintenance of the system: Delete entry and substitute: "Title 5 U.S.C., Section 301; Title 10 U.S.C., Section 4301."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Change "US Army Military Personnel Center" to read: "MILPERCEN".

System manager(s) and address: Change "US Army Military Personnel Center" to read: "MILPERCEN".

Notification procedure: Change "HQDA (DAPC-POO)" to read: "Headquarters, Department of the Army (HQDA) (DAPC-MSO)".

Contesting record procedures: Change "(DAPC-POO)" to read: "(DAPC-MSO)".

A0102.02aDARCOM

System name:

102.02 Office Personnel Register Files

System location:

Visitor registration forms are maintained at the US Army Materiel Development and Readiness Command (DARCOM).

Categories of individuals covered by the system:

Any visitor who represents a person, firm, corporation, academic institution, or other entity, which has engaged, is engaged, or is endeavoring to engage in business transactions involving DARCOM.

Categories of records in the system:

Records are composed of business registration forms that give an individual's name, company he represents and address, purpose of visit and the status of the individual as regards his affiliation with the Department of Defense.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The information obtained is used to determine the purpose of the visit and the visitor's status to prevent a conflict of interest.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are maintained in the Office of the General Counsel (GC), with access limited to the CG Division Chiefs, Branch Chiefs and the clerical personnel that type and file the form.

Retrievability:

The information is maintained as a paper record and is retrieved when needed by name.

Safeguards:

The records are maintained in safe file cabinets.

Retention and disposal:

The information is retained for a period of 1 year, at which time it is destroyed.

System manager(s) and address:

General Counsel, US Army Materiel Development and Readiness Command, 5001 Eisenhower Avenue, Alexandria, VA 22333.

Notification procedure:

Information may be obtained from the System Manager.

Record access procedures:

Information may be obtained from the System Manager.

Contesting record procedures:

The agency's rules for access to records, for contesting contents and appealing initial determinations may be obtained from the System Manager.

Record source categories:

Information on the Visitor Registration Form is obtained from the individual concerned.

Systems exempted from certain provisions of the act:

None.

A0225.09bDARCOM

System name:

225.09 Visual Information System (VIS) Utilization

System location:

Directorate/Management Information systems (DESMIS), US Army Depot System Command, Chambersburg, PA 17201.

Categories of individuals covered by the system:

Those individuals authorized to use VIS.

Categories of records in the system:

The file contains the user's identification number (ID), total inquiries made of the VIS during a six-month period; number of errors made in inquiries, percentage of error and number of printout requests.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine use of records maintained in the system, including categories of users and the purposes of such uses:

Chief, Systems Design, Programming and Integration Division, DESMIS—To determine the degree of utilization of the system.

Branch Project Officer, DESMIS—To determine the need for further training in use of the system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are on ADP cards, disk and tape. The disk and tape store the data as the user uses VIS.

Retrievability:

By user ID.

Safeguards:

The records are accessible only to authorized personnel.

Retention and disposal:

A record is retained for 2 years.

System manager(s) and address:

Director/Management Information Systems, U.S. Army Depot System Command.

Notification procedure:

Information may be obtained from: Directorate/Management Information Systems, Building 10, Letterkenny Army Depot, Chambersburg, PA 17201, Telephone: Area Code 717/263-7004.

Record access procedures:

Each individual is given a copy of a form with the assigned number on it. Questions may be addressed directly to the SYSMANAGER.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

Record source categories:

A binder in which are listed user numbers, in sequence; forms filled out by individuals requesting user IDs; usage data recorded on disk.

Systems exempted from certain provisions of the act:

None.

A0225.11dDAPC

System name:

225.11 Officer Master File (OMF)

System location:

United States Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

Categories of individuals covered by the system:

Army officer and warrant officer personnel projected to enter on active duty, on active duty, or separated within the past 5 or 10 years (see Retention) or in a retired status.

Categories of records in the system:

The categories of information stored include name, social security number (SSN), grade and date of rank, appointment and service agreement, service data and date, promotion, assignment, qualification, specialty, efficiency, education and training, occupation, language, career pattern, awards and badges, physical, location, separation, retirement, date and place of birth, race, religion, ethnic group, dependents, sex, citizenship, marital status and mailing address. Also, summary of manner of performance code for the quality distribution of MILPERCEN managed officers only.

Authority for maintenance of the system:

Title 5 U.S.C. Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Army—Records are used for personnel management, strength accounting and manpower management.

Department of Defense—Records are used for interdepartmental actions and personnel management.

Social Security Administration—Used to verify SSNs.

General Services Administration—Used to publish US Army Registers as authorized by Title 10 U.S.C., Section 122.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on computer magnetic tapes and disks.

Retrievability:

Normal access is by SSN, name, or other individual identifying characteristics.

Safeguards:

Physical security devices, guards, computer hardware and software safeguard features, and personnel clearances.

Retention and disposal:

Records are retained on the active file for 4 months after separation and accumulated on a separated file in 5 year groups that are retained for 5 years, or for retired personnel for 1 year after death.

System manager(s) and address:

Commanding General, MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Notification procedure:

Information may be obtained from: MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332, Telephone: Area Code 202/325-9310.

Record access procedures:

Requests from individuals should be addressed to: MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Written requests for information should contain the full name of the individual, SSN, whether active, retired or separated and if separated date of separation.

Visits are limited to: MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332. For personal visits, the individual should be able to provide some acceptable identification, and give some verbal information that could be verified with his record.

Contesting record procedures:

The department's rules for contesting contents and appealing initial determinations may be obtained from MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Record source categories:

Information is obtained in document and computer readable form from other Department of the Army staff and commands and other federal agencies and departments.

Systems exempted from certain provisions of the act:

None.

A0225.11gDAPC

System name:

225.11 Recruit Quota System (REQUEST)

System location:

United States Army Military Personnel Center (MILPERCEN). The official mailing address is in the Department of Defense Directory in the Appendix.

Categories of individuals covered by the system:

Non-prior and prior service personnel who have or indicated a desire to enlist in the US Army, USARNG or USAR.

Categories of records in the system:

Name, social security number (SSN); sex; citizenship; date of birth; education level achieved and school subjects; driver's license; physical profile; color perception; Army standard score from the Armed Services Vocational Aptitude Battery; Audio Perception score; Defense Language Aptitude Battery (DLAB) score; Motor Vehicle Battery Test score; type of enlistment; enlistment date, term and option; military occupational specialty; enlistee's initial processing and training assignments, type, locations, and dates; unit of assignment identification; system identification of location that created an accession record; recruiter identification; and recruiting area credit code.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301; Title 10 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Army—Records are used for personnel management, manpower, training and accession management.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on disk and magnetic tape.

Retrievability:

Normal access is by SSN.

Safeguards:

Data security; entry protection, password; autologged, user identification.

Retention and disposal:

History records are retained for 2 years.

System manager(s) and address:

Commander, MILPERCEN, 200 Stovall Street, Alexandria, VA 22332.

Notification procedure:

Information may be obtained from MILPERCEN, Enlistment Personnel Directorate, 2461 Eisenhower Avenue, Alexandria, VA 22331.

Record access procedures:

Written requests for information should contain the full name, SSN, and current address. Requests should be made to Commander, MILPERCEN, Enlisted Personnel Directorate (DAPC-EP), 2461 Eisenhower Avenue, Alexandria, VA 22331.

For personal visits, the requester should provide acceptable identification, i.e., military identification card or other identification normally acceptable in the transaction of business.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

Record source categories:

Data is obtained through interface with data terminals from Armed Forces Examining and Entrance Stations (AFEES).

Systems exempted from certain provisions of the act:

None.

A0702.08aDASG

System name:

702.08 Army Medical Procurement Applicant Files.

System location:

Primary System—Procurement Division, Army Medical Department (AMEDD) Personnel Support Agency, Headquarters, Department of the Army (HQDA) (SGPE-PD), 1900 Half Street, SW, Washington, DC 20324.

Decentralized Segments—AMEDD Procurement Counselor Field Offices in the following locations: Cutler Army Hospital, Ft Devens, MA 01433; US Post Office Building, 135 High Street, Hartford, CT 06103; Room 1271, Federal Building, 100 South Clinton Street, Syracuse, NY 13202; 160 North Franklin Street, Hempstead, NY 11550; Building 5515, Rooms 309 and 316, Ft Dix, NY 08640; Federal Office Building, 1000 Liberty Avenue, Pittsburgh, PA 15222; Forest Glen Section, Walter Reed Army Medical Center, Washington, DC 20012; Federal Office Building, 400 North 8th Street, Richmond, VA 23240; 3555 Maguire Boulevard, Bennington Building, Suite 250, Orlando, FL 32803; Federal Building, 310 New Bern Avenue, Suite 310, Post Office Box 27524, Raleigh, NC 27611; 200 East Liberty Street, Ann Arbor, MI 48107; Building 67, Columbus Support Facility, 530 Buckingham Street, Columbus, OH 43215; HQ US Army Forces Command, Ft McPherson, GA 30330; Building 142, Room 345, Ft Sheridan, IL 60037; 144 Elk Place, Suite 1504, New Orleans, LA 70112; Federal Office Building, 515 Rusk Avenue, Room 5122, Houston, TX 77002; Brooke Army Medical Center, ATTN: AFZG-MDZ-PP, Ft Sam Houston, TX 78234; Federal Office Building, 1100 Commerce Street, Dallas, TX 75202; US Army Recruiting Main Station, 12th & Spruce Streets, St. Louis, MO 63102; US Army Medical Department Activity, Building 268 (Dodge Hall), Ft Leavenworth, KS 66027; American Red Cross Building, Box 327, Fitzsimons Army Medical Center, Denver, CO 80240; Building 5, Ft Douglas, UT 84110; Building 138, Room 116, Naval Support Activity (Sand Point), Seattle, WA 98115; Building 654, Presidio of San Francisco, CA 94129; 1600 N. Broadway, Suite 210, Santa Ana, CA 92706; US Army Medical Command, Europe, APO New York 09102; Tripler Army Medical Center, ATTN: HSCT-PD-P, Hawaii 96859.

Categories of individuals covered by the system:

Potential applicants and applicants for the AMEDD procurement programs, to include applicants for ap-

pointment in the Regular Army and US Army Reserve.

Categories of records in the system:

Interview sheets; counselor evaluations; resume; Curriculum Vitae; autobiography; letters of recommendation; selection/nonselection letters; Special Orders; all correspondence to, from, and about applicant; Selection Board/Committee results; Statement of Interests; Objectives and Motivation; Letter of Appointment; US Army Reserve Components Personnel and Administration Center Transcript; Service Agreement.

Authority for maintenance of the system:

Title 10 U.S.C., Sections 3012 and 4301, and Executive Order 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Procurement Division—To evaluate an applicant's acceptability and potential for appointment in a component of the AMEDD; to evaluate qualifications for assignment to various career areas; to determine educational and experience background for award of constructive service credit; to determine dates of service and seniority; to document service agreement with the US Army; to provide statistical information for effective management of the AMEDD Personnel Procurement Program.

AMEDD Procurement Counselor Field Offices—To assist applicants in completion of their applications; to counsel applicants in their potential for selection for procurement programs and/or for appointment in the AMEDD.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records are maintained in file folders.

Retrievability:

File folders are filed alphabetically by last name of applicant.

Safeguards:

File folders are maintained in areas accessible only to authorized personnel.

Retention and disposal:

File folders are cut off at the end of the year in which action is completed, held 10 years, and destroyed, for selected individuals; for individuals not selected, records are cut off at the end of the year, held 1 year and destroyed.

System manager(s) and address:

The Surgeon General, HQDA, The Pentagon, Washington, DC 20310.

Notification procedure:

Information may be obtained from: Commander, AMEDD Personnel Support Agency, Officer Procurement Division, 1900 Half Street, SW, Washington, DC 20324, Telephone: Area Code 202/693-5120.

Record access procedures:

Requests should be addressed to: HHQDA (SGPE-PD), 1900 Half Street, SW, Washington, DC 20324.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from Commander, AMEDD Personnel Support Agency.

Record source procedures:

Transcripts from post secondary schools; employer evaluations; faculty evaluations; AMEDD counselor evaluations; interviews; military supervisor evaluations; medical information from medical examination facilities; American Testing Program; Educational Testing Service; Selection Board/committees; prior military service records; Department of Defense (DD) form 214 (Report of Separation from Active Duty); application and related forms from individual.

Systems exempted from certain provisions of the act:

Parts of this system may be exempt under 5 USC 552a, Section (j) or (k), as applicable. For additional information, contact the SYSMANAGER.

A0708.02aDAPC

System name:

708.02 Official Military Personnel File.

System location:

Primary System—Personnel Information Systems Directorate, United States Army Military Personnel Center, (MILPERCEN).

Decentralized Segments—United States Army Enlisted Records and Evaluation Center—United States Army Reserve Components Personnel and Administration Center (RCPAC); and National Personnel Records Center (NPRC), General Services Administration (GSA).

Categories of individuals covered by the system:

Each individual on active duty in the United States Army (USA) in enlisted, appointed or commissioned status; or in a USA or Army of the United States (AUS) retired status; each individual not on active duty who has a reserve status in an enlisted, appointed or commissioned status, or in a retired reserve status; and each individual who was an enlisted, appointed or commissioned member of the USA and who was completely separated by discharge, death, or other termination of his/her military status.

Categories of records in the system:

File contains individual records including enlistment contract; Veterans Administration (VA) laws; physical evaluation board proceedings; military occupational specialty data report; statement of service; qualification record; group life insurance election; emergency data form; application for appointment; qualification/evaluation report; oath of office; medical examination; security questionnaire; application for retired pay; application for correction of military records; application for active duty; transfer or discharge report; active duty report; voluntary reduction; line of duty and misconduct determinations; discharge or separation reviews; police record checks; consent/declaration of parent/guardian; Army Reserve Officers Training Corps (ROTC) supplemental agreement; award recommendations; academic reports; casualty reports; US field medical card; retirement points; deferment; preinduction processing and commissioning data; transcripts of military records; summary sheets review of conscientious objector; election of options; oath of enlistment extensions; survivor benefit plans; efficiency reports; records of proceeding Title 10 U.S.C., Section 815 appellate actions; determination of moral eligibility; waiver of disqualifications; temporary disability record; change of name; statements for enlistment; acknowledgements of service requirements; retired benefits; applications for review of physical evaluation board and disability board; appointments; designations; evaluations; extensions; birth certificates; photographs; citizenship statements and status; educational constructive credit; educational transcripts; flight status board reviews; assignment agreements/limitations/waivers/election/ and travel; efficiency appeals; promotion/reduction recommendations/approvals/declinations/announcements/ notifications/reconsiderations/ worksheets/elections/ letters of notifications to deferred officers/and promotion passover notifications; absence without leave and desertion records; Federal Bureau of Investigation (FBI) reports; Social Security Administration (SSA) correspondence; miscellaneous correspondence, documents, and military orders relating to military service including information pertain-

ing to dependents, interservice action, inservice details, determination, reliefs, component; awards, pay entitlements, releases, transfers and other military service data.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of the Army (DA)—To maintain, use, collect, and disseminate information with respect to an individual holding a military status or former military status, including regular, reserve, retired, former member separated, or deceased. Information pertains to individual's former, current, and subsequent to active duty status relating to birth; citizenship; parentage; home of record; education; training; dependents; travel; language proficiency; former and current association, brotherhood, memberships and related affiliations with organizations and like collective elements which service member divulges as having meaning, substance or significance to his/her military service status; assignment history; and other related military experiences, qualification, training, preferences, restriction, and status actions.

Department of State—To issue passport/visa; to document persona-non-grata status/attache assignments/and related administration of personnel assigned and performing duty with the State Department.

Department of Treasury—To issue bonds; to collect and record incoming taxes.

Department of Defense (DOD)—To authorize and consummate interdepartmental actions relating to interservice requirements pertaining to the Army, Navy, Air Force, and Coast Guard when the Coast Guard is operational under DOD.

Department of Justice—To file fingerprint cards; to perform intelligence function.

Department of Agriculture—To coordinate interdepartmental functions related to education conducted by the Department of Agriculture's advanced education element.

Department of Labor—To accomplish actions required under Federal Employees Compensation Act.

Department of Health, Education and Welfare—To provide services authorized by medical, health and related functions authorized by Title 10 U.S.C., Sections 1074-1079.

Atomic Energy Commission—To accomplish requirements incident to Nuclear Accident/Incident Control Officer functions.

American Red Cross—To accomplish coordination and complete service functions including blood donor program and emergency investigative support and notifications.

Civil Aeronautics Board—Flight qualifications, certification and license actions relating to inservice pilots.

Federal Aviation Agency—To accomplish aviation and air service actions involving inservice aviators.

GSA—For records storage and archival services and for printing of directories and related material which includes personal data.

U.S. Postal Service—To accomplish postal service authorizations involving postal officers and mail clerk authorizations.

VA—To provide information relating to benefits, pensions, inservice loans, insurance, and appropriate hospital support.

Bureau of Immigration and Naturalization—To comply with statutes relating to inservice alien registration, and annual residence/location.

Office of the President of the United States of America—To exchange required information relating to White House Fellows, Regular Army promotions, aides, and related support functions staffed by Army members.

Federal Maritime Commission—To obtain licenses for military members accredited as captain, mate, and harbor master for duty as Transportation Corps warrant officer.

Each of the several states and US possessions—To support state bonus applications; to fulfill income tax requirements appropriate to the service member's home of record; to record name changes in state bureaus of vital statistics; and for National Guard affairs.

Civilian educational and training institutions—To accomplish student registration, tuition support, Graduate Record Examination (GRE) tests requirement, and related school requirements incident to inservice education programs in compliance with Title 10 U.S.C., Chapters 102 and 103.

SSA—To obtain or verify social security number (SSN); to transmit Federal Insurance Compensation Act deductions made from inservice member's wages.

Department of Transportation—To coordinate and exchange necessary information pertaining to interservice relationships between United States Coast Guard (USCG) and USA when service members perform duty with the USCG elements or training activities.

Civil authorities—For compliance with Title 10 U.S.C., Section 814.

Department of the Air Force—To administer personnel support for individual Army members assigned for duty with the Air Force.

Department of the Navy—To administer personnel support for individual Army members assigned for duty with the Navy or Marine Corps.

Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in Title 21 U.S.C., Section 1175. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

Storage

Microfiche in plastic carriers stored randomly in electro-mechanical storage/retrieval devices. Temporary files consist of paper records in file folder/jacket; selected data automated for management facility in a perishable manner on tapes, disks, cards and other computer media.

Retrievability

File alphabetically by last name; automated data retrievable by name, SSN, or automatic data processing (ADP) parameter; reserve component, retired, and deceased persons' records accessed by SSN terminal digit sequence.

Safeguards

Records maintained in areas accessible only to authorized personnel; automated media protected by authorized password system for access terminals, controlled access to operation rooms, and controlled output distribution.

Retention and disposal

Microfiche and paper records are permanent. They are retained in active file until termination of service, held in inactive file in accordance with retention and retirement schedule and subsequently retired to NPRC.

System manager(s) and address

Commander, MILPERCEN, 200 Stovall Street, Alexandria, VA 22332.

Notification procedure

Information may be obtained from: MILPERCEN.

Personnel Information Systems Directorate, Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332, Telephone: Area Code 202/325-9606.

Above address should be used for inquiries on records of commissioned officers or warrant officers (including members of Reserve Components) serving on active duty.

US Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249, Telephone: Area Code 317/542-3361.

Above address should be used for inquiries on records of enlisted members (including members of Reserve Components) serving on active duty.

RCPAC, 9700 Page Boulevard, St. Louis, MO 63132, Telephone: Area Code 314/268-7770.

Above address should be used for inquiries on records of commissioned officers or warrant officers in a reserve status not on active duty; or Army enlisted reservists not on active duty; or members of the National Guard who performed active duty; or commissioned officers, warrant officers, or enlisted members in a retired status.

NPRC, GSA, 9700 Page Boulevard, St. Louis, MO 63132, Telephone: Area Code 314/268-7262.

Above address should be used for inquiries on records of commissioned officers or warrant officers who were completely separated from the service after 1 July 1917 or enlisted members who were completely separated after 1 November 1912.

Record access procedures

Written requests for information should contain full name of individual, service identification number, current or former military status, and appropriate return address.

Personal visits may be made to the appropriate location based on the individual's status; individual should be able to provide commonly acceptable identification, such as driver's license, employment identification card, and give some verbal information relative to his/her current or former military status.

Contesting record procedures

The Army's rules for contesting contents and appealing initial determinations may be obtained at Headquarters, Department of the Army (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Record source categories

Enlistment, appointment, or commission related forms pertaining to the individual having a current or former military status; academic, training or qualification records acquired prior to or during military service; correspondence, forms, records, documents and other related papers originated in or collected by DA Staff agencies and commands; other federal departmental agencies, administration, federal separate agencies, commissions, boards, service, or authority; state and local governmental entities; civilian education and training institutions; and members of the public when such information obtained directly concerns the military service member.

Systems exempted from certain provisions of the act

None.

A0708.08aDAPC

System name

708.08 Career Management Individual Files.

System location

Primary System—United States Army Military Personnel Center (MILPERCEN).

Decentralized Segments—The Surgeon General's Office (TSGO), The Judge Advocate General's Office (TJAGO), Office of Chief of Chaplains, and Army Security Agency (ASA).

Categories of individuals covered by the system

Active duty members of the US Army in enlisted grades of E1 through E9, all warrant officers and commissioned officers.

Categories of records in the system

File contains orders; record briefs; statements of preference; school credit papers; transcripts; details; career personnel actions; memorandum for record of telephone calls; personal correspondence originated by individual concerned; original copy of efficiency report; appeal actions; assignment memoranda and requests for orders; memoranda of professional development actions; promotion orders; classification data; papers relating to service awards; letters and other forms of written communications relating to military career matters; service agreements; variable incentive pay data; memoranda of interviews; copies of applications for assignment consideration; resumes of qualifications, personal background, and service experience supporting service member's desires, or nominative action by career managers; academic reports; copies of admonitions/reprimands imposed under Article 15 Uniform Code of Military Justice (Title 10 U.S.C., Section 815); letters of appreciation/commendation/recommedation; and correspondence among (1) MILPERCEN, (2) individual service member, (3) Army Staff offices and Army organizations, (4) other Federal, state, and local government elements, and (5) accredited educational and training organizations.

Authority for maintenance of the system

Title 5 U.S.C., Section 301; Title 10 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

MILPERCEN, TSGO, TJAGO, Office of Chief of Chaplains, ASA—To accomplish military service career management including assignment, professional development, service training and education, and other related military actions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

Storage

Paper records in file folders; card files.

Retrievability

Record accessed by name.

Safeguards

Records maintained in areas accessible only to authorized career management activity personnel.

Retention and disposal:

Records range from transitory to permanent depending on the continuing value to the service member or the Army. Records determined to be permanent are merged with the Official Military Personnel File (when not duplicated) upon separation of the service member from active duty by reason of discharge, transfer, retirement, or death.

System manager(s) and address:

Commander, MILPERCEN, 200 Stovall Street, Alexandria, VA 22332.

Notification procedure:

Information in regard to other than professional officers may be obtained from: Headquarters, Department of the Army (HQDA) (DAPC-MSO), Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332.

Information in regard to medical department officers: TSGO, 1900 Half Street, SW, Room 6126, Washington, DC 20324.

Information in regard to chaplains: Office of the Chief of Chaplains, The Pentagon, Room 1E417, Washington, DC 20310.

Information in regard to The Judge Advocate General Corps officers: TJAGO, The Pentagon, Room 1E444, Washington, DC 20310.

Information in regard to ASA enlisted personnel: Headquarters, US Army Security Agency, ATTN: IAPER-EB, Arlington Hall Station, Arlington, VA 22212.

Record access procedures:

Requests from individuals should be addressed to: HQDA (DAPC-MSO), Hoffman Building II, 200 Stovall Street, Alexandria, VA 22332.

Written requests for information should contain the full name of the requester, service identification number, current or former military status, and appropriate return address.

Personal visits may be made to MILPERCEN; individual should be able to provide his/her military service identification card; Department of Defense Form 2A for active duty persons; or other commonly acceptable means of identification used in normal transaction of business.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations may be obtained from HQDA (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Record source categories:

Enlistment, appointment, or commission related forms pertaining to the service member having a current active duty status; academic, training, and qualification records acquired incident to military service; correspondence, forms, documents and other related papers originating in or collected by the military department for management purposes.

Systems exempted from certain provisions of the act:

None.

A0714.06cDASG

System name:

714.06 AMEDD Personnel Management System

System location:

United States Army Medical Personnel Support Agency (USAMEDDPERSA), 1900 Half Street, SW, Washington, DC 20324.

Categories of individuals covered by the system:

Individuals either applying for commissions in, on active duty as an officer in, or recently released from active duty in one of the six Army Medical Department Corps.

Categories of records in the system:

The categories of information stored include name, social security number (SSN), sex, race, date and place of birth, home of record, dependent data, physical profile data, religious preference, ethnic group, citizenship, marital status, personal mailing address, professional qualification data, assignment data, promotion data, education and training data, awards and badges, and incentive pay data.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301; Title 10 U.S.C.; Title 37 U.S.C.; and Executive Order 9397.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of the Army—Used for strength accounting; manpower and budgetary management; recruitment; military service career management of officers to include assignments, promotions, professional development and training, and in the administration of Variable Incentive Pay Program.

Department of Defense—Used for interdepartmental management regarding medical assets, and development of policies and statistical accounting.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Records are stored on computer magnetic tape and disk.

Retrievability:

Normal access is by name, the first data element in the file, with SSN or other individual or group discriminators for positive identification. Computerized indices are utilized in record retrievals.

Safeguards:

Physical security devices, limited access via building guard and personnel clearances will limit computer access to only authorized personnel. Each on-line terminal access or update to the system will be protected through a system of passwords that will restrict each user to specific data elements. Password changes will be made incrementally at the rate of 20 percent per month. System reconstruction procedures provide for two copies of files, programs, and procedures in-house and one copy at an on-site location both updated and maintained in an operational condition.

Retention and disposal:

Records are retained on an active file for 3 months after separation, and accumulated on an inactive file for 5 years after separation.

System manager(s) and address:

Commander, United States Army Medical Department Personnel Support Agency, 1900 Half Street, SE, Washington, DC 20324.

Notification procedure:

Information may be obtained from: Commander, USAMEDDPERSA, 1900 Half Street, SW, Washington, DC 20324.

Recored access procedures:

Requests from individuals should be addressed to: Commander, USAMEDDPERSA, 1900 Half Street SW, Washington, DC 20324.

Written requests for information should contain the full name of the individual, SSN, current or former military status, and appropriate return address.

Visits may be made to USAMEDDPERSA. Individual should be able to provide some acceptable identification, and give some verbal information that could be verified with his/her record.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in 32 CFR Part 505 (Army Regulation 340-21).

Record source categories:

Data contained in this system of records are obtained in document and computer readable form from the following systems of records: Army Medical Procurement Applicant Files; Officer Master File; Career Management Individual Files; AMEDD Training Application Status Record; Long Term Civilian Training Student Contract Files; Residency, Subspecialty and Fellowship Training; and US Army Graduate Medical Education Trainee Card File.

Systems exempt from certain provisions of the act:

None.

A0725.01aDAAG

System name:

725.01 Child Care Center—Registration Files

System location:

Child Care Centers, Armywide. Official mailing addresses are in the Appendix.

Categories of individuals covered by the system:

Any of the following who use Child Care Center services: active duty and retired military personnel and their dependents; members of the military Reserve components on active duty for training and their dependents; Department of the Army (DA) civilians overseas and their dependents overseas and in the Continental United States (CONUS) where local civilian resources are not available; and other personnel designated by the commander.

Categories of records in the system:

Documents include, but are not limited to, parent's/guardian's name, grade or rank, social security number (SSN), home address and telephone number; duty address and telephone number; signature of parent/guardian for emergency notification; child's name, birthdate, medical information including allergies, immunization dates; remarks and observations by Child Care Center employees, parents/guardians, or physicians; and financial records.

Authority for maintenance of the system:

Title 10 U.S.C., Section 3012.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Child Care Centers—To obtain information necessary to identify each child; to provide assistance or service required; to coordinate and facilitate other agency services; to facilitate referrals and complete follow-up actions to Army and civilian health and welfare departments or agencies as required; to maintain a record of services provided for analysis and evaluation of Child Care Center Programs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Card files and paper files in folders/machine readable computer disks.

Retrievability:

Alphabetically by surname of parent/guardian/SSN.

Safeguards:

Records are maintained in the Child Care Center offices and are accessible only to authorized personnel. Personal data is safeguarded to the same degree as material marked "FOR OFFICIAL USE ONLY"; positive identification and authorization to access data is established prior to releasing personal data to an individual. Output products and storage media of automated files are labeled "PERSONAL DATA—PRIVACY ACT OF 1974 (PL 93-579)"; paper products, such as listings, cards, paper tape, and carbons, are disposed of by tearing into pieces to render unreadable, shredding, pulping, macerating, burning, or burial. For computerized segments, computer system(s)/remote terminal(s) are housed in designated controlled areas. The entire system is under lock and key when not in use.

Retention and disposal:

Destroyed after 2 years, or on discontinuance, whichever comes first; may be transferred from one Child Care Center to another upon transfer of child.

System manager(s) and address:

The Adjutant General, Department of the Army, Washington, DC 20310; Installation Commanders; Directors of the Child Care Centers.

Notification procedure:

Information may be obtained from Director of Army Installation Child Care Center. Requesting indvidual must present name, rank, SSN, and proof of identification.

Record access procedures:

Requests for assistance should be addressed to the installation commander.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340-21.

Record source categories:

Director of Child Care Center and individual receiving service.

Systems exempted from certain provisions of the act:

None.

A0912.01aDASG

System name:

912.01 Medical Staff Credentials File.

System location:

Medical treatment facilities at Army commands, installations and activities. Official mailing addresses are in the Department of Defense Directory in the Appendix.

Categories of individuals covered by the system:

Individuals performing clinical practice in medical treatment facilities.

Categories of records in the system:

Documents reflecting delineation of clinical privileges and clinical performance.

Authority for maintenance of the system:

Title 5 U.S.C., Section 301; Title 44 U.S.C., Section 3101; and Title 10 U.S.C., Section 1071.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Determine and assess capability of practitioner's clinical practice.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed by last name.

Safeguards:

Records are maintained in areas accessible only to the medical treatment facility commander and credentials committee members.

Retention and disposal:

Records are destroyed 5 years after separation, retirement, or termination of employment. Records are retained in last medical treatment facility of appointment or employment until destroyed. (This retention period is subject to approval by the National Archives and Records Service.)

System manager(s) and address:

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

Notification procedure:

Information may be requested from commander at medical treatment facility where practitioner is providing clinical service.

Record access procedures:

Requests from individuals should be addressed to commander at medical treatment facility where practitioner is providing clinical service.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from any medical treatment facility.

Record source categories:

Interviewer, application, medical audit results, other available administrative records obtained from civilian or military sources.

Systems exempted from certain provisions of the act:

None.

A0917.01aDASG

System name:

917.01 Medical Treatment Record Files.

System location:

Decentralized Segments-Medical centers, hosptials, health clinics, troop medical clinics, and National Personnel Records Center (NPRC).

Categories of individuals covered by the system:

Individuals treated on inpatient or outpatient basis by the Army Medical Department and/or individuals for whom primary medical care is rendered.

Categories of records in the system

Documents reflecting outpatient or inpatient treatment or observation of all individuals treated to include, but not limited to, Health Records, Outpatient Treatment Records, Foreign National Outpatient and Inpatient Records, American Red Cross Outpatient and Inpatient Records, Reserve Component Outpatient Records; Physical Medicine Treatment Records, and supporting documents to above.

Authority for maintenance of the system

Title 5 U.S.C., Section 301; Title 44 U.S.C., Section 3101; and Title 10 U.S.C., Section 1071.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

Information may be used to plan and coordinate health care. It may be used to provide medical treatment; conduct research; teach; compile statistical data; determine suitability of persons for service or assignments; implement preventive health and communicative disease control programs; adjudicate claims and determine benefits; evaluate care rendered; determine professional certification and hospital accreditation; conduct authorized investigations; provide physical qualifications of patients to other Federal, State, and local agencies upon request in the pursuit of their official duties; for research purposes by the National Research Council; and to report medical conditions required by law to Federal, State, and local agencies; for other lawful purposes including law inforcement and litigation.

Record of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in Title 21 U.S.C., Section 1175. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

Storage

Paper records in file folders, microfiche, cassettes, computer printouts, and magnetic tapes and disks.

Retrievability

Filed by last name or terminal digit file system (social security number (SSN)).

Safeguards

Records are maintained in areas accessible only to authorized personnel who are properly trained and screened.

Retention and disposal

Troop and Health Clinic Clinical Record Cover Sheets—Destroyed after 5 years.

Health Records—Active while individual is on active duty, then retired with Military Personnel Records Jacket.

Military Clinical Record Files—Destroyed after 50 years. Withdrawn and retired to NPRC, 111 Winnebago Street, St. Louis, MO 63118, as follows, except that files pertaining to United States Military Academy (USMA) cadets are trasferred to The Surgeon, USMA, West Point, NY 10996.

5-year clinical record libraries—5 years after the end of the year in which last medical treatment was given.

Nonfixed medical facilities—At the end of each month for records completed on all patients released during the month.

Other medical facilities—1 year after the end of the year in which last medical treatment was given.

Civilian Clinical Record Files—Destroyed after 25 years. Withdrawn and retired to NPRC (Civilian), 111 Winnebago Street, St. Louis, MO 63118, as follows:

5-year clinical record libraries—5 years after the end of the year in which last medical treatment was given.

Nonfixed medical facilities—At the end of each month for records completed on all patients released during the month.

Other medical facilities—1 year after the end of the year in which last medical treatment was given.

American Red Cross Clinical and Outpatient Record Files—Withdrawn and forwarded to Medical Officer, American National Red Cross, 18th and D Streets, NW, Washington, DC 20006, 1 month after patient's medical treatment is completed for clinical records and 1 year for outpatient records.

Foreign National Clinical and Outpatient Record Files Continental United States (CONUS) medical facilities—Forwarded to the Commander, United States Army Health Services Command (HSC), ATTN: HSC-OP-PS, Ft. Sam Houston, TX 78234, at the end of the month in which treatment is completed for transfer to appropriate embassy. However, when the individual's length of stay in the local area can be readily determined, files are forwarded to the HSC at the end of the month in which residence is terminated.

Medical facilities in oversea command—Transferred to the foreign official, or to The Surgeon General, whichever is appropriate.

Military Outpatient Record Files—Destroyed after 50 years. Withdrawn and retired to NPRC, 111 Winnebago Street, St. Louis, MO 63118, 3 year after the end of the year in which last medical treatment was given. Outpatient files of active Coast Guard and other military personnel, including members of any of the Reserve Components on active duty or active duty for training for more than 30 days, and cadets of the military academies are filed in the health record jacket. Outpatient files for these personnel are forwarded for insertion in the health record jackets on completion of treatment or observation. Outpatient files of all other categories are forwarded, on request, to the gaining medical facility when the patient moves to a new location.

Civilian Outpatient Record Files—Destroyed after 25 years. Withdrawn and retired to NPRC (Civilian), 111 Winnebago Street, St. Louis, MO 63118, 3 year after the end of the year in which last medical treatment was given.

Reserve Component Outpatient Files—Destroyed after 50 years. Withdrawn and retired to NPRC, 111 Winnebago Street, St. Louis, MO 63118, 1 year after the end of the year of summer camp or annual training.

Civilian Employee Medical Files—Destroyed 25 years after separation. Placed in inactive file upon separation and retired to NPRC (Civilian), 111 Winnebago Street, St. Louis, MO 63118, with the next regular retirement.

System manager(s) and address:

The Surgeon General, Headquarters, Department of the Army, The Pentagon, Washington, DC 20310.

Notification procedure:

Information may be obtained from Patient Administrator at medical center or hospital was treatment was provided. Official mailing addresses are in the Department of Defense (DOD) Directory in the Appendix to Army system notices.

Requesting individual is required to submit full name, SSN of sponsor, date care was provided, and facility providing care.

The requester may visit the office of the Patient Administrator at medical center or hospital where care was provided.

For personal visits, the requester is required to provide full name, SSN of sponsor, and present some form of acceptable identification, such as identification card, driver's license.

Record access procedures:

Requests from individuals should be addressed to Patient Administrator at medical center or hospital where care was provided. The official mailing addresses are in the DOD Directory in the Appendix to Army system notices.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from any Army medical center or hospital.

Record source categories:

Interviewer, diagnostic tests, other available administrative or medical records obtained from civilian or military sources.

Systems exempted from certain provisions of the act:

None.

A0920.04DASG

System name:

920.04 American Red Cross Consultation Service Case Files.

System location:

Primary System—Mental Hygiene Consultation Services, medical department activity located at posts, camps, or stations.

Decentralized Segments—American Red Cross, 18th and D Streets, NW, Washington, DC 20006.

Categories of individuals covered by the system:

Employees of the American Red Cross who receive consultation service at an Army medical facility.

Categories of records in the system:

File contains examination records of intelligence, personality, achievement, and aptitude; results of tests; doctor's notes; abstracts and copies of pertinent medical records; observations of patient's behavior; interviews, personal history statements, and similar or related documents.

Autority for maintenance of the system:

Title 5 U.S.C., Section 301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Mental Hygiene Consultation Service—To provide consultation services dealing with problems of emotional adjustments, classification and/or reclassification, disposition, and the prevention of mental disorders.

American National Red Cross—Storage of records until destruction.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders.

Retrievability:

Filed alphabetically by last name.

Safeguards:

Buildings are secured when not in use. Files and records are accessible only to authorized personnel.

Retention and disposal:

Records are retained in the inactive file for 1 year after the end of the year in which last medical treatment was given and subsequently retired to the Medical Officer, American National Red Cross, 18th and D Streets, NW, Washington, DC 20006.

System manager(s) and address:

The Surgeon General; United States Army; Director, Medical Department Activity; Medical Officer, American National Red Cross, 18th and D Streets, NW, Washington, DC 20006.

Notification procedure:

Information may be obtained from: Director, Medical Department Activity where treated, or if more than 1 year following treatment, Medical Officer; American National Red Cross, 18th and D Streets, NW, Washington, DC 20006, Telephone: Area Code 202/737-8300.

Record access procedures:

Requests from individuals should be addressed to Director, Medical Department Activity where treated; or Medical Officer, American National Red Cross, 18th and D Streets, NW, Washington, DC 20006.

Written requests for information should contain the full name of the individual, social security number, current address and telephone number. Visits are limited to Mental Hygiene Consultation Service; and American National Red Cross, 18th and D Streets, NW, Washington, DC 20006.

For personal visits, the individual should be able to provide sufficient identification and give some verbal information that could be verified from his/her file.

Contesting record procedures:

The Army's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

Record source categories:

Interviews, personal history statements, abstracts or copies of pertinent medical records; examination records of intelligence, personality, achievement, and aptitude; results of tests; doctor's notes.

Systems exempted from certain provisions of the act:

None.

A1002.05aDAPC

System name

1002.05 Enlisted Training Base (ACT)

System location

United States Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

Categories of individuals covered by the system

Active Army enlisted personnel prior service, non-prior service, US Army National Guard, and Reserve initial active duty for training (IADT) who are undergoing basic training/advanced individual training (BT/AIT).

Categories of records in the system

The categories of information stored include: name; social security number (SSN); race; citizenship; physical profile; enlistment and service; assignment; qualification; skill; education and training; specialty; enlistment commitments by military occupational specialty (MOS) and type; college subject; civilian acquired skill; advanced or basic individual training start and graduation dates, location, and MOS; follow-on MOS; location, training recommended versus preferred, aptitude area scores and categories.

Authority for maintenance of the system

Title 5 U.S.C., Section 301; Title 10 U.S.C.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

Department of the Army (DA)—Records are used for personnel and manpower management and strength accounting.

Department of Defense—Records are used for interdepartmental actions and personnel management.

Social Security Administration—Used to verify SSN.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

Storage:

Records are stored on computer magnetic tape.

Retrievability

By SSN, name, or other individual identifying characteristics.

Safeguards

Physical security devices, guards, computer hardware and software safeguard features, personnel clearances and passwords.

Retention and disposal

Historical records are retained 5 years after separation of individual.

System manager(s) and address

Commander, MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Notification procedure

Information may be obtained from: MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332, Telephone: Area Code 202/325-8909.

Record access procedures

Requests from individuals should be addressed to: MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Written requests for information should contain the full name of the individual, SSN, whether active or separated and, if separated, date of separation.

Visits are limited to MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

For personal visits, the individual should be able to provide acceptable identification including verbal information that can be verified with his/her record.

Contesting record procedures

The Army's rules for contesting contents and appealing initial determinations may be obtained from MILPERCEN (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Record source categories

Information is obtained in document and computer readable form from other DA Staff and commands and other Federal agencies.

Systems exempted from certain provisions of the act

None.

A1011.04aDAPE

System name

1011.04 USMA Institutional Research Survey File

System location

Office of the Director of Institutional Research, United States Military Academy (USMA), West Point, NY 10996.

Categories of individuals covered by the system

USMA candidates, cadets and former cadets.

Categories of records in the system

Personnel survey data from questionnaires, inventories, psychological tests and similar instruments.

Authority for maintenance of the system

Title 10 U.S.C., Section 4334.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

Director of Institutional Research—To conduct institutional research relating to the USMA.

Commander of Cadets—To evaluate and counsel cadets; to conduct institutional research.

Surgeon—To assist in the diagnosis and treatment of hospital patients; to conduct institutional research.

Director of Admissions—To evaluate candidate qualifications for admission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

Storage

Data are contained on magnetic tape, magnetic disks and punched cards. Selected data collection instruments and computer listings also are maintained.

Retrievability

Data are retrieved only as group data by class year but are filed by class year and cadet number.

Safeguards

Data collection instruments, punched cards, and some magnetic tapes are kept in storage room controlled by Administrative Branch Chief or representative during working hours. Area is locked after working hours. Magnetic disks are protected by a user identification and password convention. These disks and some magnetic tapes are kept in the computer room where computer operator is on duty and admittance is to authorized personnel only. Remainder of the tapes are located in a locked vault in the Office of the Director of Institutional Research, under control of Chief, Data Support Branch.

Retention and disposal

Data collection instruments and punched cards are destroyed after 1 year by shredding or burning. Magnetic disk and magnetic tape records are permanent.

System manager(s) and address

Director of Institutional Research, USMA, West Point, NY 10996.

Notification procedure

Information can be obtained from SYSMANAGER.

Record access procedures

Requests should be addressed to SYSMANAGER.

Contesting record procedures

The Army's rules for access to records and for contesting contents and appealing initial determinations may be obtained from the SYSMANAGER.

Record source categories

Questionnaires, inventories, psychological tests, and similar instruments administered to subject individuals and processed by the staff of the Office of the Director of Institutional Research.

Systems exempted from certain provisions of the act

None.

A1013.01DAPC

System name

1013.01 Civilian School Files

System location

Primary System—United States Army Military Personnel Center (MILPERCEN), 200 Stovall Street, Alexandria, VA 22332.

Decentralized Segments—Army commands/stations/installations/organizations/activities including oversea areas.

Categories of individuals covered by the system

Any military service member who applies for or is selected for attendance at civilian school; or for training with industry; or participation in a fellowship/scholarship program of training or instruction.

Categories of records in the system

File contains Department of the Army (DA) Forms 1618-R, 2086-R, 2593-R, 3719-R which include personal data of name, grade, social security number, address, home phone, duty phone, permanent legal address, branch of service, date of birth, mari-

tal status, number of dependents, State of legal residence, military occupational specialties, enlistment status, component, foreign service, civilian educational data, military educational data, transcripts, academic records, social fraternities, honorary fraternities, clubs, degree major, class standing, and personal resumes; Standard Form 1034 (Public Voucher for Purchases and Services Other than Personal), school contracts; school training report; photographs; enlisted qualification record; theses; statements of service and schooling obligation; United States Armed Forces Institute test reports; civilian institution Academic Evaluation reports; correspondence between (1) individual student, (2) Army commands and staff agencies, (3) civilian industry training agencies, and (4) civilian educational schools.

Authority for maintenance of the system

Title 5 U.S.C., Section 301; Title 10 U.S.C., Section 4301.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses

MILPERCEN: To document, monitor, manage, and administer the service member's attendance at a civilian training agency or civilian school under the authority of Title 10 U.S.C., Section 4301.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system

Storage

Paper records in file folders.

Retrievability:

Filed alphabetically by name.

Safeguards:

Files and records are maintained in areas accessible only to authorized personnel.

Retention and disposal:

Records have a retention space of from 2 to 10 years depending on the category of the individual record concerned and/or the element maintaining the file.

System manager(s) and address:

MILPERCEN, 200 Stovall Street, Alexandria, VA 22332.

Notification procedure:

Information may be obtained from: HQDA (DAPC-MSO), Hoffman Bldg II, 200 Stovall Street, Alexandria, VA 22332.

Appropriate command/station/installation/organization/activity/overseas command of the student service members as shown in the Directory of Units.

Record access procedures:

Written requests for information should contain the full name, grade, branch of service, service identification number, and civilian school or training agency (if known), and the current address.

For personal visits, the individual should be able to provide acceptable military identification or acceptable identification, i.e., a driver's license with other identification normally used in business transactions.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations may be obtained from HQDA (DAPC-MSO), 200 Stovall Street, Alexandria, VA 22332.

Record source categories:

Application and related forms incident to the service member's qualification for attendance at a specified civilian school or training agency; records, forms, documents, and correspondence originating in/by DA Staff agencies and commands, the student service member, and civilian school or industry training agency.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 79-8787 Filed 3-22-79; 8:45 am]

Office of the Secretary

[3810-70-M]

PRIVACY ACT OF 1974

Deletion and Addition of Record Systems

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of one deletion and one proposed new system of records under the Privacy Act of 1974.

SUMMARY: The Office of the Secretary of Defense proposes adding a new system of records to its inventory identified as DMRA&L 19.0, entitled: "Automated Career Management System (ACMS) DD-M(AR)1456". The record system notice is published in its entirety below. This makes obsolete an existing record system also identified below as deleted.

DATES: The new system shall become effective as proposed without further notice on April 22, 1979, unles comments are received on or before April 22, 1979, which would result in a contrary determination and require republication for further comments.

ADDRESS: Send comments to the System Manager identified in the record system.

FOR FURTHER INFORMATION CONTACT: Mr. James S. Nash, Chief, Records Management Division, Room 5C-315, The Pentagon, Washington, D.C., 20301, telephone 202-695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense record system notices inventory as prescribed by the Privacy Act of 1974, Pub. L. 93-579 (5 U.S.C. 552a) have been published in the FEDERAL REGISTER as follows:

FR Doc. 77-28255 (42 FR 50731) September 28, 1977.

FR Doc. 78-25819 (43 FR 42375) September 20, 1978.

FR Doc. 78-34821 (43 FR 58405) December 14, 1978.

FR Doc. 78-35943 (43 FR 60331) December 27, 1978.

The Office of the Secretary of Defense has submitted a new system report on February 15, 1979 for the proposed new record system under the provisions of 5 U.S.C. 552a(o) of the Privacy Act of 1974 which requires advance notice.

H.E. LOFDAHL,
Deputy Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

MARCH 16, 1979.

DELETION

DMRA&L 08.0

System name: Central Automated Inventory and Referral System (CAIRS) (43 FR 42402) September 20, 1978.

Reason: This system is replaced by the new system (DMRA&L 19.0) published below.

ADDITION

System name:

Automated Career Management System (ACMS) DD-M(AR)1456.

System location:

Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444.

Categories of individuals covered by the system:

All Department of Defense General Schedule civilian career program employees GS-5 or higher and former employees.

Categories of records in the system:

Name, home and work addresses, Social Security Account Number, educational background, work experience, grade and salary, occupation, age, special qualifications, awards, military reserve status, and supervisory appraisals.

Authority for maintenance of the system:

Title 5, U.S.C., Sections 301 and 302, which authorize Agency Heads to: establish civilian personnel management programs; maintain files and records necessary to operate such programs; and delegate civilian personnel management authorities to subordinate officials.

Routine uses (disclosure) of records maintained in the system including categories of users, and the purposes of such uses:

This system provides a list of eligible candidates qualified to file position vacancies ormally at GS-13 and higher grade levels and to provide information for program analyses and management.

Internal users, uses, and purposes: All DoD Civilian Personnel Offices and the DoD Components serviced by these offices are required to submit job vacancies to designated occupation series against ACMS for the generation of a list with resumes of qualified candidates for consideration by a selection panel and others.

Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy)—used for statistical analyses of civilian workforce, and management and evaluation of specific employment programs within the Department of Defense.

Any individual records contained in the system might be transferred to any component of the Department of Defense having the need-to-know in the performance of official business.

External users, uses, and purposes: See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Storage:

Disc packs.

Retrievability:

Retrievable by occupation, Social Security Accounty Number, name, specific skills, educational background, or training background.

Safeguards:

The location is identified as a secure area; access is through electrically controlled doors and cypher locks; disc packs are stored in a vault when not in use.

Retention and disposal:

Active records are maintained up to one year after termination of the individual's employment with the Department of Defense, or upon notification that the individual no longer is employed in a position for which registration is required. Inactive records of personnel are retained indefinitely.

System manager and address:

Director of Staffing and Career Management, Office of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy), Room 3D281, Washington, D. C. 20301. Telephone: 202-697-3402.

Notification procedure:

Information may be obtained from the System Manager.

Record access procedures:

Written requests from individuals should be addressed to Director, Centralized Referral Activity, Defense Electronics Supply Center, 1507 Wilmington Pike, Dayton, Ohio 45444. For personal visits, the individual should be able to provide some acceptable form of identification, such as a driver's license.

Contesting record procedures:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 286b and OSD Administrative No. 81.

Record source categories:

Data are obtained from record subjects, from their official personnel folders, and from supervisory appraisals.

Exemptions claimed for the system:

None.

[FR Doc. 79-8786 Filed 3-22-79; 8:45 am]

[6450-01-M]

DEPARTMENT OF ENERGY

FINAL ACTION BY OFFICE OF THE SPECIAL COUNSEL FOR COMPLIANCE ON KERR-MCGEE CONSENT ORDER

AGENCY: Department of Energy.

ACTION: Final Action on Consent Order.

SUMMARY: The Office of Special Counsel for Compliance (OSC), pursuant to 10 CFR 205.199J, makes final, by publication of this notice, the consent order executed between Kerr-McGee Corporation and OSC on February 7, 1979.

On February 14, 1979, notice was published in the FEDERAL REGISTER, at 44 FR 9620, that the consent order had been signed. The notice summarized the circumstances behind the consent order, its terms and conditions, and indicated that comments on the consent order would be received for 30 days following publication. OSC has reviewed those comments received through Friday, March 16, 1979. After careful consideration, OSC has determined that the consent order should be made final by publication of this notice.

FOR FURTHER INFORMATION CONTACT:

Carl Corrallo, Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue, N.W., Room 3109, Washington, D.C. 20461, 202-633-8288.

SUPPLEMENTARY INFORMATION: DOE regulations require that consent orders be noticed for public comment through the FEDERAL REGISTER and by press release. In the press release issued February 8, 1979, and the FEDERAL REGISTER notice appearing February 14, 1979, at 44 FR 9620, OSC described the consent order, the background of the audit and the remedial procedures for distribution of the $46 million refund to be paid by Kerr-McGee. The consent order can be summarized as follows:

The consent settles all claims and issues arising from OSC's compliance audit of Kerr-McGee for the period August 19, 1973 through December 31, 1978.

Under the consent order, Kerr-McGee will pay $46 million to present and former customers who agree to participate in the refund program.

Participating Kerr-McGee customers will reduce prices to retail customers to ensure that the greater part of the refund reaches the market place through lower prices of motor gasoline, home heating oil and other refined products.

For a more detailed explanation, please refer to the February 14, 1979 notice cited above.

Comments were received from two Kerr-McGee product purchasers, a trade association, a state energy office and an energy oriented consumers group. Only one comment, by a purchaser in litigation with Kerr-McGee, complained that the compromise settlement was insufficient. The balance took issue with the amount of the refund that each customer recipient would be allowed to retain, generally arguing that a larger portion, or the entire refund, be paid to them or their constituency. The trade association provided useful insight into possible impact of certain terms of the consent order.

One comment from the state organization recommended that wholesale and retail customers be allowed to retain no more than five percent of the refund allocated to them. This amount was urged as an amount sufficient to recompense the business recipients for their expenses in implementing the refund program. The suggestion is premised on the presumption that in all cases wholesalers and retailers would have passed along in

its entirety any possible Kerr-McGee overcharge to their customers.

The comment received from the organization representing consumer interests stated that the policy of restitution was not served by permitting resellers to retain any portion of the refund, which was characterized as an inexcusable giveaway. The organization premised its assertion on a lack of evidence that resellers bore any overcharges that may have occured.

The percentages that various levels of distribution will be allowed to retain was the subject of much consideration during negotiations. It reflects *inter alia*, the fact that distributors and retailers frequently charged prices below the maximum lawful selling price during much of the audit period. It was also based on the presumption that had price reductions taken place during the audit period, less than the full reduction would have been passed through. *See* 43 FR 38547 (August 28, 1978).

Another consideration was that the percentage to be retained must also act as an incentive to participation by wholesalers and retailers. The incentive must be sufficient to grant a return consistent whith the circumstances noted in the preceding paragraph, as well as to warrant the expense each distributor and retailer will incur in administering its segment of the refund program. If members of those groups were to choose not to participate, then the primary object of the program, to see that the greater part of the refund is quickly and economically returned to consumers, would be frustrated.

The group representing consumers further commented that it believed that a price reduction is not an appropriate reimbursement mechanism unless utilized in an intensely regulated situation. The group advocated regulating roll-backs to implement them so as to provide no more than a reasonable, or perhaps historical rate of return to the retailer, and insure a "real" price reduction.

OSC chose a rollback mechansim as a practicable restitution device permitting the refund to be distributed in small increments to consumer. This avoided the difficulty of requiring retail purchasers to prove their purchases in order to receive a refund; it avoided the expense of administering a program in which small refunds would be sent to consumers; and it avoided the inequity of providing no refund to those who purchased with cash and thus have no record of the volumes bought.

The rollback procedure does not provide for a "real" price reduction. The reduction is measured from a price in effect on the effective date of this consent order, to wit, the day this notice is published. The reduction is not applied against a maximum price calculated by regulation but perhaps not charged "at the pump". Further, compliance with the rollback procedure by retailers, and their suppliers, is provided by monitoring by all participants and DOE, by a disincentive in the participation agreements withholding half of the amount to be retained until the refund is completed, and by certification requirements that impose a liability beyond that for breach of the participation agreements.

As to the amount of reduction in prices, the comments from the trade association noted that these should be kept to a reasonable level to prevent market distortion through competitive pricing by non-participating stations and to prevent increased demand for products in short supply, causing a disruption in allocation or supply.

OSC addressed the problems raised by the consumer group and the trade association in negotiations with Kerr-McGee. The $.02 to $.03 reduction provision is intended to provide some flexibility while providing for the most expeditions refund possible without creating serious market interference.

Two further comments were made by the organization representing consumer interests. With regard to primary participants, i.e., those firms which purchased directly from Kerr-McGee, the group noted its concern that the entire amount attributable to that purchaser is placed in a fund should that purchaser choose not to participate. The consumer group recommends that the portion which would have been passed through to consumers through rollbacks should be made available to consumers through a claims fund.

The object of the fund established by paragraph 2 of the consent order is to provide an amount from which judgements awarded to non-participating purchasers may be paid, with the expectation that a court, which will have had to ground its judgement on the regulations, will require an appropriate passthrough to ultimate consumers, or that DOE will take appropriate audit and enforcement action to achieve that result.

The consumer representatives also argue that the refunds paid to large consumers amount to a windfall. OSC intends to notify utility commissions or other state regulatory offices as appropriate in order that they may take whatever actions they deem necessary. This, together with consumer awareness, should prevent windfalls. It should be noted that some large volume consumers may be, literally, consumers themselves. To the extent that public agencies, fleet owners or the Department of Defense receive refunds, the benefit will result in a reduction in costs previously incurred.

Another comment from a purchaser recommended that the entire amount of the refund apportioned to a Kerr-McGee product purchaser be retained when that purchaser-distributor has abandoned the marketing portion of its business. The firm submitting this comment indicated that it has sold its product below its maximum lawful selling price due to competitive conditions, and that high wholesale prices had a direct bearing on the sale of the firm's marketing assets.

As already noted, the object of the refund program is to attempt to provide appropriate refunds to the various elements of the distribution and consumption chains. Pursuant to the consent order, the refund has been allocated to Kerr-McGee product purchasers who paid purchase prices for products in excess of the weighted average price for that product to all purchasers. Thus, to the extent that this marketer's product costs were above those of other Kerr-McGee purchasers, the marketer will receive a larger refund. The premise has been adopted that a wholesaler or retailer who received a cost reduction during the audit period would have passed some portion on to its customers, and thus the marketer's retail customers should be afforded some benefit. It should also be remembered that the $46 million settlement represents a compromise, without which OSC would have to continue its audit, engage in enforcement actions and possible litigation in order to obtain an amount for restitution, an amount which might be greater or lesser than that made available through the consent order. The consent order is an attempt to distribute this amount equitably and expeditiously.

The remaining comments by the trade association concerned details in the refund process. With regard to the notices which must be displayed at an outlet participating in a price reduction, these are intended to assist in monitoring the price reduction by identifying participating retail stations to the public. Care will be taken to ensure that the notice is not misconstrued as an accusation or an admission of wrongdoing.

The association also commented that the rollback procedure could result in a problem for those firms which acquire their supplies from more than one source.

Where an independent retailer obtains product from suppliers in addition to Kerr-McGee, the consent order provides that the price reduction may be made with regard to all product sold until the refund is completed and without regard to any supplier in addition to Kerr-McGee. This provision

should avoid or minimize piecemeal refunds.

One comment was received by a party in litigation with Kerr-McGee requesting that the period for the submission of comments be extended. The grounds presented as reason for the delay are (1) a Freedom of Information request for the information on which the consent order was based; (2) a Protective Order against revealing information disclosed to the firm in the suit; and (3) that the firm is attempting to compel discovery on an expedited basis in order to include that information in its comment.

The regulations governing the issuance, publication and finalization of consent orders do not provide for extensions of time. The opportunity for public comment is required by 10 CFR 205.199J(c). That section provides for a period of not less than 30 days. OSC has provided 30 days since publication of notice in the FEDERAL REGISTER concerning the consent order, and 36 days since issuance of the press release. Further, the firm requesting the extension requested a copy of the consent order, and a copy was sent, on February 9, five days prior to notice in the FEDERAL REGISTER.

The reasons given for requesting the delay are all speculative in that they call for action by a third party as a condition precedent to obtaining the information or relief which the commenting firm seeks. Given the nature of the information or relief sought, it is also speculative as to if, when, and to what extent the relief will be granted. The information requested under the Freedom of Information Act, for instance, is possibly proprietory and thus may not be released. Finally, it would appear that the firm, by virtue of its litigation with Kerr-McGee, is already in an advantageous position to comment on the merits of the consent order. Inasmuch as comments were sought from the public on the consent order as announced and proposed, and not necessarily to obtain the particulars of outstanding private actions, and that an extension would delay implementation of the program on behalf of those who wish to participate in the refund program, OSC has determined that the comment period should not be extended.

Notwithstanding the request for delay, the party involved in the litigation has submitted a comment raising the following points concerning the consent order:

The firm alleges that the consent order contains insufficient information to provide the opportunity for effective comment. The consent order recites the matters audited, the issues raised, the conclusion reached, and the terms and conditions upon which the action is predicted. The consent order and the notice announcing its execution fully comply with applicable authorities. The Administrative Procedure Act, (5 U.S.C. § 551 *et seq.*) by its terms and definitions, is not an authority applicable to consent orders, as asserted by this firm. Although not cited, the Department of Energy Organization Act, 42 U.S.C. 7101, provides more stringent standards than the Administrative Procedure Act, but even it does not require the procedures advanced by this party. The party in ligitation also advances the Enforcement Manual as prescribing the substance of consent orders, and alleges that the consent order is deficient when compared to the example found there. The Enforcement Manual, cited by this party as authority for a number of assertions, does not, by its terms, apply to actions by the Office of Special Counsel. It is an internal, procedural publication of the Office of Enforcement, Economic Regulatory Administration, an entirely separate division of the agency.

The party in litigation also asserts in several ways that DOE has no authority to compromise amounts in violation of the petroleum regulations, that the amount of settlement is inadequate to compromise a particular violation, and that the compromise does not appear to take into account a number of additional areas of possible violation.

OSC satisfied itself of the authority, under applicable laws and regulations, to compromise amounts in settlement of possible violations of the Petroleum Price and Allocation Regulations and has previously done so in a consent order executed between OSC and Gulf Oil Corporation in July 1978. The DOE Office of General Counsel concurs in that judgment. Nothing contained in the comments requires a change in this position.

In response to the comment that the compromise suggests that OSC sanctioned certain violations, or encompassed only two probable violations, the consent order states on its face that OSC has conducted a thorough audit and reviewed all matters relating to compliance with the regulations, including those areas mentioned in the comment concerning class of purchaser problems and maximum price determinations. By its terms, the consent order encompasses all these matters, and indeed all matters resulting from OSC's audit, and discussions with Kerr-McGee.

The party in litigation asserts that the amount of settlement is inadequate to provide restitution for violations, including interest and penalties. OSC conducted an audit, determined Kerr-McGee's liability and then proceeded to reach a compromise settlement with Kerr-McGee. It is clear that the law firm representing the party in litigation with Kerr-McGee has filed its comments in a manner consistent with the position taken by the firm in its suit against Kerr-McGee. OSC understands the firm's unwillingness to concede any aspect of the matter in litigation. OSC reviewed the areas of possible violation by Kerr-McGee in light of its judgment of the United States' probability of success in litigation, and the net amount of return likely to result therefrom. That amount is possibly different from the amount, reflecting maximum possible exposure, which is asserted in the litigation. Of course, the party in litigation is free to refrain from participating in the voluntary refund program to pursue its litigation.

The party in litigation addressed several of its comments to the procedures of the consent order, most of which have been addressed elsewhere in this notice. One contention not previously discussed is that the release provision of the consent order and the participation agreements is improper. The attorneys representing the party in litigation allege that this provision is directed solely at its client in order to apply coercion "tantamount to blackmail" to procure a settlement.

As a result of experience with the Gulf consent order announced in 43 FR 34185 on August 3, 1978, OSC determined that some arrangement to provide for protection from double recovery should be found in order to avoid the disincentive to settlements, and the additional workload on OSC in participating in suits, which would arise. The double recovery could arise through claimants who relitigate their claims, or litigate and then pursue the administrative procedure. OSC believes that it was not the intent of Congress, in providing a private right of action, to establish a procedure for windfall double recoveries. A party pursuing a private right of action, given the opportunity to voluntarily participate in the distribution of a refund amount found to be adequate by OSC, or to continue with the lawsuit it has initiated in order to obtain the benefits it expects from its litigation cannot complain that it is compelled to forego a right. The firm can proceed with the suit to obtain what it believes is its due or elect to participate in the refund program to obtain what OSC believes is appropriate restitution. The risk that the firm's bid through litigation for more than the consent order offers will be unsuccessful is entirely on the plaintiff. To the extent the plaintiff is successful, paragraph 2 of the consent order provides a fund from which the judgment can be paid.

The consent order represents a balancing of interests in an attempt to correct actions taken by Kerr-McGee

that may have been inconsistent with the regulations and to compensate those who may have been affected by Kerr-McGee's actions. The consent order was the result of an extensive, arm's-length negotiation process in which the efforts of the parties were directed to a resolution of all areas of dispute and to tailor a remedial procedure to the results of the negotiation. OSC's goal was to identify areas of possible violations, the amounts of possible violation and an appropriate means of making restitution. Other possibilities for remedies exist that may be appropriate in other negotiations. OSC is satisfied that all the provisions of the consent order with Kerr-McGee are lawful, and provide maximum benefits with the least burden on the participant, the consumer, and the government.

The Office of Special Counsel has complied with the requirements of 10 C.F.R. § 205.199J and has considered the comments received in response to the notice of the proposed consent order. This office is satisfied that the consent order excuted between Kerr-McGee Corporation and this Office on February 7, 1979, is proper and consistent with the interests of the United States. Therefore, the consent order is made final by issuance of this notice.

Issued in Washington, D.C., March 20, 1979.

PAUL L. BLOOM,
Special Counsel for Compliance.

[FR Doc. 79-8992 Filed 3-22-79; 8:45 am]

[6450-01-M]

Economic Regulatory Administration

ENFORCEMENT POLICY CONCERNING RESELLER/RETAILER INCREASED PRODUCT COST (INVENTORY) COMPUTATIONS

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Enforcement Policy.

SUMMARY: The Office of Enforcement, Economic Regulatory Administration, and the Office of General Counsel, Department of Energy, hereby give notice of its enforcement policy regarding separate inventory computations by resellers and retailers in calculating increased product costs to determine maximum lawful selling prices for the period prior to May 1, 1976.

This notice clarifies the basis for, and application of, the determination that ERA will not seek to enforce a rule requiring resellers and retailers to comply with price regulations on the basis of firm-wide inventory computations prior to May 1, 1976, where the firm concerned historically and consistently maintained separate inventory accounting records.

FOR FURTHER INFORMATION CONTACT:

Sharon Tucker, Office of Enforcement, Economic Regulatory Administration, Department of Energy, Room 5308, 2000 M St., NW., Washington, D.C. 20461.

Robert G. Heiss, Office of General Counsel, Department of Energy, Room 5308, 2000 M St., NW., Washington, D.C. 20461.

SUPPLEMENTRY INFORMATION: Resellers and retailers subject to 10 C.F.R. Part 212, Subpart F, generally may not charge a price for a product which exceeds the weighted average price at which that product was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, plus an amount which reflects, on a dollar-for-dollar basis, the increased product costs concerned. "Increased product costs" is defined as the difference between the weighted average unit cost of a product currently in inventory and the weighted average unit cost of that product in inventory on May 15, 1973.

Effective May 1, 1976, the Federal Energy Administration (FEA) issued a final rule permitting resellers and retailers subject to 10 C.F.R. Part 212, Subpart F, to calculate increased product costs on the basis of separate inventories, under certain conditions, as an alternative to calculating those costs based on a firm-wide inventory computation. 41 FR 19110 (May 10, 1976).

Promulgation of this rule was initiated pursuant to a notice of proposed rulemaking entitled "Proposals for Increased Pricing Flexibility" issued by FEA on October 17, 1975, 40 FR 49372 (October 22, 1975). This notice set forth a variety of major proposals to permit a greater degree of pricing flexibility by refiners, resellers and retailers in view of the continuing general adequacy of supply of petroleum products compared with the restricted supply situation which prevailed when the petroleum price regulations were first adopted.

The notice of proposed rulemaking began by noting that refiners marketing on a national basis were required by the "equal application" rule to increase prices for gasoline equally throughout the country (*i.e.*, on a firm-wide basis). An amendment to this rule was proposed in order to provide a degree of pricing flexibility by refiners on a regional basis. (Such an amendment was in fact subsequently adopted, 41 FR 30021, July 21, 1976.)

The notice then went on to describe the firm-wide applicability of the price regulations in the case of resellers/retailers, noting that there was a need for an amendment to afford increased pricing flexibility to resellers/retailers as well as to refiners. The notice described the situation at the time in the following terms:

> With respect to many resellers and retailers, there is less need for regional price flexibility, since many such firms operate only a single outlet, or a number of outlets within a relatively small geographical area. There are, however, some resellers and retailers that have multiple outlets located over large geographical areas.
>
> As to such firms, the FEA has interpreted the reseller and retailer price rules to require a single firm-wide calculation of "increased costs" for each product under § 212.92, based on the weighted average unit cost of product in that firm's total inventory.
>
> One means of implementing a regional price rule for resellers and retailers would be to permit such firms to calculate their "cost of product in inventory" pursuant to § 212.92 based on separate inventories, to the extent that such inventories were maintained pursuant to the customary accounting procedures generally accepted and historically and consistently applied by the firm concerned. * * *

FEA received written comment and conducted a public hearing on the various proposals for increased pricing flexibility, including the proposal to permit resellers and retailers to compute increased product costs based on separate inventories. As already noted, the "separate inventories" aspect of these rulemaking proceedings was concluded by the issuance of a regulation amendment effective May 1, 1976. In the notice accompanying that regulation amendment, FEA reiterated its interpretation of what was required under the pre-existing regulations and what changes in the reseller/retailer rules the amendment was intended to institute. The FEA on this occasion commented as follows:

> Under today's amendment, resellers and retailers which have historically maintained separate inventories for a single product are permitted to compute increased product costs under § 212.92 separately for each of the seller's separate investories for the product concerned, rather than computed increased product costs on the basis of a single, firm-wide inventory of that product, as heretofore required.
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> * * * * *
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> Prior to today's amendment, FEA interpreted "product in inventory" to mean the seller's entire undivided stock of a product held for resale. This interpretation resulted, in part, because FEA has, except in a very few instances involving special circumstances, generally and necessarily viewed a "firm," for cost pass-through purposes, in the widest possible sense of the term. This assures that only arm's-length or "outside" costs are treated as the firm's product costs for cost pass-through purposes, and that "costs" as represented in intra-firm transactions (which may include internal profit)

are, unless specifically provided for, excluded as costs to the firm for price control purposes. Thus, references in the reseller/retailer rules to the "seller," at least in the context of cost aggregation, are generally references to that singular and entire firm consisting of "a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls." Thus, an unqualified reference to "a seller" which holds "a product in inventory" was considered, prior to today's amendment, as a reference to a seller's entire stock of that product held for resale.

The foregoing statements were included in FEDERAL REGISTER notices signed and issued by the General Counsel of the FEA and constitute FEA's formal interpretation of its reseller/retailer regulations for the period prior to May 1, 1976.

In attempting to implement the foregoing interpretation, in connection with compliance efforts relating to the period prior to May 1, 1976, FEA/DOE encountered considerable difficulties. Many resellers and retailers with multiple inventory locations had maintained their accounts and records only on a separate inventory basis. As a practical matter, FEA/DOE auditors were faced with the complex and time-consuming task of attempting to restructure these accounts and records to recompute maximum lawful selling prices on a firm-wide cost accounting basis. The agency also encountered strong opposition from a number of resellers and retailers who challenged the validity or enforceability of the agency's interpretation of the regulations in effect prior to May 1, 1976.

As a result of further consideration of such matters, it was decided that a more productive use of audit and legal resources would result from moving forward expeditiously to conclude reseller/retailer audits based on existing record keeping systems. Accordingly, in September of 1978, Regional Directors of Enforcement and Regional Counsels were directed that the provision of 10 C.F.R. 212.92, as amended effective May 1, 1976, would be applied in the inforcement of the reseller/retailer price regulations prior to that date.

This decision was intended to reflect prosecutorial discretion rather than a modification or rescission of the agency's interpretation in this matter as reflected in the rulemaking notices quoted above. The decision therefore was not intended to affect the status of agency actions previously concluded on the basis of that interpretation, such as remedial orders issued under 10 C.F.R. Part 205, Subpart O, interpretations issued under Subpart F, or exceptions issued under Subpart D.

In the case of remedial order proceedings pending under 10 C.F.R. Part 205, Subpart O, the Office of Enforcement has withdrawn for reconsideration, or the Office of Exceptions and Appeals has remanded for reconsideration, proposed remedial orders in which the alleged violation is based in whole or in part upon a firm-wide computation of increased product costs by a reseller or retailer, where the firm concerned historically and consistently charged prices based on separate inventory computations. It should be noted, however, that the regulation amendment efective May 1, 1976, permits the alternative of computing increased product costs on a separate inventory basis only when the firm concerned has consistently utilized separate inventory accounting methods for cost management and pricing purposes since May 15, 1973. Therefore, in cases in which the firm did not meet this standard for the period prior to May 1, 1976, the Office of Enforcement is not required to develop or restructure product cost data for pass-through purposes on a "separate inventory" basis and may, in its discretion, continue to bring or prosecute enforcement actions based on a firm-wide computation of increased product costs.

Issued in Washington, D.C., March 12, 1979.

BARTON ISENBERG,
Assistant Administrator for Enforcement.

GAYNELL METHVIN,
Deputy General Counsel for Enforcement and Litigation.

[FR Doc. 79-8792 Filed 3-22-79; 8:45 am]

[6450-01-M]

FUEL OIL MARKETING ADVISORY COMMITTEE

Change in Meeting Date

This notice is given to advise of a change in date of the meeting of the Fuel OIl Marketing Advisory Committee. The Committee will meet Tuesday, April 10, 1979, and Wednesday, April 11, 1979, from 9 a.m. to 5:00 p.m., in Room 3000A, 12th and Pennsylvania Avenue, N.W., Washington, D.C., rather than Thursday, March 29, 1979, the Assembly Room, Sheraton-Park Hotel, 2660 Woodley road, NW., Washington, D.C., as previously announced.

The agenda for the meetings is as follows:

Tuseday, April 10, 1979

Forum: Low Income Energy Assistance Program. The meeting will serve as a forum for public comments on the committee's proposal to provide assistance to low-income people experiencing difficulty paying their energy bills.

Wednesday, April 11, 1979

Analysis of Comments Received During April 10, 1979 Forum.

The meetings are open to the public. Any member of the public who wishes to make either written or oral statements will be permitted to do so as announced in the FEDERAL REGISTER February 27, 1979 (44 FR 11161). A copy of the draft report that is the basis for these meetings, entitled "Low Income Energy Assistance: A Profile of Need and Policy Options" can be obtained from the Public Docket Room, Room B120, 2000 M Street, Washington, D.C.

Issued at Washington, D.C. on March 19, 1979.

GEORGIA M. HILDRETH,
Director, Advisory Committee Management.

[FR Doc. 8960 Filed 3-22-79; 4:21 pm]

[6450-01-M]

Federal Energy Regulatory Commission

[Docket No. TC79-16]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Tariff Filing

MARCH 20, 1979.

Take notice that Columbia Gas Transmission Corporation (Columbia), Post Office Box 1273, Charleston, West Virginia 25325, on March 16, 1979, tendered for filing Fifth Revised Sheet No. 62C, Second Revised Sheet No. 62D, First Revised Sheet No. 62E, and First Revised Sheet No. 63 to its FERC Gas Tariff, Original Volume No. 1, pursuant to Part 281, Subpart A, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, promulgated by the Commission's Interim Curtailment Rule issued on March 6, 1979, in Docket No. RM79-13 to implement Section 401 of the Natural Gas Policy Act. This filing which Columbia proposes to put into effect during the period starting on April 1, 1979, until October 31, 1979, prescribes that curtailments pursuant to Columbia's FERC Gas Tariff shall be subject to adjustment to the extent necessary to supply certified essential agricultural uses or high priority uses.

The pertinent new section of Columbia's proposed interim tariff filing submitted herein is as follows:

14.6 Exemptions from Curtailment. (a) Seller recognizes that exceptions to the levels of curtailment resulting from Section 14.3 may be required to avoid impairment of service for essential agricultural uses during periods of curtailment where, absent the curtailment of high-priority uses, deliveries of gas in excess of the curtailed levels are necessary to satisfy said essential agricultural uses within contractual entitlements. Any Buyer seeking an exemption from curtailment in accordance with this Subsection (a) shall

have the burden of establishing under oath the minimum volumes of gas needed to protect said essential agricultural uses. In such event, Buyer shall be exempt from curtailment to the extent necessary to satisfy said essential agricultural uses. The terms "essential agricultural use" and "high-priority use" are defined in Title 18, Chapter 1, Subchapter 1, Part 281, Subpart A, Section 281.103, of the Code of Federal Regulations. This Subsection (a) shall terminate as of October 31, 1979.

The tariff filing by Columbia adopts and incorporates by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Columbia's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

Columbia claims to project no curtailment on its system for the period during which the Interim Curtailment Rule issued on March 6, 1979, is effective, and on that ground requests that the Commission waive the filing requirements of the aforesaid March 6, 1979, order and not make the tendered tariff sheets effective.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff filing shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act, or Columbia's request for waiver is granted.

Any person desiring to be heard or make any protest with reference to said tariff filing should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-8793 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-31]

CONSOLIDATED GAS SUPPLY CORP.

Notice of Tariff Filing and Request for Waiver

MARCH 20, 1979.

Take notice that on March 16, 1979, Consolidated Gas Supply Corporaion (Respondent), 445 West Main Street, Clarksburg, West Virginia 26031, filed in Docket No. TC79-31 (1) a tariff sheet as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder and (2) a request that the filing requirement of section 281.104 of such Regulations be waived thereby mooting the need to accept the tendered tariff sheet for filing, all as more fully set forth in the tariff sheet which is on file with the Commission and open to public inspection.

The tariff sheet tendered by Respondent provides that adjustments in deliveries may be made in accordance with the requirements of section 281.101 through 281.111 of the Commission's regulations to the extent necessary to supply the essential agricultural uses or high-priority uses of Respondent's direct sale customers and indirect sale customers. The sheet further provides that the quantities of gas delivered under the adjustments may be reduced in an equitable manner, if the adjustments would otherwise result in the reduction of deliveries of natural gas:

(a) to a direct sale customer or local distribution company to any level which would cause a direct or indirect supply deficiency;

(b) to an interstate pipeline customer in quantities which Respondent determines are necessary for its downstream interstate pipeline to meet direct and indirect high-priority supply obligations imposed by sections 281.101 through 281.111 of the Commission's regulations; or

(c) which Respondent determines is reasonably necessary for injection into storage by Respondent or by any of its customers except to the extent the Commission upon complaint determines that such storage is not reasonably necessary to serve high-priority uses or essential agricultural uses.

Respondent further requests that the filing requirement of section 281.104 of the Commission's Regulations under the Natural Gas Policy Act of 1978 be waived, thereby mooting the need to accept the tendered tariff sheet for filing. Respondent contends that the tendered filing is unnecessary and not required to protect deliveries to essential agricultural, high-priority, or any other end-uses on its system due to the favorable gas supply projections for Respondent's system during the foreseeable future.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheet should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-8794 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-27]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Tariff Filing

MARCH 20, 1979.

Take notice that on March 16, 1979, Michigan Wisconsin Pipe Line Company (Respondent), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. TC79-27 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with Section 401 of the Natural Gas Policy Act of 1978 and Part 281 of the Regulations thereunder, all

as more fully set forth in said sheets which are on file with the Commission and open to public inspection. The following sheets have been filed: (1) Second Revised Sheet No. 26C, superseding First Revised Sheet No. 26C; (2) Original Sheet No. 26D(i), superseding First Revised Sheet No. 26D; and (3) Original Sheet No. 26D(ii), to Respondent's FERC Gas Tariff, Second Revised Volume No. 1.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by Section 4 of the Natural Gas Act and Section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with Section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-8795 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-44]

MID-LOUISIANA GAS CO.

Notice of Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Mid-Louisiana Gas Company (Respondent), 300 Poydras Street, New Orleans, Louisiana 70130, filed in Docket No. TC79-44 tariff sheets, First Revised Sheet No. 23i, and Original Sheet No. 23j as part of its FERC Gas Tariff, First Revised Volume No. 1, to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent provide as follows:

13.13 *Adjustments To Supply Essential Agricultural Or High Priority Uses.* Unless otherwise defined in this tariff, the terms used in this Section 13.13 shall have the meanings contained in Part 281, Subpart A, Subchapter I, Chapter 1 of Title 18, Code of Federal Regulation (the Regulations); and the provisions of the Regulations pertinent to this Section 13.13 are incorporated by reference thereto.

Should Buyer conclude that supplemental deliveries of gas above the Allowed Maximum Daily Requirement permitted Buyer under the curtailment notice then in effect are required in order to supply essential agricultural uses or high-priority uses, then Buyer may request supplemental deliveries above the existing curtailment level to the extent necessary to supply such uses. Seller shall have the right to invoke additional curtailment of lower priority-of-delivery categories to permit deliveries of such supplemental gas.

Any request by Buyer for an adjustment shall be in writing and shall set forth the calculation of its supply deficiency pursuant to Section 281.106 of the Regulations and shall be accompanied by the statement required by Section 281.109(2) thereof. If Seller's own records do not contain information which directly conflicts with the statement submitted, then Seller shall calculate its supply obligation pursuant to Section 281.107 of the Regulations and deliver, pursuant to Section 281.105 thereof, supplemental volumes from system supplies up to the lesser of the supply deficiency of Buyer or Seller's supply obligation with respect to Buyer. Such deliveries shall be reduced upon a recalculation of supply deficiency under Section 281.106(f) of the Regulations and shall be reduced, in an equitable manner, where such supplemental deliveries will otherwise result in (1) a direct or indirect supply deficiency; or (2) a reduction of deliveries necessary for injection into storage, except where such storage is not reasonably necessary to service high-priority or essential agricultural uses.

If Seller rejects a request for adjustment under Section 281.108 of the Regulations, or Buyer does not request an adjustment on behalf of an eligible end-user served by the Buyer, then the aggrieved party may file with the Commission a request for extraordinary relief pursuant to Section 281.111 of the Regulations, and Seller shall adjust its deliveries to the extent necessary to accommodate the Commission's decision on the request.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-8797 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-22]

MIDWESTERN GAS TRANSMISSION CO.

Notice of Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Midwestern Gas Transmission Company (Midwestern), 1100 Milam Building, P.O. Box 2511, Houston, Texas 77001, tendered for filing the following tariff sheets to Third Revised Volume No. 1 of Midwestern's FERC Gas Tariff:

Fourth Revised Sheet No. 94
Original Sheet No. 94A
Original Sheet No. 94B
Original Sheet No. 94C
Original Sheet No. 94D

Fourth Revised Sheet No. 95G
Original Sheet No. 95G1
Original Sheet No. 95G2
Original Sheet No. 95G3
Original Sheet No. 94G4

Midwestern states that the tendered tariff sheets are filed to be effective April 1, 1979, pursuant to the order issued March 6, 1979, in Docket No. RM79-13 and sets forth new Sections 10 in the curtailment plan in Articles XIX and XX of the General Terms and Conditions in Midwestern's FERC Gas Tariff providing for an adjustment to Curtailment Period Quantity Entitlements for high-priority and essential agricultural users in accord with the provisions of such order, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

It is stated that Midwestern's customer's high-priority and essential agricultural requirements are determined pursuant to the provisions of sections 281.105-108 of the regulations. It is further said that the new tariff sheets provide that if a direct sale or distribution customer receives gas volumes from interstate or distribution suppliers other than Midwestern, the volume of adjustment must be apportioned, as appropriate, among such customer's interstate and distribution suppliers. It is said that the definitions in Sections 10 are in accord with those terms specified in section 281.103 of the Regulations. It is said that the Sections 10 provide the Midwestern may offset any adjustment by reducing the Curtailment Period Quantity Entitlements of other customers not receiving an adjustment down to the level of supply protected by Section 281.108(b) of the Commission Regulations, and that the volumes of adjustment shall be reduced on a pro rate basis when no further offsetting adjustments can be made in other customers' Curtailment Period Quantity Entilements. Finally, it is said that the new Sections 10 set forth information required in the form of an affidavit to be submitted by any direct sale or local distribution in the form of an affidavit to be submitted by any direct sale or local distribution customer when requesting an adjustment to its Curtailment Period Quantity Entitlement.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary

[FR Doc. 79-8798 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-28]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Tariff Filing

MARCH 20, 1979.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, on March 16, 1979, tendered for filing First Revised Sheet No. 102B to its FERC Gas Tariff, Fourth Revised Volume No. 1, pursuant to Part 281, Subpart A, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, promulgated by the Commission's Interim Curtailment Rule issued on March 6, 1979, in Docket No. RM79-13 to implement section 401 of the Natural Gas Policy Act. This filing which Texas Eastern proposes to put into effect during the period starting on April 1, 1979, until October 31, 1979, prescribes that curtailments pursuant to Section 12.3 of Texas' Eastern's FERC Gas Tariff shall be subject to adjustment to the extent necessary to supply certified essential agricultural uses or high priority uses.

The pertinent section of Texas Eastern's proposed interim tariff sheet submitted for filing herein is as follows:

12.7 Waiver of Section 12.3. Notwithstanding any provision of Section 12.3, Seller shall waive or adjust the effective level of curtailment for any Buyer, who has submitted to Seller Buyer's high-priority requirements or essential agricultural requirements in the manner prescribed and determined in accordance with 18 CFR 281, Subpart A.

The tariff filing by Texas Eastern adopts and incorporates by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Texas Eastern's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff filing should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-8776 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-39]

WESTERN GAS INTERSTATE CO.

Notice of Tariff Filing

MARCH 19, 1979.

Take notice that on March 16, 1979, Western Gas Interstate Company (Respondent), 1800 First International Building, Dallas, Texas 75250, filed in Docket No. TC79-39 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all

as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance when section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-8797 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-36]

COLORADO INTERSTATE GAS CO.

Notice of Tariff Filing

MARCH 20, 1979.

Take notice that on March 16, 1979, Colorado Interstate Gas Company (Respondent), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. TC79-36 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-8898 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-26]

NORTH PENN GAS CO.

Notice of Tariff Filing

MARCH 20, 1979.

Take notice that North Penn Gas Company (North Penn), 76-80 Mill Street, Port Allegany, Pennsylvania 16743, on March 16, 1979, tendered for filing First Revised Sheet No. 121, to First Revised Volume No. 1 of North Penn's FERC Gas Tariff in Docket No. TC79-26 to provide on an interim basis a plan for the delivery of natural gas for essential agricultural users in accordance with section 401 of the Natural Gas Policy Act of 1978 (NGPA) and part 281 of the Regulations thereunder all as more fully set forth in said sheets, which are on file with the Commission and open to public inspection.

The pertinent part of North Penn's First Revised Sheet No. 121 is set forth as follows under paragraph N of that sheet:

N. *Agricultural Uses.* Relief from the curtailment provision set forth in this Section 9A is available under the standards and procedures set forth by the Federal Energy Regulatory Commission in its "Interim Curtailment Rule" issued in Docket No. RM79-13 on March 6, 1979. The provisions of this paragraph N shall expire on October 31, 1979.

The tariff sheet tendered by North Penn adopts and incorporated by reference the regulations set forth in 18 CFR 281.101, *et seq.*, to provide that North Penn's plan for the curtailment of deliveries to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural uses only. The regulations set forth in 18 CFR 281.101, *et seq.*, require that protection from curtailment be provided to both high priority users as defined in these regulations as well as essential agricultural users. It appears that North Penn should, in order to be in conformity with the Commission's Regulations, tender an additional or amended filing that would also afford the requisite protection to "high priority users" as contemplated by the NGPA and the regulations promulgated thereunder.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheet, as filed, shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act. North Penn's filing, however, does not afford the curtailment protection required by the NGPA and our augmenting regulations thereunder with respect to "high priority users."

Any person desiring to be heard or make any protest with reference to said tariff sheet should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to

intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-8899 Filed 3-22-79; 8:45 am]

[6450-01-M]

[Docket No. TC79-29]

TRANSWESTERN PIPELINE CO.

Notice of Tariff Filing

MARCH 20, 1979.

Take notice that on March 16, 1979, Transwestern Pipeline Company (Respondent), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. TC79-29 tariff sheets as part of its FERC Gas Tariff to provide on an interim basis a plan for the delivery of natural gas for essential agricultural and high-priority uses in accordance with section 401 of the Natural Gas Policy Act of 1978 and part 281 of the Regulations thereunder, all as more fully set forth in said sheets which are on file with the Commission and open to public inspection.

The tariff sheets tendered by Respondent adopt and incorporate by reference the regulations set forth in 18 CFR 281.101 through 281.111 to provide that Respondent's plan for the curtailment of deliveries, to the maximum extent practicable, does not cause curtailment of deliveries of natural gas for essential agricultural and high-priority uses.

In accordance with the finding and determination by the Commission in the order issued March 6, 1979, in Docket No. RM79-13 (44 FR 13464, March 12, 1979), that good cause exists for waiver of the 30-day notice required by section 4 of the Natural Gas Act and section 154.22 of the Regulations thereunder, the tendered tariff sheets shall be accepted for filing to be effective April 1, 1979, without further order of the Commission unless suspended on or before March 31, 1979, in accordance with section 4 of the Natural Gas Act.

Any person desiring to be heard or make any protest with reference to said tariff sheets should on or before March 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). No requests for extension of this time will be entertained. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 79-8900 Filed 3-22-79; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[OTS-060004; FRL 1080-4]

ASBESTOS-CONTAINING MATERIALS IN SCHOOL BUILDINGS

School Asbestos Program

AGENCY: Environmental Protection Agency.

ACTION: Notice Announcing Program.

SUMMARY: The Environmental Protection Agency (EPA) is initiating a nationwide information and technical assistance program to encourage States and school districts to identify and control exposure problems caused by asbestos-containing materials in school buildings. EPA will distribute Guidance Packages to States and school districts and provide technical assistance through its Regional Offices. EPA will also collect data on the extent of asbestos exposure problems in school buildings and of actions taken to correct the exposure problems. The program focuses on asbestos exposure problems in public school buildings, but EPA will provide information and technical assistance to owners of other buildings upon request.

FOR FURTHER INFORMATION CONTACT: To obtain copies of the Guidance Package or other EPA publications:

Mr. John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Call toll-free 800-424-9065. (In Washington, D.C., call 554-1404.)

To obtain technical assistance on how to identify or correct asbestos exposure problems contact your Regional Asbestos Coordinator in the listed States:

Mr. Paul Heffernan, EPA Region I, JFK Federal Bldg., Boston, MA 02203, (617) 223-0585—Maine, New Hampshire, Vermont, Connecticut, Massachusetts, Rhode Island.

Mr. Marcus Kantz, EPA Region II, 26 Federal Plaza, Room 802, New York, NY 10007, (212) 264-9538—New York, New Jersey, Puerto Rico, Virgin Islands.

Mr. Fran Dougherty, EPA Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, (215) 597-8683—Pennsylvania, Delaware, Maryland, West Virginia, Virginia, District of Columbia.

Mr. Dwight Brown, EPA Region IV, 345 Courtland Street, Atlanta, GA 30308, (404) 881-3222—Kentucky, North Carolina, South Carolina, Tennessee, Mississippi, Alabama, Georgia, Florida.

Dr. Lyman Condie, EPA Region V, 230 South Dearborn St., Chicago, IL 60604, (312) 353-2291—Toll-free numbers: Illinois: 800-972-3170; Minnesota, Wisconsin, Indiana, Michigan, Ohio: 800-621-3191.

Dr. Norman Dyer, EPA Region VI, First International Bldg., 1201 Elm Street, Dallas, TX 75270, (214) 729-2734—Arkansas, Louisiana, Oklahoma, Texas, New Mexico.

Mr. Wolfgang Brandner, EPA Region VII, 324 East 11th Street, Room 1500, Kansas City, MO 64106, (816) 374-3036—Toll-free numbers: (Leave name and number and ask to have your call returned) Missouri: 800-892-3837; Iowa, Nebraska, Kansas: 800-821-3714.

Mr. Ralph Larsen, EPA Region VIII, 1860 Lincoln Street, Denver, CO 80295, (303) 837-3926—Montana, North Dakota, South Dakota, Wyoming, Utah, Colorado.

Mr. John Yim, EPA Region IX, 215 Fremont Street, San Francisco, CA 94105, (415) 556-3352—California, Nevada, Arizona, Hawaii.

Ms. Margo Partridge, EPA Region X, 1200 Georgia Avenue, Seattle, WA 98101, (206) 442-5560—Washington, Idaho, Oregon, Alaska.

SUPPLEMENTARY INFORMATION: EPA is concerned about the possibility that large numbers of school children and school employees are exposed to asbestos fibers released from asbestos-containing materials in school buildings. The Agency is coordinating a Federal, State, and local effort to determine the extent of the problem and to take appropriate corrective measures where needed.

There are three reasons for EPA's concern: (1) asbestos-containing materials were used extensively in buildings throughout the United States; (2) under certain circumstances asbestos fibers can be released from asbestos-containing materials into a building's air supply where they can be inhaled; and (3) because no one has ever established a safe or threshold level of exposure to asbestos, EPA believes that any exposure increases a person's risk of developing lung cancer, mesothelioma, asbestosis, or other diseases.

Although there is a basis for concern, there is not enough information to assess the full extent of the prob-

lem. No one knows which buildings or how many buildings have asbestos-containing materials. Whether there is an asbestos exposure problem in a building depends on the type of materials present and on the particular circumstances in the building. Not all asbestos-containing materials cause exposure problems.

There is generally a long latency period between exposure to asbestos and development of an asbestos-related disease. The length of the latency period depends on the amount and duration of exposure. The latency period may exceed twenty years, and people who are exposed to asbestos in school may develop asbestos-related diseases decades later. Children, adolescents, and school employees spend many hours in school buildings for many years, and the longer a person is exposed the greater his or her chance of developing an asbestos-related disease.

The amount of asbestos which is released into a school's air depends on a number of factors, including the activities in the school. Indoor athletic activities, such as basketball games, may cause vibrations which cause the release of asbestos fiber. Capricious behavior by students may cause damage to asbestos-containing materials, and damaged material is likely to release asbestos fibers.

Only friable asbestos-containing materials, materials that can be crumbled, pulverized, or reduced to powder in the hand, are likely to cause exposure problems. In some asbestos-containing materials, such as vinyl floor tiles, the asbestos fibers are firmly bound or encased. These materials will not release asbestos fibers unless they are cut, ground, or sanded.

Friable asbestos-containing materials were used extensively in schools (and other buildings) for insulation and fireproofing from the end of World War II until 1973. Most of these materials were applied by spraying and are commonly referred to as sprayed asbestos materials. In 1973, EPA prohibited the spraying of friable asbestos-containing materials for insulation or fireproofing. This ban was extended in 1978 to cover spraying for nearly all uses.

Not all friable materials were spray applied. Some were troweled on. Materials which were troweled on vary from soft to hard; hard materials are not friable.

The only sure way to determine whether a building contains friable asbestos-containing material is to visually inspect the building, take samples of the suspect material, and have the samples analyzed at a laboratory. Building records do not always indicate whether asbestos-containing materials were used. Visual inspection alone is not adequate because some friable materials contain cellulose, glass fibers, or other fibers and look virtually identical to asbestos-containing materials.

In October 1978 EPA conducted a telephone survey to learn how many States had established programs to inspect schools, identify exposure problems, and take corrective actions. The survey revealed that thirty-one States had programs but only about five percent of the nation's 90,000 public schools had been inspected. Many State officials expressed a need for guidance materials and stated that they would start or improve school asbestos programs after receiving those materials.

In order to aid and encourage States and school districts to identify and correct asbestos exposure problems in school buildings, EPA has developed an extensive guidance program. The program focuses on the "Guidance Package" which contains all of the information needed by a school district to conduct an asbestos control program. The Guidance Package will be distributed to public school districts either directly or through State agencies and is available to the public upon request. In order to supplement the Guidance Package EPA (1) has trained individuals in its ten Regional Offices to provide assistance, (2) has coordinated its program with other Federal agencies which will also provide assistance, (3) has produced a videotape which highlights the information in the Guidance Package; (4) will hold training sessions for interested State officials, and (5) has established a toll-free telephone number for people who have questions about sample analysis or selection of an analytical labaratory. In addition, EPA has begun a reporting program through which data will be collected to asses the extent of the asbestos material problem in schools and to determine the need for further Federal action.

The Guidance Package contains two documents. One manual explains a step-by-step procedure for identifying and correcting an asbestos exposure problem in a building. These steps are visually inspecting for friable material, having the samples analyzed for asbestos, performing an exposure assessment if asbestos is present, and taking corrective action if necessary. This manual is written for school officials.

The second manual contains more detailed information on asbestos identification and corrective measures. This manual will be particularly useful to school personnel, contractors, and others involved in actual asbestos inspection and control activities.

EPA's Regional offices will work directly with States. In each EPA Regional Office, a specially trained individual, the Regional Asbestos Coordinator, can provide technical assistance or information. (The Regional Asbestos Coordinators are listed above). Each Regional Asbostos Coordinators has available for loan a videotape which highlights the steps necessary to identify and correct an exposure problem. In addition, each Coordinator will develop a training session (or sessions) for interested State officials in the Region. The first Regional session was held in Atlanta on February 6, 1979.

EPA has coordinated this program with the Department of Health, Education, and Welfare and the Occupational Safety and Health Administration (OSHA). The agencies are providing Regional personnel to work with State and local officials in the areas of health effects and worker protection. Names and addresses of individuals to contact at these agencies are included in the Guidance Package.

EPA has arranged for Research Triangle Institute, a not-for-profit scientific research institute affiliated with Duke Univeristy, North Carolina State University, and the University of North Carolina, to answer specific questions about analysis of bulk samples for asbestos or selection of a laboratory for bulk sample analysis. Research Triangle Institute can be telephoned toll-free at 800-334-8571, extension 6892.

In addition to the guidance program, EPA has begun a reporting program. EPA requests that school districts report the results of their inspections for asbestos-containg material and any corrective actions taken. Each Guidance Package contains reporting forms that can be used for this purpose. EPA will use this information to determine the extent of the problem caused by asbestos-containing materials in public schools and to evaluate the need for further Federal actions. This information will be available to the public upon request.

EPA expects most States to have public school inspection programs in place shortly. Over thirty States already have programs, and some have already inspected all or nearly all of their schools. The success of the program depends on maximum local, State, and Federal cooperation.

Dated: March 15, 1979.

STEVEN D. JELLINEK,
Assistant Adminstrator for Toxic Substances.

[FR Doc. 79-8734 Filed 3-22-79; 8:45 am]

[6712-01-M]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 16556]

AUTOMATED PROGRAMMING SYSTEMS

Broadcast Action

MARCH 1, 1979.

By Defense Commissioner on February 28:

The Commission has received information that there are broadcast stations which presently use or are planning to use automated programming systems to conduct the weekly Transmission Tests of the Attention Signal and Test Script of the Emergency Broadcast System (EBS). In utilizing these systems it must be remembered that the entire EBS concept is based on the ability of broadcast stations to respond immediately to a national, state, or local emergency in order to provide the public with essential information affecting the safety of life and property.

One of the purposes of the weekly EBS test is to familiarize station staff in the procedures for promptly activiating the EBS system in the event of an actual emergency. The use of Automatic Programming Systems to perform the required tests without proper, regular training of station employees on how to run an EBS test or actual alert would not meet this requirement. It is essential that on-duty broadcast station personnel have the capability to interrupt normal programming on short notice to transmit the EBS Attention Signal and broadcast messages appropriate for the emergency condition in the event the EBS is activated. Stations using program automation must provide an operator at all times while on the air who can access the system and provide timely response to an Emergency Action Notification. In cases where stations have a studio operator manually programming an AM station and also overseeing a program automated FM station, facilities could be provided for that operator to transmit the EBS tests and alerts simultaneously on both stations.

Stations using Automated Transmission Systems (ATS) are reminded that means must be provided to meet the EBS monitoring and alert transmission requirements during all periods of operation as detailed below in paragraphs (f) and (g) of Sections 73.146, 73.346, and 73.546.

(f) The station employee on duty at the ATS monitoring and alarm point is not restricted to a specific duty position provided that such person can monitor the off-air program signal and alarm signal at all times. If that emplyee is the only person in attendance at the station, that person also must be able to observe and respond to an EBS alert as required by Subpart G of this part.

(g) The station employees on duty at ATS monitoring and alarm points shall be fully instructed in procedures to take in the event of a malfunction of the transmission system and receipt of an EBS alert.

Regarding the use of prerecorded (taped) EBS encoder tones in the making of EBS attention Signal Transmission, Section 73.940 states that, "An encoder device shall be used by broadcast stations for the generation of the two-tone Attention Signal." The EBS Checklist requires the Attention Signal to conform to Section 73.906, a part of which states that, "The two audio tones shall have fundamental frequencies of 853 and 960 Hertz and shall not vary over ±0.5 Hertz." Use of a tape recording of the tones would not be in compliance with Sections 73.940 or 73.906. In an order released on December 5, 1974, (FCC 74-1285), the Commission concurred with the National Industry Advisory Committee which stated in its recommendations to the Commission that: "* * * it was again determined that tape cartridges are not suffiently reliable to reproduce the two tones within the tolerances recommended." However, the use of prerecorded announcements for tests or alerts is not intended to be precluded.

With respect to the aural portion of the weekly EBS tests; Part 73, Subpart G and the EBS Checklist do not specifically prohibit the addition of any music, humming, singing, background noise, etc., to the EBS weekly test or test message. However, any form of a musical rendition or alteration of the weekly test would seem not to conform to the serious nature of the EBS and should be avoided.

I would like to take this opportunity to comend the broadcast industry for their voluntary participation in a program that truly has served the public interest, convenience and necessity. On June 28, 1976, the FCC, Defense Civil Preparedness Agency, The National Weather Service and the National Industry Advisory Committee entered into an agreement to work together to expand use of the EBS for State and local emergencies. Since that date many areas around the country have developed local EBS plans and are using the EBS for weather warnings, industrial accidents, civil disorder, etc. The Commission has received reports that such use of the EBS assuredly has saved lives and property. My fellow Commissioners join me in applauding all those who volunteered their efforts in this program.

MARGITA E. WHITE,
Defense Commissioner.

[FR Doc. 79-8709 Filed 3-22-79; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

AGREEMENT FILED

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 673, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreements Nos.: T-3787, T-3788, and T-3516-1.

Filing Party: Mr. Jonathan Blank, Preston, Thorgrimson, Ellis, Holman & Fletcher, Attorneys for the Port of Seattle, 1776 F Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. T-3787, between the Port of Seattle (Port) and Hapag-Lloyd AG, Hamburg, Breman (HL), provides for the Port's five-year lease (with renewal options) to HL of certain premises at Terminal 18, Seattle, Washington, to be used for the loading and discharging of HL vessels, Euro-Pacific vessels and for HL's operations incidental thereto. In addition, the Port grants HL the preferential use of ships' berth and prior apron, two Port-owned container cranes and eight straddle carriers. As compensation, HL agrees to pay the Port: (a) as rent for the leased premises and preferential use of ships' berth and apron area no less than $500,000 per year, nor more

than $600,000 per year; (b) for preferential use of container cranes, no less than $100,000 per year, nor more than $300,000 per year, and (c) for preferential use of straddle carriers, no less than $163,600 per year, nor more than $260,000 per year. In addition, HL agrees to pay the Port according to the Port of Seattle Tariff No. 2-F, all dockage, wharfage, maintenance, and fueling charges plus all applicable Federal, State and local taxes. HL may handle other vessels at the facility upon the Port's approval; and HL shall assess, collect and retain all applicable Port tariff charges resulting from such use.

Agreement No. T-3788, between the Port of Seattle (Port) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Ltd., Showa Line, Ltd., and Yamashita-Shinnihon Steamship Company, Ltd. (the Lines), provides for the Port's 20-month lease (with renewal options) to the Lines of certain premises at Terminal 37, Seattle, Washington, to be used for the Lines' container freight station warehouse and operations incidental thereto. As compensation, the Lines agree to pay the Port rental for the premises in the sum of $86,400 per year plus all applicable Federal, State and local taxes as well as the amortized cost of Port provided improvements totalling $322,650. The Lines may handle container freight operations other than those of Lines, upon the Port's approval; and the Lines shall assess collect and remit to the Port all applicable Port tariff charges resulting from such use.

Agreement No. T-3516-1, between the Port of Seattle (Port) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsum O.S.K. Lines, Ltd., Nippon Yusen Kaisha, Ltd., Showa Line, Ltd., and Yanashita-Shinnihon Steamship Company, Ltd. (the Lines), modifies the parties' basic agreement providing for the Port's lease to the Lines of certain premises at Terminal 18, Seattle, Washington, to be used for the loading and discharging of vessels, container storage, and for the Lines operations incidental thereto, together with the preferential utilization of two Port container cranes and ten Port straddle carriers. The purpose of the modification is to provide for: (1) relocation of the Lines operations to Terminal 37, by changing the legal description of the premises; (2) appropriate substitution of exhibits; (3) inclusion of additional premises facilities; (4) changes and/or addition in operation equipment; and (5) adjustments in lease rental and preferential use payments.

Dated: March 20, 1979.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-8913 Filed 3-22-79; 8:45 am]

[6730-01-M]

AGREEMENT FILED

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Lousisana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, within *10* days after publication of this notice in the FEDERAL REGISTER. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No.: T-3207-1.

Filing Party: Carl S. Parker, Jr., traffic Manager, Galveston Wharves, P.O. Box 328, Galveston, Texas 77553.

Summary: Agreement No. T-3207-1, between the Board of Trustees of the Galveston Wharves (Galveston) and Southern Stevedoring Co., Inc. (Southern), modifies the parties' basic agreement providing for the preferential lease by Galveston of premises for use by Southern as a public terminal for the business of heandling bananas, other tropical fruit and general cargo. The purpose of this amendment is to increase the size of the leased premises from 4.62 acres to 6.72 acres, and to increase the fixed annual rental from $23,000 to $40,000.

Dated: March 20, 1979.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 79-8914 Filed 3-22-79; 8:45 am]

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Assistant Secretary for Education

FEDERAL EDUCATION DATA ACQUISITION COUNCIL

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Office of the Assistant Secretary for Education announces the following meeting of the Federal Education Data Acquisition Council (FEDAC):

NAME: Federal Education Data Acquisition Council.

DATE: Tuesday, April 10, 1979.

TIME AND PLACE: 9:00 a.m. to 5:30 p.m., Room 3000 (Education Division Conference Room), Federal Office Building No. 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

CONTACT PERSON: Dr. Francis V. Corrigan, Room 3159, Federal Office Building No. 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-1022.

PURPOSE: This is the first meeting of FEDAC, which advises the Secretary of Health, Education, and Welfare on the improvement, development and coordination of Federal education data acquisition activities. The authority for FEDAC is Section 400A of the General Education Provisions Act, as added by the Education Amendments of 1978 (Pub. L. 95-561; 20 USC 1221-3).

AGENDA: Agenda items will include installation of Council members, overview of Council role and activities, review of policy issues and draft operating procedures, and adoption of interim operating procedures.

A roster of members and other pertinent information regarding the meeting may be obtained from Dr. Francis V. Corrigan at the address/telephone number given above. This meeting will be open to the public.

MARY F. BERRY,
Assistant Secretary for Education.

[FR Doc. 79-8808 Filed 3-22-79; 8:45 am]

[4110-87-M]

Center for Disease Control

OCCUPATIONAL SAFETY AND HEALTH FIELD RESEARCH PROJECT

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Center for Disease Control, PHS, HEW.

ACTION: Notice of Research Project Initiation.

SUMMARY: NIOSH announces that it is ready to begin data collection on a field research project entitled "Delayed Neurotoxicity of Organophosphorus Exposed Workers." Excluding pesticide formulation, the primary uses of organophosphorus esters is the manufacture of plastics, hydraulic fluids, lubricants, air filter media, and

flame retardants. The usage of organophosphorus esters in these diverse applications is partially due to their excellent flame-retardancy. This project is part of the NIOSH industrywide research effort conducted under the Occupational Safety and Health Act of 1970.

This notice does not constitute a request for proposal.

DATES: Field work is scheduled to begin in June 1979.

FOR FURTHER INFORMATION CONTACT:

Charlotte A. Cottrill, Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, OH 45226, Telephone: (513) 684-3816.

SUPPLEMENTARY INFORMATION: On September 20, 1978, NIOSH published in the FEDERAL REGISTER (43 FR 42305) a list of proposed field research projects. That notice stated that more specific information would be provided to the public 6 weeks before starting field work on any of the proposed projects. Field investigation and data collection on the following study will begin in June 1979:

Title: Delayed Neurotoxicity of Organophosphorus Exposed Workers.

Project Officer: Charlotte A. Cottrill, Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH.

Purpose: The purpose of this study is to investigate health effects, particularly subclinical neurologic effects, in workers with chronic occupational exposure to organophosphorus esters and/or their end products (with the exclusion of organophosphorus pesticides).

Background: Even though there has been increased usage of organophosphorus compounds in industrial, commercial, and military applications, other than as pesticides; most of the available epidemiologic literature focuses upon organophosphorus pesticides. Even though many of these organophosphorus pesticides are known as neurotoxins, little is known about the health effects of exposure to many other organophosphorus compounds (particularly the arye phosphates) and their commercialy important end products. A review of the toxicologic, medical, and industrial hygiene literature suggests a number of adverse health effects which may result from occupational exposure to organophosphorus esters and/or their non-pesticide end products. This study will investigate these suggested health effects particularly the neurological effects which may be associated with occupational exposure to non-pesticide organophosphorus products.

Study Description: The proposed study group will consist of approximately 164 workers occupationally exposed to organophosphorus esters or their end products. A comparison group of 164 workers who have never been exposed to organophosphorus esters, their end products, or other neurotoxins will also be studied. Comparison subjects will be selected using criteria to achieve a distribution similar to the worker cohort on the following variables: Age, sex, and socioeconomic status.

An interview schedule covering demographic data, occupational history, and medical history will be administered to each of the 328 workers selected.

Each of the 328 workers will be given a limited neurologic examination in addition to the following tests: Nerve conduction velocity, vibratory perception, visual reaction response, blood analysis, and phychological performance measures.

The NIOSH field research project described above will be conducted under the authority of Section 20 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 669) and in accordance with the provisions of Part 85a of Title 42, Code of Federal Regulations. The protocol for this type of project has been reviewed by the Office of Management and Budget and determined to be in compliance with the Federal Reports Act.

Dated: March 19, 1979.

ANTHONY ROBBINS, M.D.
Director, National Institute for Occupational Safety and Health.

[FR Doc. 79-8790 Filed 3-22-79; 8:45 am]

[4110-03-M]

Food and Drug Administration

CONSUMER PARTICIPATION

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming Consumer Exchange Meeting to be chaired by the Acting Food and Drug District Director, Baltimore, MD.

DATE: The meeting will be held at 10 a.m., Friday, March 30, 1979.

ADDRESS: The meeting will be held at the Senior Citizen Service Center of Tidewater, 1210 Colonial Ave., Mezzanine Floor, Norfolk, VA 23517.

FOR FURTHER INFORMATION CONTACT:

E. Hope Frank, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, New Federal Office Bldg., Rm. 11-510, 7th and Marshall Sts., Richmond, VA 23240, 804-782-2748.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to exchange information between FDA officials, consumers, and consumer representatives. Participants may present their views directly to the district director of FDA and seek solutions to any problems agreed on during this communication. The agency will have an opportunity to discuss and communicate vital health and policy issues to the concerned public.

Dated: March 16, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-8598 Filed 3-22-79; 8:45 am]

[4110-03-M]

CONSUMER PARTICIPATION

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming Consumer Exchange Meeting to be chaired by the District Director of the Region X Food and Drug Administration office, Seattle, WA.

DATE: The meeting will be held at 1:30 p.m., Thursday, March 29, 1979.

ADDRESS: The meeting will be held at the Federal Building and U.S. Courthouse, Rm. 589, West Fort St., Boise, ID 83724.

FOR FURTHER INFORMATION CONTACT:

Ellen Miller, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, Federal Office Bldg., Rm. 5003, Seattle, WA 98174, 206-442-5258.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to exchange information between FDA officials and consumer representatives. The meeting will provide consumer representatives an opportunity to present their views directly to the District Director and other regional managers of FDA and will provide the agency an opportunity to discuss with a concerned public vital health and policy issues which need resolution.

Dated: March 16, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-8595 Filed 3-22-79; 8:45 am]

[4110-03-M]

Food and Drug Administration

CONSUMER PARTICIPATION

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming Consumer Exchange Meeting to be chaired by the Director of the San Francisco District Office, Region IX.

DATE: The meeting will be held at 2 p.m., Monday, April 9, 1979.

ADDRESS: The meeting will be held at: 300 Ala Moana Boulevard, Honolulu, Hawaii.

FOR FURTHER INFORMATION CONTACT:

Camilla Gray McGowan, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 50 U.N. Plaza, San Francisco, CA 94102, 415-556-2062.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to exchange information between FDA officials and representatives of the Honolulu community concerning food additives. Current FDA policy will be explained, issues discussed, and areas requiring action or followup identified.

Dated: March 19, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-8803 Filed 3-22-79; 8:45 am]

[4110-03-M]

CONSUMER PARTICIPATION

Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces a forthcoming Consumer Exchange Meeting, arranged by the Food and Drug District office, Detroit, MI.

DATE: The meeting will be held at 9:30 a.m., Wednesday, April 4, 1979.

ADDRESS: The meeting will be held in the Conference Room Food and Drug Administration, 1560 E. Jefferson, Detroit, MI.

FOR FURTHER INFORMATION CONTACT:

Diane M. Place, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 1560 E. Jefferson, Detroit, MI 48207, 313-226-6260.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to exchange information between FDA officials, consumers, and consumer representatives. Participants may present their views to the chairperson and seek solutions to Food and Drug interactions and the Over-the-Counter Drug Review. The agency will have an opportunity to discuss and communicate vital health and policy issues to the concerned public.

Dated: March 19, 1979.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-8804 Filed 3-22-79; 8:45 am]

[4110-03-M]

[Docket No. 78N-0388]

TELES SUSPENSION

Final Order on Objections and Request for Hearing Regarding Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) denies a hearing and withdraws approval of the new drug application (NDA) for Teles Suspension, an antiseborrheic drug for topical use. The agency has reviewed the manufacturer's request for hearing and has concluded that there is no genuine issue of material fact requiring a hearing. The approval is being withdrawn because there is a lack of substantial evidence that the drug would have all the effects claimed in its labeling.

EFFECTIVE DATE: April 2, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 9206) published in the FEDERAL REGISTER of July 30, 1970 (35 FR 12234), FDA announced its evaluation of a report received from the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group, on the antiseborrheic drug Teles Suspension, Torch (NDA 9-205), containing tellurium dioxide, formerly marketed by Torch Laboratories, Inc., 760 S. 42d St., Philadelphia, PA 19104 (hereafter, Torch).

In the July 1970 notice, FDA stated that tellurium dioxide suspension was possibly effective for the treatment of seborrheic dermatitis of the scalp, axillae, chest, and pubic regions. Holders of previously approved NDA's and any person marketing any such drug without approval were given 6 months to obtain and submit, in a supplemental or original NDA, data to provide substantial evidence of effectiveness for those indications for which the drug was classified as possibly effective. The agency stated that at the end of the 6 months, it would evaluate the data to determine whether or not substantial evidence of effectiveness had been provided, and that, if it had not, the agency would initiate procedures to withdraw approval of the NDA under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)).

Because information later submitted by Torch was found not to provide substantial evidence of effectiveness, FDA issued a notice of opportunity for hearing (then under Docket No. FDC-D-414) in the FEDERAL REGISTER of March 28, 1972 (37 FR 6343). The notice reclassified the "possibly effective" indications to "lacking substantial evidence of effectiveness", and proposed to issue an order withdrawing approval of the NDA and all amendments and supplements thereto on the grounds that new information before the agency concerning the drug, evaluated together with the evidence available to the agency at the time of approval of the application, showed that there was a lack of substantial evidence that the drug would have all the effects it purported or was represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. Before initiating this action, however, the agency invited Torch and other interested persons to submit by April 30, 1972, a written notice electing whether or not to avail themselves of the opportunity for a hearing. Those requesting a hearing were instructed to state the reasons why approval of the NDA should not be withdrawn and to provide a well-organized and full factual analysis of the clinical and other investigational data that they were prepared to present in support of the requested hearing.

On April 6, 1972, Torch filed a written notice of appearance requesting a hearing and material relied upon to justify a hearing.

The agency has considered the material submitted by Torch and has con-

cluded that there is no genuine issue of material fact requiring a hearing. A full discussion follows.

I. THE DRUG

Teles Suspension contains 2.5 percent tellurium dioxide in a vehicle containing emulsifying and wetting agents, sulfated to a pH of 5.5.

II. RECOMMENDED USES

The labeling reviewed by the NAS/NRC Drug Efficacy Study Group recommended Teles Suspension for seborrheic dermatitis of the scalp, axillae, chest, and pubic regions. Revised labeling recommends Teles Suspension as a shampoo for topical use only in the management of seborrheic dermatitis.

III. DATA SUBMITTED TO SUPPORT CLAIMS OF EFFECTIVENESS

Torch submitted the report of one study and referenced other information in the NDA and a report cited by the NAS/NRC Panel that had reviewed the drug. All are discussed below.

A. *Clinical studies.* 1. The only clinical investigation submitted by Torch with its hearing request was initiated by Marion Laboratories. Marion conducted 3 double-blind controlled trials involving 70, 84, and 83 patients comparing Teles Suspension with the bland shampoo base (tellurium omitted).

Patients with seborrhea of unstated severity were selected, and their seborrhea was evaluated on a point scale of 0 to 16 (0 to 4 for each of four scalp quadrants) in two studies (Blau and Knopf, Shelanski) or 0 to 36 (0 to 4 for nine sections) in one study (Orentreich). Patients were treated for 2 weeks (Blau and Knopf, Shelanski) or 1 month (Orentreich) with the bland shampoo base, then randomized for 2 months to one of the two treatments. In two studies (Blau and Knopf, Shelanski), the bland shampoo base was then resumed for 2 weeks.

Although the basic design of the studies appears sound, the report of their results is facially inadequate. Because there is no information on results in individual patients, it is impossible to assess the comparability of patients for possibly pertinent variables (e.g., age, sex, duration of seborrhea) or to confirm the averages and statistical analyses performed. The reports thus lack the details needed for scientific evaluation (21 CFR 314.111(a)(5)(ii)(c)), and can therefore not be considered as providing evidence of an adequate and well-controlled investigation.

More important, however, the results of the studies do not support the effectiveness of Teles Suspension. Two studies (Blau and Knopf, Shelanski) show no advantage for Teles over its bland shampoo base; they do not even show a trend in that direction. The Blau and Knopf study, in fact, slightly favors the base. The Orentreich study is reported to favor Teles significantly at the first month but not after the second. The study, however, fails to consider that despite initial randomization, the bland base group had worse seborrhea at the start of the study than did the Teles group. Noncomparability of groups at baseline can sometimes be dealt with by appropriate statistical techniques, but an adequate and well-controlled clinical investigation must at least consider whether comparability of pertinent variables has been assured (21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*)).

The Marion analysts concluded that, "considering all three studies together, it can be shown that Teles reduces seborrhea and is an effective agent. Its benefit over the plain base is marginal and *has not been clearly demonstrated*" (emphasis added). This analysis by the only persons familiar with the full data from the studies (Torch submitted no further analysis or raw data) plainly represents a conclusion that there is not substantial evidence that Teles Suspension is more effective than a plain, unmedicated shampoo.

Torch later asserted that the bland shampoo base is not truly bland but contains sulfuric acid to adjust the pH, and that the acid and the pH produce an active product. No evidence was offered, however, to demonstrate that either sulfuric acid or pH is in fact important in the treatment of seborrhea. Torch also asserted that the product as a whole proved clearly effective in these studies, even if not more effective than the bland shampoo base, and that therefore the product is effective. However, Teles Suspension contains tellurium dioxide, which, when added to the shampoo, is claimed to be an active therapeutic agent for treatment of dandruff. If in fact the ingredient is not effective, its inclusion in the product is impermissible.

An alternative way of viewing the situation, which does not alter the evidentiary requirements at all, is to consider Teles a combination product. If the base or vehicle of a combination drug has activity against the condition being treated, the effectiveness of the added drug must be demonstrated by showing that the complete drug product is more effective than the admittedly active base. The combination drug regulation, 21 CFR 300.50, requires that each component (the base and tellurium dioxide) be shown to contribute to the claimed effect. This objective would be accomplished by showing that the complete product is more effective than either of the components. Because it would not be appropriate to test tellurium dioxide alone without a bland shampoo base, the required study would be a comparison of Teles with its shampoo base. As discussed above, because Teles was not shown to be more effective than its shampoo base, the tellurium dioxide adds nothing to the effectiveness of the base, and the product fails to meet the requirement that each component of a combination drug contribute to the claimed effects of the drug.

2. In the NDA for Teles is a 1961 report of a study in which Smith, Kline, and French sent 45 dermatologists and 7 pediatricians supplies of Teles Suspension for use principally in seborrheic dermatitis. Of 786 patients treated, results were available on 600. Of these 600, 367 case reports were received and 233 verbal reports obtained. Reports consist only of the physicians' ratings (excellent, good, fair, poor) and various comments about how much physicians and patients like the shampoo. The study fails to compare the results of treatment with those of a control therapy (either an unmedicated shampoo or another medicated one) (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)). Nor does the report contain information needed for scientific evaluation, such as the method of patient selection and the diagnostic criteria employed by the investigators (21 CFR 314.111(a)(5)(ii)(*c*)).

3. A part of the NDA for Teles consists of reports by Bolus, Kiech, and Gross, who studied Teles suspension in 38 patients, most of whom had seborrheic dermatitis of the scalp. The reports consisted of a single page, which listed, at most, the patient's initials, the duration of treatment, and various summary statements, such as "all cases showed marked improvement" (Bolus). Viewed as a study, the reports plainly lack the details needed for scientific evaluation (21 CFR 314.111(a)(5)(ii)(*c*)). Moreover, no patients were treated by the investigators with a bland base shampoo. Because the reports provide no comparison of the results in patients treated with Teles with those obtained in a control group, the reports can provide no basis for concluding that Teles is more effective than a plain shampoo lacking tellurium dioxide (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)). The reports thus lack the essentials of an adequate and well-controlled clinical investigation identified in 21 CFR 314.111(a)(5)(ii).

4. In support of the effectiveness of Teles Suspension, Torch submitted a reprint of an article by E. R. Gross and C. S. Wright, entitled "Tellurium Dioxide Suspension in the Treatment of Seborrhea Capitis" (*Archives of Dermatology*, 78:92-94, 1958). Gross

and Wright report without any detail, their experience in using Teles Suspension in *seborrhea capitis*. In a review of 159 cases, Wright found 69 completely controlled, 72 improved, and 18 unimproved. In his review of 83 cases, Gross found 60 in whom Teles was able to control seborrhea, 10 who were improved, and 13 who were unimproved. There are no details that would permit scientific evaluation (21 CFR 314.111(a)(5)(ii)(c)), and there was no comparison with an unmedicated shampoo control, or with any other control treatment (21 CFR 314.111(a)(5)(ii)(*a*)(*4*)).

B. *Other data.* In its submission, Torch cited the following articles and reports:

1. A report from Wyanel Laboratories of June 5, 1953, on subacute dermal toxicity studies in rabbits, rats, and guinea pigs, and an eye irritation study in rabbits;

2. An article entitled "The Toxicity of Orally Ingested Arsenic, Selenium, Tellurium, Vanadium, and Molybdenum," Frank and Moxon, concerning the chronic oral toxicity of tellurium salts in rats;

3. An article entitled "Industrial Exposure to Tellurium: Atomspheric Studies and Clinical Evalution," Steinberg, Massari, Miner, and Rink, *Journal of Industrial Hygiene and Toxicology*, Vol. 24, No. 7, a study on the effects of exposure of workers to known concentrations of tellurium fumes in an industrial process;

4. A report from Dalare Associates of January 28, 1955, on the urine levels of tellurium after exposure thereto; and

5. A report from the Kettering Laboratory of December 1, 1955, on the excretion of tellurium following the daily use of a shampoo containing tellurium dioxide.

These articles and reports concern the safety of tellurium, not its effectiveness. Because the proposed withdrawal of approval of NDA 9-205 is based solely on lack of evidence of effectiveness, the articles and reports are not pertinent.

IV. Summary

Torch did not submit any adequate and well-controlled clinical studies that demonstrate the effectiveness of Teles in the treatment of seborrheic dermatitis. The studies do not contain sufficient information, most of them are uncontrolled, and they do not demonstrate the effectiveness of Teles Suspension compared with its base.

V. Findings

On the basis of the foregoing, FDA finds that there is a lack of substantial evidence that Teles Suspension has the effects it is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. Torch has not presented any data to demonstrate the existence of a genuine and substantial issue of fact requiring a hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to the Commissioner (21 CFR 5.1), the request for a hearing is denied, and approval of NDA 9-205 for Teles Suspension, and all amendments and supplements thereto, is hereby withdrawn, effective April 2, 1979.

Dated: March 15, 1979.

SHERWIN GARDNER,
Acting Commissioner of Food and Drugs.

[FR Doc. 79-8805 Filed 3-22-79; 8:45 am]

[4110-92-M]

Office of Human Development Services

[Program Announcement Number 13648-791]

CHILD WELFARE SERVICES TRAINING GRANTS PROGRAM

Availability of Funds

AGENCY: Administration for Children, Youth and Families Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Services Training Grants Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *Teaching Grants* authorized under Section 426 of the Social Security Act (part B of title IV, 42 U.S.C. 626).

DATES: Closing date for receipt of applications is May 21, 1979.

Scope of this Announcement

This Program Announcement is one of four for the Child Welfare Services Training grants program and covers Teaching grants to be awarded for Fiscal Year 1979. All Teaching grants are awarded and administered by the regional Administration for Children, Youth and Families Program Offices.

Program Purpose

The purpose of this program is to develop, expand, and improve educational programs and resources for preparing students for work in the field of child welfare.

Program Goal and Objectives

The goal of this program is to provide education and training opportunities for persons who are committed to entering the field of child welfare services or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families:

- To provide support to families in their own homes in order to prevent separation of children from their families.
- Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.
- Where these options are inappropriate, to provide quality services which enable the children to become adopted or where it is the plan of choice to be placed in a permanent foster home.

Applications for projects should specify that the proposed project will achieve or is capable of achieving one of the following specific program objectives:

- To develop degree oriented curricula organized into specific course sequences for use by the applicant school of social work, which (a) address the range of issues and problems in the practice of child welfare in an organized and comprehensive focus and (b) integrate a child welfare field placement program which supports a comprehensive learning experience for students entering a child welfare specialization; or
- Develop curricula which address the range of child welfare issues in an organized, comprehensive and practice relevant focus for a school of continuing education which is part of or affiliated with the applicant school of social work.

Eligible Applicants

Teaching grants are awarded to public or nonprofit private colleges and universities offering baccalaureate or graduate degree programs in social work which are accredited or granted candidacy status by the Council on Social Work Education. Applications submitted by applicants not accredited or not granted candidacy status by the Council on Social Work Education, will not be accepted for review.

Available Funds

Of the total appropriation of $8,150,000 available in Fiscal Year 1979, the Administration for Children, Youth and Families expects to award approximately $2,037,500 for new teaching grants. A new grant is the initial award made in support of a project. The project period is of one year duration. An indirect cost of 8

percent of the direct costs (or the institution's actual indirect cost if less than 8 percent) is allowable for this grant program. In Fiscal Year 1978, 140 teaching grant applications were received for competitive review and 83 awards were made, averaging $37,568 each.

GRANTEE SHARE OF THE PROJECT

There is no cost sharing or matching requirement for grants under this program.

THE APPLICATION PROCESS

AVAILABILITY OF FORMS

Application for a grant under the Child Welfare Services Training Grants Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions, and program information, including the complete Program Guidance for Fiscal Year 1979 may be obtained by writing to the "Project Officer, Child Welfare Services Training Grants" in the appropriate regional office listed in the appendix.

APPLICATION SUBMISSION

One signed original and six copies of the grant application, including all attachments, must be submitted to the Regional Office address indicated in the application instructions. Applications must be submitted to the Regional office in the region in which the applicant institution is located. *The applicant must clearly identify the program announcement number for which the application is to compete.* The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

A-95 NOTIFICATION PROCESS

This program does not require the A-95 notification process.

APPLICATION CONSIDERATION

The Administration for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program.

Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Regional Program Director for Children, Youth and Families in considering competing applications. If the Regional Program Director has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Completed grant applications will be reviewed and evaluated against the following criteria:

- That the project objectives are identical with or are capable of achieving one of the specific program objectives listed in this announcement under "Program Goals and Objectives."
- That proposed procedures or the work program, if well executed, will be capable of achieving the desired results, including (1) the plan for accomplishing the purpose and objectives, (2) timetables for their accomplishment, and (3) information about the number and type of students to be directly affected by the teaching grant.
- That the project personnel are or will be well qualified to develop child welfare curricula and the applicant organization has or will have adequate facilities and resources to conduct the project.
- That the applicant (a) describes what child welfare issues will be covered in the curricula, (b) demonstrates that these issues will be covered in an organized and comprehensive manner; and (c) where applicable, describes how its child welfare field placement program will support a total comprehensive learning experience for students entering a child welfare specialization.
- That the applicant has a clear plan for establishing an advisory group made up of persons providing child welfare services, including both the public and voluntary sector, and that this advisory group will meet regularly to provide practice relevant technical assistance in the course design and will review various draft materials, including the final product.
- That the applicant describes specific plans to implement the curricula into the ongoing program of the school of social work or school of continuing education, including projected information about the qualifications of the person who will teach the course, how often they will be offered, and what students will be eligible to take the course(s).
- That the estimated cost to the government and the project is reasonable considering the anticipated results.

CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this Program Announcement is May 21, 1979. An application will be considered received on time if:

- The application was sent by registered or certified mail not later than May 21, 1979 as evidenced by the U.S. Postal Service postmark, or the original receipt from the U.S. Postal Service; or
- The application is received on or before close of business (COB) May 21, 1979 in the Department of Health, Education, and Welfare Regional Office mailroom. In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare.

APPLICATIONS RECEIVED AFTER THE DEADLINE OR SENT TO ANY ADDRESS OTHER THAN THE REGIONAL OFFICE IN THE REGION IN WHICH THE APPLICANT INSTITUTION IS LOCATED WILL NOT BE ACCEPTED AND WILL BE RETURNED TO THE APPLICANT.

(Catalog of Federal Domestic Assistance Project Number 13.648, Training Grants in the Field of Child Welfare.)

Dated: March 8, 1979.

JOHN BUSA,
Acting Commissioner for Children, Youth and Families.

Approved: March 19, 1979.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

APPENDIX

REGIONAL PROJECT OFFICERS, CHILD WELFARE SERVICES TRAINING GRANT PROGRAM, ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, REGIONS I-X

Region I

Regional Project Officer, Administration for Children, Youth and Families, Room 2011—JFK Federal Building, Government Center, Boston Massachusetts 02203 (617) 223-6450.

Region II

Regional Project Officer, Administration for Children, Youth and Families, Federal Building, 26 Federal Plaza—Room 4149, New York, New York 10007 (212) 264-4118.

Region III

Regional Project Officer, Administration for Children, Youth and Families, P.O. Box 13716, 3535 Market Street, Philadelphia, Pennsylvania 19101 (215) 596-6763.

Region IV

Regional Project Officer, Administration for Children, Youth and Families, 101 Marietta Tower—Suite 903, Atlanta, Georgia 30323 (404) 242-2128.

Region V

Regional Project Officer, Administration for Children, Youth and Families, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606 (312) 353-8065.

Region VI

Regional Project Officer, Administration for Children, Youth and Families, 1200 Mail Tower Building—Room 2025, Dallas, Texas 75202 (214) 729-6596.

Region VII

Regional Project Officer, Administration for Children, Youth and Families, Federal Building, 601 E. 12th Street—3rd Floor, Kansas City, Missouri 64106 (816) 758-5401.

Region VIII

Regional Project Officer, Administration for Children, Youth and Families, 1961 Stout Street, Denver, Colorado 80294 (303) 327-3106.

Region IX

Regional Project Officer, Administration for Children, Youth and Families, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102 (415) 556-6153.

Region X

Regional Project Officer, Administration for Children, Youth and Families, Mail Stop 622—Arcade Plaza Building, 1321 2nd Avenue, Seattle, Washington 98101 (206) 399-0838.

[FR Doc. 79-8862 Filed 3-22-79; 8:45 am]

[4110-92-M]

[Program Announcement No. 13648-792]

CHILD WELFARE SERVICES TRAINING GRANTS PROGRAM

Availability of Funds

AGENCY: Administration for Children, Youth, and Families Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Services Training Grants Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *Traineeship Grants* authorized under Section 426 of the Social Security Act (part B of title IV, 42 U.S.C. 626).

DATES: Closing date for receipt of applications is May 21, 1979.

Scope of This Announcement

This Program Announcement is one of four for the Child Welfare Services Training Grants program and covers Traineeship Grants to be awarded for Fiscal Year 1979. All Traineeship Grants are awarded and administered by the regional Administration for Children, Youth and Families Program Offices.

Program Purpose

The purpose of this program is to develop the skills and qualification of full-time students who have as their career objectives the provision of services to children as their families by providing financial support through Institutions of Higher Education. Support is provided to Baccalaureate degree students in their senior year only, for the first or second year at the Masters of Social Work Level, and for Doctoral candidates.

Program Goal and Objectives

The goal of this program is to provide education and training opportunities for persons who are committed to entering the field of child welfare services or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families:

- To provide support to families in their own homes in order to prevent separation of children from their families.
- Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.
- Where these options are inappropriate, to provide quality services which enable the children to become adopted or where it is the plan of choice, to be place in a permanent foster home.

Applications should specify that the proposed project will achieve or is capable of achieving the following program objective:

- To enable students who have child welfare as a career objective to gain special knowledge and experience in providing services to children and their families. Financial support is provided only to full-time Baccalaureate degree students in their senior year, to full-time first or second year graduate students working toward a Masters in social work or its equivalent and full-time Doctoral candidates. Undergraduates at the junior level, students who are enrolled part-time or for any other purpose are not eligible to receive assistance under this program.

Eligible Applicants

Traineeship Grants are awarded to public or nonprofit private colleges and universites offering baccalaureate or graduate degree programs in social work which are accredited by the Council on Social Work Education or have been granted candidacy status. Applications submitted by applicants not accredited nor granted candidacy status by the Council on Social Work Education will not be accepted for review.

Available Funds

Of the total appropriation of $8,150,000 available in Fiscal Year 1979, the Administration for Children, Youth and Families expects to award approximately $3,260,000 for new traineeship grants. A new grant is the initial award made in support of a project. The project period is of one year duration. Awards are made for student costs only. At the undergraduate level, the per student cost shall not exceed $1,000. At the graduate level, costs which may be covered include tuition, fees, stipend, dependency allowances and travel expenses. No other direct or indirect costs are allowable except for the following:

If a separate unit is established in a public child welfare service agency for the sole purpose of supervising trainee field placement, those costs directly attributed to the field supervision of the students will be allowable as a direct cost to the institution. An indirect cost rate not to exceed 8 percent of the direct costs (excluding traineeship costs) may be charged to the program (or the institution's actual indirect cost if less than 8 percent.

In fiscal year 1978, 131 traineeship grant applications were received for competitive review and 108 awards were made, averaging $31,498.

Grantee Share of the Project

There is no cost sharing or matching requirement for grants under this program.

The Application Process

AVAILABILITY OF FORMS

Application for a grant under the Child Welfare Services Training Grants Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the complete Program Guidance for Fiscal Year 1979 may be obtained by writing to the "Project Officer, Child Welfare Services Training Grants" in the appropriate regional office listed in the appendix.

APPLICATION SUBMISSION

One signed original and six copies of the grant application, including all attachments, must be submitted to the Regional Office address indicated in the application instructions. (Applications must be submitted to the appropriate Regional office in the region in

which the applicant institution is located.) *The applicant must clearly identify the program announcement number for which the application is to compete.* The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

A-95 NOTIFICATION PROCESS

This program does not require the A-95 notification and review process.

APPLICATION CONSIDERATION

The Administration for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the rquirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Regional Program Director for Children, Youth and Families in considering competing applications. If the Regional Program Director has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Completed grant applications will be reviewed and evaluated against the following criteria:

- That the project objectives are identical with or are capable of achieving the specific program objective listed in this announcement under "Program Goals and Objectives."
- That proposed procedures or the work program, if well executed, will be capable of achieving the results required by the program and further defined and elaborated by the applicant, including at least the following subcriteria:

a. That the applicant describes a specific plan to track recipients of traineeships for a period of at least five years to determine to what extent graduates enter and remain in the field of child welfare services; and

b. That the applicant provides assurance that all student eligibility requirements are met.

- That the application describes what the institution is doing to reinforce and support the students' commitment to child welfare services, including a description of courses which students will be required to take or select from which place special emphasis on child welfare services.
- That the applicant documents it will provide a field placement program (except for Doctoral candidates) for students in which they will have an opportunity to integrate academic and field placement experiences into a more comrehensive understanding of the field of child welfare, including the following:

a. What type of schedule the field placement follows and how many hours a week, month, semester, etc., it entails;

b. That for each traineeship requested there is a specific description of and commitment in writing from an agency for a full academic year of field placement as defined by the institution, in a child welfare setting which will enable the undergraduate or Master level trainee to (1) carry a caseload or participate in the management of a caseload primarily involving child welfare services and (2) work under the direction of a trained social work supervisor;

c. The applicant describes the policies and procedures it will follow in the supervision of the students' field placements including (1) whether there is a supervisor or director of field placement and what is that person's role and responsibility; (2) who provides direct supervision (the school or the field placement agency); (3) the criteria for the selection of field placements in child welfare; (4) the nature and quality of the supervisory contact required; and (5) the relationship between the field placement and the classroom instruction.

- That the application include one of the following three types of specific documentation that the recipients of traineeships will work in a child welfare setting upon completion of their Baccalaurate, Masters degree or Doctoral program: (Items 1 & 2 apply to undergraduate and Masters level only. Item 3 applies to Doctoral candidates only).

1. A letter of commitment from public or voluntary social service agencies to release employees for the pursuit of a graduate or undergraduate degree in social work. The letter of commitment must specify the number of employees to be released and enrolled, and describes efforts made by the agencies to select minorities and employees with limited financial resources; or

2. A letter of commitment from a public or voluntary agency stating that it will hire a trainee upon completion of the degree program by that student.

3. A letter of commitment from an institution or agency stating that it will hire a trainee upon completion of the degree program to teach, conduct research or administer programs in child welfare.

- That for Doctoral candidates a complete description of dissertations be included and how each dissertation relates to the goal and objectives of this program.
- That project personnel are or will be well-qualified to provide direction and supervision to students specializing in child welfare and the applicant organization has or will have adequate facilities and resources to conduct the project.
- That the estimated cost to the government of the project is reasonable considering the anticipated results.

CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this Program Announcement is May 21, 1979. An application will be considered received on time if:

- The application was sent by registered or certified mail no later than May 21, 1979 as evidenced by the U.S. Postal Service postmark, or the original receipt from the U.S. Postal Service; or
- The application is received on or before close of business (COB) May 21, 1979 in the Department of Health, Education, and Welfare Regional Office mailroom. In establishing the date of receipt, consideration will be given to the time date stamps of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare.

APPLICATIONS RECEIVED AFTER THE DEADLINE OR SENT TO ANY ADDRESS OTHER THAN THE REGIONAL OFFICE IN THE REGION IN WHICH THE APPLICANT INSTITUTION IS LOCATED WILL NOT BE ACCEPTED AND WILL BE RETURNED TO THE APPLICANT.

(Catalog of Federal Domestic Assistance Project Number 13.648, Training Grants in the Field of Child Welfare.)

Dated: March 8, 1979.

JOHN BUSA,
Acting Commissioner for Children, Youth and Families.

Approved: March 19, 1979.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

APPENDIX

REGIONAL PROJECT OFFICERS, CHILD WELFARE SERVICES TRAINING GRANT PROGRAM, ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, REGIONS I–X

Region I

Regional Project Officer, Administration for Children, Youth and Families, Room 2011, JFK Federal Building, Government Center, Boston, Massachusetts 02203 (617) 223-6450.

Region II

Regional Project Officer, Administration for Children, Youth and Families, Federal Building, 26 Federal Plaza, Room 4149, New York, New York 10007 (212) 264-4118.

Region III

Regional Project Officer, Administration for Children, Youth and Families, P.O. Box 13716, 3535 Market Street, Philadelphia, Pennsylvania 19101 (215) 596-6763.

Region IV

Regional Project Officer, Administration for Children, Youth and Families, 101 Marietta Tower, Suite 903, Atlanta, Georgia 30323 (404) 242-2128.

Region V

Regional Project Officer, Administration for Children, Youth and Families, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606 (312) 353-8065.

Region VI

Regional Project Officer, Administration for Children, Youth and Families, 1200 Mail Tower Building, Room 2025, Dallas, Texas 75202 (214) 729-6596.

Region VII

Regional Project Officer, Administration for Children, Youth and Families, Federal Building, 601 E. 12th Street, 3rd Floor, Kansas City, Missouri 64106 (816) 758-5401.

Region VIII

Regional Project Officer, Administration for Children, Youth and Families, 1961 Stout Street, Denver, Colorado 80294 (303) 327-3106.

Region IX

Regional Project Officer, Administration for Children, Youth and Families, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102 (415) 556-6153.

Region X

Regional Project Officer, Administration for Children, Youth and Families, Mail Stop 622, Arcade Plaza Building, 1321 2nd Avenue, Seattle, Washington 98101 (206) 399-0838.

[FR Doc. 79-8863 Filed 3-22-79: 8:45 am]

[4110-92-M]

[Program Announcement Number 13648-794]

CHILD WELFARE SERVICES TRAINING GRANTS PROGRAM

Availability of Funds

AGENCY: Administration for Children, Youth and Families Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Services Training Grants Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *Child Welfare Training Center Grants* authorized under Section 426 of the Social Security Act (part B of title IV, 42, U.S.C. 626).

DATES: Closing date for receipt of applications is May 21, 1979.

SCOPE OF THIS ANNOUNCEMENT

This Program Announcement is one of four for the Child Welfare Services Training Grants program and covers Child Welfare Training Center Grants to be awarded for Fiscal Year 1979. All Training Grants are awarded and administered by the Children's Bureau, Administration for Children, Youth and Families, Washington, D.C.

PROGRAM PURPOSE

The purpose of this program is to develop, expand, strengthen and improve the capacity of schools of social work to train persons who will work or who are working in the field of child welfare services.

PROGRAM GOAL

The goal of this program is to provide education and training programs for persons who are committed to entering the field of child welfare services, or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families:

- To provide support to families in their own homes in order to prevent separation of children from their families.
- Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.
- Where these options are inappropriate, to provide quality services which enable the children to become adopted or where it is the plan of choice to be placed in a permanent foster home.

Applications for the National Child Welfare Training Center Grant should specify that the proposed project will achieve or is capable of achieving all three program objectives listed below:

NATIONAL

1. To develop and maintain for schools of social work and public child welfare agencies an ongoing inventory and assessment of child welfare services course offerings and course sequences in schools of social work.

2. To develop and maintain for schools of social work and public child welfare agencies an ongoing inventory and assessment of in-service child welfare service training programs provided by public and private non-profit social service agencies (including purchase of service agencies).

3. To collect, develop and disseminate model curricula, guidance, standards and approaches which will enable schools of social work and public child welfare service agencies to more effectively develop staff expertise in child welfare.

Applications for a Regional Child Welfare Training Center Grant should specify that the proposed project will achieve or is capable of achieving all three program objectives listed below:

REGIONAL

1. To develop in each school of social work (as appropriate to the graduate or undergraduate level) an effective child welfare services course sequence including a comprehensive program for both academic coursework and field placement.

2. To establish ongoing relationships with public and private non-profit child welfare service agencies, and other schools of social work which will enable schools of social work (a) to develop and maintain practice relevant curricula and (b) to assist public child welfare service agencies in developing and monitoring in-service training programs.

3. To identify and provide support to schools of social work to assist them in the development, expansion, and strengthening of their expertise in one or more of the following areas of speciality in child welfare services:

a. Training staff serving one of the following minority groups:
(1) Black
(2) Hispanic
(3) Native American
(4) Asian
b. Social work and the law
c. Adoption of special needs children
d. In-home services to children and their families
e. Child welfare services to adolescents.

ELIGIBLE APPLICANTS

Child Welfare Training Center Grants are awarded to public or non-profit private colleges and universities offering graduate degree programs in

social work which are accredited or have been granted candidacy status by the Council on Social Work Education. Applications submitted by applicants not accredited or not granted candidacy status by the Council on Social Work Education will not be accepted for review.

AVAILABLE FUNDS

Of the total appropriation of $8,150,000 available in fiscal year 1979, the Administration for Children, Youth and Families expects to award approximately $1,793,000 for new Child Welfare Training Center Grants. One grant will be awarded for a National Child Welfare Training Center. Ten grants, one in each HEW region, will be awarded for Regional Child Welfare Training Centers. A new grant is the initial award made in support of a program. The project period is five years. The initial grant will provide funds for the first year of the project. Continuation funding depends upon the satisfactory performance of the grantee and the availability of funds. An indirect cost of 8 percent of the direct costs (or the institution's actual indirect cost if less than 8 percent) is allowable for this grant program.

GRANTEE SHARE OF THE PROJECT

There is no cost sharing or matching requirement for grants under this program.

APPLICATION PROCESS

AVAILABILITY OF FORMS

Application for a grant under the Child Welfare Service Training Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the complete Program Guidance for Fiscal Year 1979 may be obtained by writing to:

Susan Weber, Director, Training and Technical Assistance Division, Children's Bureau, Administration for Children, Youth, and Families, P.O. Box 1182, Washington, D.C. 20013, Attention: No. 13648.794, Phone (202) 755-7820.

APPLICATION SUBMISSION

In order to be considered for a grant under the Child Welfare Services Training Grants Program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must be signed by an individual authorized to act for the applicant agency and to assume the obligations imposed by the terms and conditions of the grant award.

One signed original and six copies of the grant application, including all attachments must be submitted to the address below.

Applications sent by mail shall be addressed as follows:

Department of Health, Education and Welfare, Office of Human Development Services, Grants Management Branch, Room 341-F4, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. 13648-794

APPLICATION CONSIDERATION

The Administration for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evauation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Commissioner for Children, Youth and Families in considering competing applications. If the Commissioner has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget for which support is given, and the total period for which project support is contemplated.

CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Completed grant applications will be reviewed and evaluated against the following criteria:

APPLICATIONS FOR NATIONAL CHILD WELFARE TRAINING CENTER ONLY

● *Project objectives.* The applicant demonstrates that the project objectives are identical to and capable of achieving the program objectives specified in this Program Announcement and includes:

a. A specific detailed and complete work plan for the first three years, including a GANTT chart or other graphic illustration of the work plan, including timetables; and

b. A less detailed outline of proposed activities for the remaining two years.

● *Consultation.* The applicant documents:

a. That it has consulted with State and local public and private child welfare agencies, other schools of social work and other agencies concerned with the delivery of child welfare services in the planning of the project; and

b. How it will work cooperatively and collaboratively with the ten Regional Child Welfare Training Centers.

● *Personnel qualifications.* The applicant documents:

a. That the project personnel are or will be well qualified in the appropriate use of the various social work methods pertinent to child welfare services and in the actual practice of specialized areas within the field of child welfare services (i.e. prevention, in-home services, permanent placement and foster care, licensing, adoption etc.); and

b. That the personnel are or will be well qualified in curriculum development at both the graduate and undergraduate level and in the varied use of teaching and training methods appropriate to the specific knowledge and skills being developed.

● *Steering Committee.* Applicant describes a plan for creating and implementing a Steering Committee:

a. Whose clear purpose is to provide leadership and consultation for the work of the National Child Welfare Training Center; and

b. Which includes representatives from each of the ten Regional Child Welfare Training Centers, and representation from states and national professional organizations concerned with the delivery of services to children and families.

● *Survey of Schools of Social Work.* Applicant describes:

a. How it will design an instrument and a process to be used by Regional Child Welfare Training Centers to conduct a national survey of graduate and undergraduate schools of social work to determine the extent and characteristics of their child welfare teaching program (both course sequences, field work and other resources) and the number of students who take these courses; and

b. A timetable for completing and reporting on this survey within eighteen (18) months after the grant award using the following time sequence:

1. Completion of the survey instrument, instruction and any necessary training of Regional Child Welfare Center staff on the use of the instrument to insure compatible and complete information is to be completed within six (6) months after award of the grant including preparation of all required documents necessary to obtain A-40 Office of Management and Budget clearance. After submission to OMB up to 90 days should be allowed for clearance before the instrument can be used; and

2. Collection of survey data from Regional Child Welfare Training Centers, analysis and reporting should be completed within eighteen (18) months after the grant award.

c. A conceptual framework with specific annotated examples of the objectives and content of the survey.

● *Survey of public child welfare services agencies.* Applicant describes:

a. How it will design an instrument and a process to be used by Regional Child Welfare Training Centers to

conduct a national survey of in-service training programs and resources provided by public child welfare service agencies; and

b. A timetable for completing and reporting on this survey within eighteen (18) months after the grant award using the following time sequence:

1. Completion of the survey instrument, instruction and any necessary training of Regional Child Welfare Training Center staff on the use of the instrument to insure compatible and complete information is to be completed within six (6) months after the award of the grant including preparation of all required documents necessary to obtain A-40 Office of Management and Budget clearance. After submission to OMB up to 90 days should be allowed for clearance before the instrument can be used; and

2. Collection of survey data from Regional Child Welfare Training Centers, analysis and reporting should be completed within eighteen (18) months after the grant award.

c. Conceptual framework with specific annotated examples of the objectives and content of the survey.

● *Student tracking systems.* Applicant describes a process to design and maintain a reporting system to collect employment data from each school of social work which receives traineeship grant funds from the Child Welfare Services Training Grant Program. Employment data is collected by the Regional Child Welfare Training Centers for the purpose of tracking the employment of the recipients of traineeships for five (5) years. The system, with appropriate forms and instructions, should be delivered to the Regional Child Welfare Training Centers at the end of the eighth month of the grant award.

● *Model course sequences.* Applicant describes a process for designing and disseminating one or more model child welfare services course sequences for both the graduate and undergraduate level which includes:

a. Convening a national advisory panel to provide guidance in the development of model courses; and

b. A plan for disseminating model child welfare services course sequences to schools of social work on a national basis.

Applicant should provide descriptive examples of what the course sequences would cover.

● *National meetings.* Applicant describes a plan for convening two national meetings during the five year grant period for the purpose of:

a. Reviewing and assessing the most current and productive practices of child welfare services which lead to improving the outcomes for children and their families; and

b. Building a body of knowledge and practice particularly pertinent to training and teaching needs of schools and public agencies.

These meetings should include representatives of public child welfare services agencies and undergraduate and graduate schools of social work. The first meeting should be scheduled between 12 to 18 months after the grant award and the second meeting 18 to 12 months before the end of the five year grant period.

● *Collection and dissemination of child welfare training resources.* Applicant describes how it will complete all of the following:

a. Maintain a method for collecting and disseminating current resource material on child welfare teaching and training, guidance materials and audio-visuals;

b. Publish periodic bulletins on child welfare training and publish an annual catalog of training resources; and

c. Edit and prepare for publication articles that are particularly pertinent to child welfare teachers, trainers and supervisors.

● *Project cost.* Applicant justifies the cost to the government is reasonable considering the anticipated results.

APPLICATIONS FOR REGIONAL CHILD WELFARE TRAINING CENTER GRANTS ONLY

Complete grant applications for Regional Child Welfare Training Center Grants will be reviewed and evaluated against the following criteria:

● *Project objectives.* The applicant demonstrates that the project objectives are identical to or capable of achieving the program objectives specified in this Program Announcement and includes:

a. A specific detailed and complete work plan for the first three years, including a Gantt chart or other graphic illustration of the work plan including timetables; and

b. A less detailed outline of proposed activities for the remaining two years.

● *Consultation.* The applicant documents:

a. That it has consulted with state and local public and private child welfare agencies, other schools of social work and other agencies concerned with the delivery of child welfare services in the planning of the project and has submitted written documentation of their agreement to participate in the application, as well as their general support of the project. At least two to three states in the Region should be covered in the documentation; and

b. How it will work cooperatively and collaboratively with the National Child Welfare Training Center.

● *Personnel qualifications.* The applicant documents:

a. That the project personnel are or will be well qualified in the appropriate use of the various social work methods pertinent to child welfare and in the actual practice of specialized areas within the field of child welfare (ie. prevention, in-home services, permanent planning and foster care, licensing, adoption, etc.); and

b. That the personnel are or will be well qualified in curriculum development at both the graduate and undergraduate level and in the varied use of training methods appropriate to the specific knowledge and skills being developed.

● *Steering committee.* Applicant describes a plan for creating and implementing a steering committee:

a. Whose clear purpose is to provide leadership, expert consultation and guidance for the work of the Regional Child Welfare Training Center; and

b. Which includes representation from public and private child welfare service agencies, schools of social work and all the states in the regions.

● *Student tracking system.* Applicant states agreement to track the employment of recipients of traineeships from the Child welfare Service Training Grants Program for a period of five (5) years by:

a. Using a system designed by the National Child Welfare Service Training Center to collect data from schools of social work who have received traineeship funds from the Child Welfare Service Training Grants Program; and

b. Report the data back to the National Child Welfare Training Center annually beginning six months after receiving the data collection forms and instructions.

● *Survey of schools of social work.* Applicant describes a work plan for the Regional Child Welfare Training Center which would include all of the following activities:

a. Surveying the child welfare services teaching programs in the region at graduate and undergraduate schools of social work (both course sequences, field work and other resources), using the instrument designed by the National Child Welfare Training Center. This activity is to be completed within four months after receiving the survey instrument and instructions from the National Child Welfare Training Center;

b. Identifying the individual tasks, both general and specialized, that comprise child welfare services practice at the entry level and at the supervisory level;

c. Identifying the specific knowledge, attitudes and skills needed to perform these tasks;

d. Working with graduate and undergraduate schools of social work in the region to develop and implement specific child welfare sequences which are based on the results of (a) (b) and (c) above; and

e. Developing and carrying out a series of workshops for teachers from schools of social work on practice relevant teaching methods applicable to the teaching of child welfare sequences. All of these workshops will include representatives from each state in the region.

● *Survey of public child welfare services agencies.* Applicant will describe how it will accomplish all of the following:

a. Survey the in-service training programs and resources provided by the public child welfare service agencies in the region (using the intrument designed by the National Child Welfare Training Center);

b. Report survey data to the National Child Welfare Training Center within six months after receiving the survey instrument and instructions; and

c. Develop a technical assistance plan to help each state up-grade its in-service training resources.

● *Child welfare services expertise.* Applicant describes:

a. How it will identify schools of social work within the region which have specific experience and expertise in one or more of the speciality areas listed below:

1. Training staff serving minority groups.
2. Social work and the law.
3. Adoption of special needs children.
4. In-home services to children and their families.
5. Child welfare services to adolescents.

b. A plan for developing and expanding the identified expertise in one or more of the areas of speciality listed above. The plan must have measurable objectives over a five year period with specific details on achieving the objectives for the first three years.

● *Project cost.* Applicant justifies the cost to the government is reasonable considering the anticipated results.

Closing Date for Receipt of Applications

The closing date for receipt of applications under this Program Announcement is May 21, 1979. An application will be considered received on time if:

● The application is sent by registered or certified mail not later than May 21, 1979 as evidenced by the U.S. Postal Service postmark, or the original receipt from the U.S. Postal Service; or

● The application is received on or before May 21, 1979 in the department of Health, Education and Welfare mailroom. In establishing the date of receipt, considerations will be given to the time date stamps of the mailroom or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare. *APPLICATIONS RECEIVED AFTER THE DEADLINE OR SENT TO ANY ADDRESS OTHER THAN THE CENTRAL OFFICE IN WASHINGTON, D.C., WILL NOT BE ACCEPTED AND WILL BE RETURNED TO THE APPLICANT.*

Applications mailed or delivered by hand must be sent or taken to the following address:

Department of Health, Education, and Welfare, Office of Human Development Services, Grants Management Branch—341 F4 Hubert Humphrey Bldg., 200 Independance Avenue, S.W., Washington, D.C. 20201.

Applications will be accepted daily until close of business May 21, 1979.

(Catalog of Federal Domestic Assistance Project Number 13.648, Training Grants in the Field of Child Welfare.)

Dated: March 8, 1979.

JOHN BUSA,
Acting Commissioner for Children, Youth, and Families.

Approved: March 19, 1979.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 79-8864 Filed 3-22-79; 8:45 am]

[4110-92-M]

[Program Announcement No. 13648-793]

CHILD WELFARE SERVICES TRAINING GRANTS PROGRAM

Availability of Funds

AGENCY: Administration for Children, Youth and Families, Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for the Child Welfare Services Training Grants Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for *Training Grants of National Significance* authorized under Section 426 of the Social Security Act (part B of title IV, 42 U.S.C. 626).

DATES: Closing date for receipt of applications is May 21, 1979.

Scope of This Announcement

This Program Announcement is one of four for the Child Welfare Services Training Grants Program and covers Training Grants of National Significance to be awarded for Fiscal Year 1979. All Training Grants of National Significance are awarded and administered by the Administration for Children, Youth and Families, Children's Bureau.

Program Purpose

The purpose of this program is to increase the competence and skills of persons currently working in the field of child and family welfare.

Program Goal, Objectives, and Priority Areas

The goal of this program is to provide education and training opportunities for persons who are committed to entering the field of child welfare services or who are already working in the field of child welfare services, to enable them to more effectively achieve the following outcomes for children and families:

● To provide support to families in their own homes in order to prevent separation of children from their families.

● Where separation is necessary, to develop permanent plans and provide support services to enable children to be returned to their families.

● Where these options are inappropriate, to provide quality services which enable the children to become adopted or where it is the plan of choice, to be placed in a permanent foster home.

Applicants should specify that the proposed project will achieve or is capable of achieving one of the following objectives:

● Developing selected in-service training materials for use by public and private, non-profit child welfare services agencies to increase their skills in *one* of the following three priority areas of critical need:

1. Develop materials to train child welfare staff serving Spanish speaking populations to:

a. be more sensitive and culturally aware of the particular needs, values, life styles and family practices of these groups; and

b. use this cultural awareness to provide improved services to children and families in a manner which encourages and supports their ethnic, family and community life.

2. Develop materials to train state licensing staff in the areas of child placement, foster family homes and child care institutions.

3. Develop materials to train child welfare service's staff to understand and support rights of biological parents and their responsibilities toward their children in foster care; or

● Conduct leadership training institutes and seminars on child welfare

service issues for top level administrators of state child welfare services programs, state legislators, attorneys general, juvenile and family court judges, advocacy groups, and other persons with similar responsibilities.

ELIGIBLE APPLICANTS

Training Grants of National Significance are awarded to public or nonprofit private colleges and universities which are accredited by the appropriate accrediting authority. Grants are not made to individuals even though they may be affiliated with an institution of higher education or to public or private, nonprofit agencies or organizations other than institutions of higher education. Non-conforming applications will not be accepted for review.

AVAILABLE FUNDS

Of the total appropriation of $8,150,000 available in Fiscal Year 1979, the Administration for Children, Youth and Families expects to award approximately $1,059,500 for new Child Welfare Services Training Grants of National Significance. A new grant is the initial award made in support of a project. The project period is of one year duration. An indirect cost of 8% of the direct costs (or the institution's actual indirect cost if less than 8%) is allowable for this grant program. In Fiscal Year 1978, 50 applications for Training Grants of National Significance were received for competitive review and 17 awards were made, averaging $89,153 each.

GRANTEE SHARE OF THE PROJECT

There is no cost sharing or matching requirement for grants under this program.

AVAILABLILITY OF FORMS

Application for a grant under the Child Welfare Services Training Program must be submitted on standard forms provided for this purpose. Application kits which include the forms, instructions and program information, including the complete Program Guidance for Fiscal Year 1979 may be obtained by writing to:

Susan Weber, Children's Bureau, Administration for Children, Youth, and Families, P.O. Box 1182, Washington, D.C. 20013, (202) 755-7820. Attention: No. 13648793.

APPLICATION SUBMISSION

In order to be considered for a grant under the Child Welfare Services Training Grants Program, an application must be submitted on the forms and in the manner prescribed by ACYF. The application must clearly identify the program announcement number for which the application is to compete.

The application must be signed by an individual authorized to act for the applicant institution and to assume for the institution the obligations imposed by the terms and conditions of the grant award.

One signed original and six copies of the grant application, including all attachments, are required.

Applications sent by mail should be addressed as follows:

Department of Health, Education, and Welfare, Office of Human Development Services, Grants Management Branch—Room 341F.4, Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. 13648-793.

A-95 NOTIFICATION PROCESS

This program does not require the A-95 notification and review process.

APPLICATION CONSIDERATION

The Administration for Children, Youth and Families determines the final action to be taken with respect to each grant application for this program. Applications which are complete and conform to the requirements of this program announcement are subjected to a competitive review and evaluation by qualified persons independent of the Administration for Children, Youth and Families.

The results of the review assist the Commissioner for Children, Youth and Families in considering competing applications. If the Commissioner has reached a decision to disapprove a competing grant application, the unsuccessful applicant is notified in writing. Successful applicants are notified through the issuance of a Notice of Grant Awarded which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, and the total period for which project support is contemplated.

CRITERIA FOR REVIEW AND EVALUATION OF GRANT APPLICATIONS

Completed grant applications will be reviewed and evaluated against the following criteria:

- That the applicant documents past experience and knowledge of the problems and related issues of the specific program objective for which the application is made and their relationship to the needs of the population served. That the applicant includes a description of any special qualifications or relevant experience of the applicant which pertain to the requirements of the objective.
- That the applicant demonstrates that the project objectives are identical with or are capable of achieving one of the specific program objectives defined in this program announcement under "Program Goals and Objectives."
- That the proposed procedures and work program, if well executed, will be capable of attaining project objectives; all aspects of the design of the project are addressed in detail, including such areas as training or curricula design, content, methodology, logistics, developmental processes and a timetable for each task; and criteria for selection of participants (as appropriate) are included.
- That the applicant describes replicable materials and/or methodologies which will result from the project.
- That the applicant describes plans for project followup, including plans to publish and disseminate results to academic and service-providing agencies, organizations, groups and/or individuals.
- That the applicant documents that the proposed project personnel are or will be well qualified in the field of child welfare services, in any areas of speciality required by the priority area, and in the design of inservice training materials. When responding to the first objective, the applicant should include representatives of affected client populations (Spanish speaking clients, biological parents, recipients of licensing services) in at least a consultant or advisory capacity. The applicant must also document that it has or will have adequate facilities and resources to conduct the project.
- That the applicant documents that it has consulted with public child welfare service agencies and other cooperating groups to plan the project and to determine the appropriate client populations and that the applicant has submitted a written commitment from each of them which specifies their agreement to participate in the project as described in the application, as well as their general support of the project.
- That the estimated cost to the government is reasonable considering the anticipated results.

CLOSING DATE FOR RECEIPT OF APPLICATIONS

The closing date for receipt of applications under this Program Announcement is May 21, 1979. An application will be considered received on time if:

- The application was sent by registered or certified mail not later than May 21, 1979, as evidenced by the U.S. Postal Service postmark, or the original receipt from the U.S. Postal Service; or
- The application is received on or before the close of business (COB) May 21, 1979, in the Department of Health, Education, and Welfare mailroom. In establishing the date of receipt, consideration will be given to the time date stamp of the mailroom or other documentary evidence of re-

ceipt maintained by the Department of Health, Education, and Welfare.

APPLICATIONS RECEIVED AFTER THE DEADLINE OR SENT TO ANY ADDRESS OTHER THAN THE CENTRAL OFFICE IN WASHINGTON, D.C., WILL NOT BE ACCEPTED AND WILL BE RETURNED TO THE APPLICANT.

(Catalog of Federal Domestic Assistance Project Number 13.648, Training Grants in the Field of Child Welfare.)

Dated: March 8, 1979.

JOHN BUSA,
Acting Commissioner for Children, Youth and Families.

Approved: March 19, 1979.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

[FR Doc. 79-8865 Filed 3-22-79; 8:45 am]

[4310-84-M]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 66913]

WYOMING

Application

MARCH 14, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. pipeline and related facilities for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 15 N., R. 92 W.,
Sec. 26, SW¼NW¼;
Sec. 27, SE¼NE¼ and N½SE¼.

The proposed pipeline will transport natural gas from the Hamilton Federal #27-1 well in the SE¼ of section 27 in a generally northeasterly direction to the point of connection with their existing facilities in the NW¼ of section 26, T. 15 N., R. 92 W., Carbon County, Wyoming.

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, Wyoming 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-8802 Filed 3-22-79; 8:45 am]

[4310-55-M]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Alfred and Joyce Vidbel, RR No. 1, Box 251, Windham, New York 12396.

The applicant requests a permit to reexport and reimport three female Asian elephants (*Elephas maximus*) between the U.S., Canada, and Mexico for the purpose of enhancing the survival of the species within the context of conservation exhibition. The elephants are currently in captivity in the U.S.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3921. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: March 16, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-8878 Filed 3-22-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Charles R. Sindelar, 456 Baird St., Waukesha, Wisconsin 53186.

The applicant requests a permit to capture nestling bald eagles (*Haliaeetus leucocephalus*) by climbing nest trees in Wisconsin, Michigan, and Minnesota for banding and release and to salvage some for continuing scientific purposes.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-3866. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: March 16, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-8880 Filed 3-22-79; 8:45 am]

[4310-55-M]

ENDANGERED SPECIES PERMIT

Notice of Receipt of Application

Applicant: Regional Director, Region 2, W. O. Nelson, Jr., U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

The applicant wishes to add the following species to his application for a permit, previously published in the FEDERAL REGISTER, Vol. 43, No. 137—Monday, July 17, 1978 [4310-55], to conduct scientific research, propagation or other activities enhancing the survival of the species: loggerhead sea turtle (*Caretta caretta*), green sea turtle (*Chelonia mydas*), and the New Mexico ridge-nosed rattlesnake (*Crotalus willardi obscurus*).

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2588. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address within 30 days of the date of this publication. Please refer to the file number when submitting comments.

Dated: March 12, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-8881 Filed 3-22-79; 8:45 am]

[4310-55-M]

THREATENED SPECIES PERMIT

Notice of Receipt of Application

The applicants listed below wish to apply for Captive-Self Sustaining Population permits authorizing the purchase and sale in interstate commerce, for the purpose of propagation, those species of mammals or pheasants, as indicated, listed in Section 17.11 as T(C/P). Humane shipment and care in transit is assured.

These applications and supporting documents are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, USFWS, WPO, Washington, D.C. 20240. Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Applicant: Great Adventures, Inc., P.O. Box 120, Rt. 537, Jackson, New Jersey 08527 (PRT 2-3934. Species: all cats).

Applicant: Mr. Charles E. Blume, P.O. Box 265, 17 James St., Hampton, Georgia 30228 (PRT 2-3868. Species: all pheasants).

Applicant: Gary L. Reynolds, 7447 Post Road, North Kingstown, Rhode Island 02852 (PRT 2-3842. Species: all pheasants).

Applicant: Evan L. Myers, Route 3, Box 242, Richland Center, Wisconsin 53581 (PRT 2-3909. Species: all pheasants).

Applicant: Robert Troumbly, Rt. 1, Box 211-T, Bovey Minnesota 55709 (PRT 2-3915. Species: all mammals).

Please refer to the individual applicants and the appropriately assigned PRT 2-file number when submitting comments.

Dated: March 16, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office U.S. Fish and Wildlife Service.

[FR Doc.79-8879 Filed 3-22-79; 8:45 am]

[4310-55-M]

ISSUANCE OF PERMIT FOR MARINE MAMMALS

On January 15, 1979, a Notice was published in the FEDERAL REGISTER (44 FR 79-1321), that an application had been filed with the Fish and Wildlife Service by Dr. G. L. Kooyman, Physiological Research Laboratory, Scripps Institution of Oceanography, University of California-San Diego, La Jolla, California, for an amendment to permit PRT 2-1609 to take ten additional sea otters (*Enhydra lutris*) for the purpose of scientific research.

Notice is hereby given that on March 7, 1979, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued Amendment No. 1 to permit PRT 2-1609, to capture, attach radio transmitters and depth recorders, release and recapture again ten additional sea otters. Five of these otters will also be used to study the effects of oil on the fur as described in the application.

The amendment is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: March 12, 1979.

DONALD G. DONAHOO,
Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 79-8882 Filed 3-22-79; 8:45 am]

[4310-70-M]

National Park Service

SLEEPING BEAR DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Sleeping Bear Dunes National Lakeshore Advisory Commission will be held at 1:30 p.m. (EST), April 20, 1979, at the Holiday Inn in Traverse City, Michigan.

The Commission was established by Public Law 91-479 to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Sleeping Bear Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. Charles Yeates (Chairman)
Mr. Noble D. Travis
Mr. William B. Bolton
Mr. John G. Daugherty
Mr. Samuel F. Eberly
Mr. John D. Stanz
Mr. Carl T. Johnson
Mrs. Charles R. Williams
Mr. Walter B. Hart
Mr. John A. Stahlin

The principal item of discussion will be the draft General Management Plan for the National Lakeshore.

The meeting will be open to the public. Interested persons may submit written statements. Such statements should be submitted to the official listed below prior to the meeting.

Further information concerning this meeting may be obtained from Donald R. Brown, Superintendent, Sleeping Bear Dunes National Lakeshore, Frankfort, Michigan 49635, telephone 616-352-9611. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Sleeping Bear Dunes National Lakeshore, Frankfort, Michigan.

Dated: March 15, 1979.

RANDALL R. POPE,
Acting Regional Director, Midwest Region.

[FR Doc. 8923 Filed 3-22-79; 8:45 am]

[4310-03-M]

Heritage Conservation and Recreation Service

[INT DES 79-15]

PATAPSCO VALLEY STATE PARK, MARYLAND

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department has prepared a draft environmental statement for a proposed acquisition and future development of Patapsco Valley State Park located in Anne Arundel, Baltimore, Carroll, and Howard Counties, Maryland. Land totaling 4,800 acres of inholdings is proposed for acquisition with a Federal grant from the Land and Water Conservation Fund, to be matched with an equal share of State money. The proposed acquisition will eventually be developed for picnic, day use, and interpretive areas. It consists of nearly 400 individual parcels and will result in a total park acreage of 14,400 acres at Patapsco Valley State Park.

Copies are available for review at the following locations:

Office of Public Affairs, Office of the Secretary, Department of the Interior, Washington, D.C. 20240.

Office of Public Affairs, Heritage Conservation and Recreation Service, Room 220, Pension Building, 440 G Street, N.W., Washington, D.C. 20243.

Heritage Conservation and Recreation Service, Northeast Region, Federal Office Building, 600 Arch Street, Philadelphia, PA 19106.

A-95 Clearinghouse, Dept. of State Planning, 301 W. Preston Street, Baltimore, Maryland 21201.

Baltimore Regional Planning Council, 701 Saint Paul Street, Baltimore, MD 21202.

Patapsco Valley State Park, 1100 Hilton Avenue, Baltimore, MD 21228.

Department of Natural Resources, C-3 Tawes State Office Building, Annapolis, MD 21401.

A limited number of single copies are available and may be obtained by writing to the Regional Director, Northeast Region, Heritage Conservation and Recreation Service, Federal Office Building, 600 Arch Street, Philadelphia, PA 19106.

Dated: March 16, 1979.

LARRY E. MEIEROTTO,
Secretary of the Interior.

[FR Doc. 79-8889 Filed 3-22-79; 8:45 am]

[4310-84-M]

Office of the Secretary

[INT FES 79-15]

PROPOSED DEVELOPMENT OF COAL RESOURCES IN SOUTHCENTRAL WYOMING

Notice of Availability of Final Environmental Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a final environmental statement on the proposed development of coal resources in southcentral Wyoming.

The final statement analyzes environmental impacts that would result from development of three (3) site specific surface coal mines. The statement further analyzes the cumulative regional environmental impacts of proposed coal development and other regional developments, and presents two additional regional coal development scenarios (low level and high level), for comparison with the most probable level (proposed actions).

The Final Environmental Statement on Development of Coal Resources in Southcentral Wyoming consists of two volumes and a separate appendix of regional maps. Volume 1 and the regional map Appendix A were originally printed and distributed as the draft environmental statement (DES) in October 1978. Comments received on the DES (Volume 1 and separate Appendix A) did not require significant changes in the data, analysis, or conclusions. Volume 1 and the map appendix were not reprinted. A limited number of copies of this volume are available upon request from the ES CORE Team, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82001.

Copies of the final statement are available for inspection only at the following locations:

BUREAU OF LAND MANAGEMENT

Casper District Office, 951 Union Blvd., Casper, Wyoming 82601, (307) 265-5550.

Denver Service Center Library, Bldg. 50, Denver Service Center, Denver, Colorado 80225, (303) 234-4578.

Lander Resource Area, Lander, Wyoming 82520, (307) 332-4220.

Worland District Office, 1700 Robertson Avenue, Worland, Wyoming 82401, (307) 347-6151.

Rawlins District Office, 1300-Third Street, P.O. Box 670, (307) 324-7171.

Rock Springs District Office, Highway 187N, Rock Springs, Wyoming 82901, (307) 382-5350.

Washington Office of Public Affairs, 18th and C Streets, NW, Washington, D.C. 20240, (202) 343-4151.

Wyoming State Office, 2515 Warren (Lea Building), Cheyenne, Wyoming 82001, (307) 778-2220, Ext. 2385.

GEOLOGICAL SURVEY

District Mining Office, Federal Building, Casper, Wyoming 82601, (307) 265-5550.

District Mining Supervisor's Office, 126 Elk Street (Rear), Rock Springs, Wyoming 82901, (307) 362-7350.

Area Mining Supervisor, Building 25, Denver Federal Center, Denver, Colorado 80225, (303) 234-4435.

Director's Office National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 860-7411.

Regional Manager's Office, 7200 W. Alameda Avenue (Villa Italia), Lakewood, Colorado 80226, (303) 234-2855.

PUBLIC LIBRARIES

Albany County Library, 405 Grand Avenue, Laramie, Wyoming 82070.

Carbon County Library, Courthouse, Rawlins, Wyoming 82301.

Encampment Branch Library, Encampment, Wyoming 82325.

Laramie County Community College, 1400 East College Drive, Cheyenne, Wyoming 82001.

Saratoga County Library, 104 West Elm, Saratoga, Wyoming 82331.

Government Publications, Supreme Court and State Library Building, Cheyenne, Wyoming 82011.

Fremont County Library, 451 North Second Street, Lander, Wyoming 82520.

Laramie County Library, 2800 Central Avenue, Cheyenne, Wyoming 82001.

University of Wyoming Library, University Station, Box 3334, Laramie, Wyoming 82070.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

Approved:

LARRY E. MEIEROTTO,
Assistant Secretary of the Interior.

[FR Doc. 79-8886 Filed 3-22-79; 8:45 am]

[4310-09-M]

Bureau of Reclamation

[INT-FES-79-14]

PARADOX VALLEY UNIT, COLORADO RIVER BASIN SALINITY CONTROL PROJECT, COLO.

Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Statement Act of 1969, the Department of the Interior has prepared a final environmental statement on a proposed salinity control project that would reduce substantially the salt influx into the Delores River in southwest Colorado at Paradox Valley. Although all Colorado River Basin Water users would benefit from the project, the main beneficiaries would be users in the Lower Colorado River Basin.

Copies are available for inspection at the following locations:

Office of Communications, Room 7220, Department of the Interior, Washington, DC 20240, Telephone (202) 343-9247.

Office of Environmental Affairs, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, DC 20240, Telephone (202) 343-4991.

Division of Engineering Support, Technical Services and Publications Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone (202) 234-3006.

Office of the Regional Director, Bureau of Reclamation, Federal Building, 125 South State Street, Salt Lake City, Utah 84147, Telephone (801) 524-5404.

Durango Projects Office, Bureau of Reclamation, P.O. Box 640, Durango, Colorado 81301, Telephone (303) 247-0247

Single copies of the final environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: March 20, 1979.

LARRY E. MEIEROTTO,
Assistant Secretary of the Interior.

[FR Doc. 79-8777 Filed 3-22-79; 8:45 am]

[7020-02-M]

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-50]

CERTAIN SYNTHETIC GEMSTONES

Notice of Termination

In the matter of certain synthetic gemstones

Upon consideration of the presiding officer's recommended determination and the record in this proceeding, the Commission is ordering the termination of investigation No. 337-TA-50, *Certain Synthetic Gemstones*, by granting a joint motion by all parties to terminate this investigation (Motion Docket No. 50-11), as supported by a Settlement Agreement, signed by complainant and all respondents. In voting to terminate this investigation, Commissioner Moore determines that there is no present violation of section 337 of the Tariff Act of 1930, as amended (*See* footnote 1, page 2, of the Commission's Order and Commissioners' Opinion in this case).

Any party wishing to petition for reconsideration of the Commission's action must do so within fourteen (14) days of service of the Commission Order and Commissioners' Opinion. Such petitions must be in accord with section 210.56 of the Commission rules (19 CFR 210.56). Any person adversely affected by a final Commission action may appeal such action to the United States Court of Customs and Patent Appeals.

Copies of the Commission's Order and Commissioners' Opinion (USITC Publication No. 957, March 1979) are available to the public during official working hours at the Office of the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone (202) 523-0161. Notice of the institution of the Commission's investigation was published in the FEDERAL REGISTER of March 17, 1978 (43 FR 11272). The text of the pertinent settlement agreement and the Commission's request for public comments thereon was published in the FEDERAL REGISTER of February 7, 1979 (44 FR 7843).

By order of the Commission.

Issued: MARCH 20, 1979.

KENNETH R. MASON,
Secretary.

[FR Doc. 79-8955 Filed 3-22-79; 8:45 am]

[4510-30-M]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Notice of 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 USC 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. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 20th day of March 1979.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MAR. 20, 1979

Name of applicant and location of enterprise	Principal product or activity
Crouthamel Potato Chip Company, Inc., Quakertown, Pa.	Manufacture of potato chips.
Quakertown Foundry, Inc., Quakertown, Pa	Manufacture of cast iron DWV pipe and fittings.
Meridian Plastics, Inc., Byesville, Ohio	Manufacture of plastic component parts for automobiles, trucks and home appliances.
Ward Industries, Inc., Conway, Ark	Manufacture of bus bodies.
Big Bud Tractors, Inc., Havre, Mont	Manufacture of farm tractors.

[FR Doc. 79-8998 Filed 3-22-79; 8:45 am]

[4510-26-M]

Occupational Safety and Health Administration

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the National Advisory Occupational Safety and Health Administration will extend its April 2, 1979 meeting to include April 3. The meeting was announced in 44 FR 12781 on Thursday, March 8, 1979, and in 44 FR 13091 on Friday, March 9, 1979.

The purpose of this extension is to allow a thorough discussion of the Committee's recommendations on U.S. District Court requirements for "fully effective" benchmarks for state plans and to permit enough time for public participation in developing these recommendations.

Signed at Washington, D.C., this 20th day of March 1979.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 79-8986 Filed 3-22-79; 8:45 am]

[4510-29-M]

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Notice of Proposed Exemption Relating to a Transaction Involving the Restated G. L. Cornell Co. Savings and Profit Sharing Plan and Trust (Application No. D-1039)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of certain real property from the Restated G. L. Cornell Company Savings and Profit Sharing Plan (the Plan) to Mr. G. L. Cornell. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, Suburban Trust Company of Wheaton, Maryland (the Trustee), and Mr. G. L. Cornell.

DATES: Written comments and requests for a public hearing must be received by the Department on or before April 23, 1979.

ADDRESS: All written comments and requests for a hearing (at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1039. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Gary H. Lefkowitz of the Department of Labor, (202) 523-8194. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a)(1) (A) through (D) and section 406 (b)(1) and (b)(2) of the Act, and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Trustee pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The G. L. Cornell Company (the Employer) is a Delaware corporation engaged in the business of selling and servicing turf equipment from its principal place of business on Industrial Drive in Gaithersburg, Maryland. Mr. G. L. Cornell is the President and principal stockholder of the Employer.

2. The Plan and Trust were adopted on September 29, 1954, and restated on October 1, 1976. The Plan had 25 participants and net assets of $1,089,697 at the end of its fiscal year on September 30, 1977. Forty-five percent of its assets were invested in 7.677

acres of unimproved real property adjacent to the Employer's principal place of business, which property was purchased in 1966 for $184,000.

Investment decisions are made for the Trust by the Trustee's Investment Committee. That committee is composed of employees of the Trustee.

3. In 1973, the Maryland-National Capital Park and Planning Commission (the Commission) deemed that a 300 foot wide strip severing the Trust's 7.677 acre parcel was required for public highway use. Accordingly, the Commission placed 3.8384 acres into a Reservation of Land for Public Use, as of July 1, 1973, and has continued the reservation as recently as May 12, 1977. As reserved land, the 3.8384 acres must be maintained in their July 1, 1973 condition, and may not be altered, improved or otherwise modified.

The reservation left the Trust with two separated pieces of unreserved real property, one of which is contiguous to the Employer's principal place of business. This contiguous parcel of property consists of 1.01 acres, with an approximate frontage of 46.49 feet, a depth of 553.51 feet, and a length of 112.49 feet along the rear line. It has been used since July, 1974, by the Employer for employee parking and inventory storage. The Employer recently made a retroactive payment to the Trust for such use. The 1.01 acre parcel was appraised on October 14, 1977, by Adolph C. Rohland, an independent appraiser, as having a fair market value of $99,000.

4. The Trust proposes to sell the 1.01 acre parcel to Mr. G. L. Cornell, who intends to lease it to the Employer. The Trustee will obtain a second independent appraisal of the property's fair market value no earlier than 30 days prior to the consummation of the proposed sale. The proposed purchase price for the property will be equal to the higher of the two appraisals. This will result in a gain to the Trust of at least 308 percent or approximately $74,793 over its May, 1966 cost basis of $24,206 allocable to the 1.01 acre parcel. The sale will be for cash or a certified check.

5. No attempts have been made to locate an unrelated purchaser for the property. The Trustee, however, represents that the subject property is not well suited for use by any unrelated third party following the reservation because its dimensions and limited street access restrict it to being used primarily as an extension of the land upon which the Employer's site of operations is located.

6. The Trustee represents that the proposed sale would be beneficial to the participants and beneficiaries of the Plan because (1) it would remove a non-productive asset from the Trust (It is represented that the present use of the property by the Employer would not be continued, absent an exemption for the rental use, since such use is a prohibited transaction.) at a substantial gain to the Trust and (2) the selling price will be greater than could be obtained from an unrelated third party. The Trustee also represents that the proposed sale would be administratively feasible since it will be a one time only cash transaction. It is also represented that the sale would be protective of the rights of participants and beneficiaries since the purchase price will be the greater of the two appraisals and the sale will involve no sales commission and will be at no expense to the Trust.

Notice to Interested Persons

Written notice shall be given to all interested persons. The interested persons include the Plan participants, beneficiaries and fiduciaries. The manner of notice shall be by posting, at locations in the place of business customarily used to inform employees of items of interest to employees and by mailing by first class mail, to each beneficiary and fiduciary, a copy of this notice of pendency as published in the Federal Register. The notice will inform the interested persons of their right to comment and to request a hearing within the period set forth in the notice of pendency.

The notice shall be posted and mailed no later than 5 days after the notice of pendency of such exemption is published in the Federal Register.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transactions provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a)(1) (A) through (D) and 406(b)(1) and (b)(2) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) and through (E) of the Code, shall not apply to the sale of a certain 1.01 acre parcel of real property from the Trust to Mr. G. L. Cornell, for cash or a certified check, provided that the price is not less than the higher of the two independent appraisals or the current fair market value of the property at the time of sale. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 16th day of March 1979.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-8624 Filed 3-22-79; 8:45 am]

[4510-29-M]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

EMPLOYEE BENEFIT PLANS

Notice of Proposed Exemption for Certain Transactions Involving the Times News Printing Co., Inc., Profit Sharing Plan (Application No. D-895)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale by The Times News Printing Co., Inc. Profit Sharing Plan (the Plan) of its interest in the Atlantic Heights Syndicate to The Times News Printing Co., Inc. (the Company) and a loan of $8,560 by the Company to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan and the Employer.

DATES: Written comments and requests for a public hearing must be received by the Department on or before April 23, 1979.

ADDRESSES: All written comments and requests for a hearing (at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-895. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Ivan Strasfeld, U.S. Department of Labor, Pension and Welfare Benefit Programs, Office of Fiduciary Standards, (202) 523-7352. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a)(1) and 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Company and the Plan pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978 section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

SUMMARY OF REPRESENTATIONS

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application of file with the Department for the complete respresentations of the applicants.

1. The Plan is a profit-sharing plan established by the Company in 1972. The Plan invested a large percentage of its assets in 1972 to acquire a 20 percent interest in the Atlantic Heights Syndicate (Atlantic), an unincorporated entity organized for the purpose of acquiring and holding for investment parcels of undeveloped land in New Smyrna Beach, Florida. The other eighty percent of Atlantic is owned by unrelated persons.

2. In 1972. Atlantic purchased approximately 13 acres of undeveloped land at a total cost of $160,00. One parcel of property was purchased for $46,000 with a cash down payment of $11,500 and a three-year note for the balance. The other parcel was purchased for $114,000 with a cash down payment of $28,500 and a three-year note for the balance. The property is presently undeveloped and is zoned for single-family residential use.

3. The Plan used its assets stemming from Company contributions to pay its portion of the down payment and the first two installments on the notes. On July 14, 1975, the Plan borrowed $8,560 from a bank to make the final payment. No portion of the purchase price is currently outstanding. When the note became due on January 10, 1976, it was paid by the Company to avoid default by the Plan which had insufficient cash to make the payment. The Company established a noninterest bearing receivable from the Plan on its books.

4. All of the outstanding stock of the Company was acquired in August, 1974 by the Hendersonville Newspaper Corporation, a wholly owned subsidiary of The New York Times Media Co., Inc. The employees of the Company then became eligible to participate in another retirement plan at which point the Company ceased making contributions to the Plan.

5. The Plan desires to dispose of its interest in Atlantic in order to have cash available to make requested distributions. In addition, no income has been produced by this investment and annual real estate taxes on the property continue to drain funds from the Plan.

Although the Plan has never listed or advertised its interest in Atlantic as being for sale due to the nonliquid nature of such investment, Atlantic has continuously listed the property as being for sale since it was first purchased in 1972. At the time the application for exemption was filed, thirteen of the acres were being offered for sale at a price of $200,000 and the remaining seven lots located across the street from that acreage carried an asking price of $25,000. A firm offer of $20,000 for the seven lots was refused by Atlantic in April, 1976.

6. The Company obtained an appraisal for the property dated April 12, 1976, which valued the land at $115,000. A second appraisal, dated August 15, 1977, from the same appraisal company, valued the property at $122,000. A third appraisal of the property, dated July 29, 1977, was obtained from another person. It valued the property at $160,000. The sale of the Plan's interest in Atlantic assuming the property was sold at the highest appraised value would allow the Plan to recoup its investment, exclusive of interest and real estate taxes.

The Company originally proposed to purchase the Plan's interest in Atlantic for $32,000, one-fifth of the highest appraised value, plus six percent interest from the date the Company was acquired by the Hendersonville Newspaper Corporation. In addition, the Company seeks an exemption for the interest-free loan of $8,560 to the Plan and the repayment of that loan out of the sale proceeds.

During the consideration of this application for exemption, Atlantic executed a contract to sell all of the acreage except the seven noncontiguous lots for $165,000 to an unrelated third party. Following the sale, Atlantic's underlying assets would have consisted of the seven remaining lots, $50,000 cash and $115,000 in 8 percent notes. The closing for the sale of the property owned by Atlantic, originally

scheduled for May 10, 1978, was delayed due to title problems raised by the prospective buyer. During November, 1978, the possibility of litigation was averted through a settlement whereby the purchase price was reduced from $165,000 to $160,000. Accordingly, the sale of the property was closed on November 15, 1978, and the Plan received $7,600 from Atlantic as its share of the cash received.

7. Prior to the closing of the sale, the Company amended its proposal to purchase the Plan's interest in Atlantic by increasing its offer to $37,500. The increased offer was based, in part, on the original sales price of $165,000 negotiated by Atlantic under the contract for sale. The seven remaining lots were valued at $22,500, the average of the asking price for the lots and the firm offer refused by Atlantic in April, 1976. Although the final selling price was reduced to $160,000, the Company's offer remained the same. The purchase price, however, is reduced to $29,900 to reflect the $7,600 already received by the Plan from Atlantic.

8. If the exemption is granted, the Company would pay the Plan $29,900 plus 6% interest on that amount from 1974 for its one-fifth interest in Atlantic. The Plan would repay the $8,560 loan to the Company and distribute the remaining cash to the Plan participants.

NOTIFICATION OF INTERESTED PERSONS

Written notice shall be given to all Plan participants and beneficiaries within ten days of the publication of this notice in the FEDERAL REGISTER, by posting a copy of the notice of proposed exemption in conspicuous places at all Company facilities and by mailing or distributing a copy of such notice to each participant or beneficiary of the Plan.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975 (c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the Plan solely in the interests of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before any exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

WRITTEN COMMENTS AND HEARING REQUESTS

All interested persons are invited to submit written comments or requests for a hearing on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a) and section 406(b)(1) and section 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the sale of the Plan's interest in the Atlantic Heights Syndicate to the Company for $29,900 cash plus six percent interest on that amount from the date the Company was acquired by the Hendersonville Newspaper Corporation provided, however, that the sales price is not less than the fair market value of the Plan's interest and to the past loan of $8,560 to the Plan by the Company and to the repayment of that loan out of the sale proceeds. The pending exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 16th day of March 1979.

IAN D. LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-8619 Filed 3-22-79; 8:45 am]

[4510-29-M]

EMPLOYEE BENEFIT PLANS

Notice of Proposed Exemption for Certain Transactions Involving the Building Trades United Pension Trust Fund, Milwaukee and Vicinity (Application No. D-1228)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt extension of credit pursuant to permanent mortgage financing by the Building Trades United Pension Trust Fund, Milwaukee and Vicinity (the Plan) to Megal Development Corporation (Megal), a party in interest. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, Megal, and other persons participating in the proposed transaction.

DATES: Written comments must be received by the Department on or before April 23, 1979. Effective Date: If the proposed exemption is granted, the exemption will be effective August 24, 1978.

ADDRESS: All written comments (at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1228. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Stephen Elkins of the Department, (202) 523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a) of the Act and from the taxes imposed by sections 4975 (a) and (b) of the Code, by reason of sections 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

This application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan is a multi-trades, multi-employer negotiated plan, the Board of trustees of which consists of twenty-three employer-appointed and twenty-three union-appointed members. Because of the size of the full board, standing committees have been established to conduct administration and management functions for the Plan. Of the standing committees, only the Investment Committee and the Mortgage Committee make decisions with respect to management of Plan assets.

2. The Mortgage Committee has exclusive authority to act on applications for investment of Plan assets in long-term commercial real estate financing. Such financing replaces the borrower's short-term construction financing. No application for long-term financing may be considered by the Mortgage Committee unless it meets the written criteria for acceptance of mortgages promulgated by the Investment Committee of the Plan.

3. The Mortgage Committee has three employer-appointed and three union-appointed members, with power to cast an equal aggregate number of votes on all matters. A tie vote results in a rejection of an application for financing. Decisions of the Mortgage Committee become final without review or approval of the full board of trustees. Nonetheless, the Mortgage Committee reports all of its decisions to the Board of Trustees. The Board of Trustees retains authority to remove members of the Mortgage Committee and to appointment of replacements. Members of the Mortgage Committee are free to serve on other standing committees.

4. The transactions for which an exemption is sought involve three long-term real estate mortgage loans which the Plan seeks to make to Megal. More than fifty percent of the stock of Megal is owned by Joseph J. Megal, who also owns more than fifty percent of the stock of Megal Construction Company. Megal Construction Company is an employer of employees covered by the Plan. Neither Joseph J. Megal, nor any officer, director, or employee of Megal or of Megal Construction Company has ever served as a member of the Board of Trustees of the Plan, or has been associated with the Plan in any other capacity.

5. The loans would total $783,000 which constitutes less than one percent of Plan assets. Each loan would be secured by a first mortgage on certain real property located in the metropolitan area of Milwaukee, Wisconsin. The proceeds of each loan would retire expenses accrued by Megal in land acquisition, construction, equipment costs, furnishings, professional fees, taxes, and out-of-pocket expenses incident to development of each such parcel of property. Total disbursements under each loan would not exceed the sum of actual expenditures, nor seventy-five percent of the appraised value of the improved property, such appraisal having been determined independently.

6. Megal has submitted applications for each of the three loans. The Mortgage Committee has approved such applications and has committed the Plan to making the loans.

7. The loans would be for a term of twenty years, with level self-amortizing monthly payments of principal and interest. The provisions of the three loans are identical except for the amount of the loan and the particular real estate securing each loan. The interest rate would be 9.5 percent per annum, which was the market rate at the time the loan applications were approved.

8. The indebtedness created by each loan would be evidenced by a promissory note executed by Megal. Payment of each note would be guaranteed personally by Rhody J. Megal, President of Megal. In addition to a first mortgage on the real estate securing each loan, there also would be a general assignment of the leases between Megal and the persons occupying the improvements constructed on the real properties. Each mortgage would be insured by title insurance guaranteeing that such mortgage would be a valid first lien against the property. The loans would be on the same terms, pursuant to the same conditions, and would be treated in all respects in the same manner as loans which the Plan makes to unrelated persons.

9. Before each of the loans is closed, Megal will have constructed a warehouse and office building on each parcel of property. Megal Construction Company will have provided a portion of the construction. Financing of the construction will have been through construction mortgage loans made by First Bank-Midland, N.A., Milwaukee (First Bank). First Bank serves as custodian of a portion of the assets of the Plan.

10. At the closing of each loan, the Plan will effect its commitment to Megal by purchasing and thereby retiring the construction loan outstanding to Megal from First Bank. Thereafter, First Bank will service each loan on behalf of the Plan, for a fee of one eighth of one percent of the declining principal balance of the loan, and in accordance with a separate master agreement between the Plan and First Bank.

11. In order to purchase the construction loan and to effect the commitment to Megal for permanent financing, the Plan would pay First Bank the par value of the construction loan. Such value would be the lower of the aggregate advances made by First Bank under the loan to the date of purchase, or the dollar amount specified in the buy-sell agreement between the Plan and First Bank with respect to the particular loan.

12. With respect to one of the three loans, in the amount of $179,000, the Plan has already entered into a buy-sell agreement with Megal and First Bank, pursuant to which the Plan has agreed to purchase the construction loan and related documents from First Bank. First Bank has disbursed funds to Megal according to the terms of the buy-sell agreement. All construction specified as a condition for closing of this loan has been completed. First Bank has not disbursed any funds with respect to the other two loans, and only preliminary construction has been completed in connection with these two loans.

13. An action pending before the Wisconsin Circuit Court for the County of Milwaukee (Case No. 433-866) has been brought against the Plan. In such action it is alleged that the Plan has improperly withdrawn a

commitment it had issued for a permanent mortgage loan.

NOTICE TO INTERESTED PARTIES

Within ten days following publication in the FEDERAL REGISTER notice of the proposed exemption will be mailed to the last address of each Plan participant and beneficiary, and to each employer participating in the Plan. The notice also will be posted at those locations customarily used for employer notices to employees with regard to labor-management relations matters.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b) of the Act and sections 4975 (c)(1)(E) and (c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

WRITTEN COMMENTS

All interested persons are invited to submit written comments on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set frth above.

PROPOSED EXEMPTION

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a) of the Act and the taxes imposed by 4975(a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to extension of credit pursuant to the three mortgage loans discussed here in, between the Plan and Megal, nor to purchase of construction loans by the Plan from First Bank, attendant to effectuation of such extension of credit from the Plan to Megal. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 16th day of March 1979.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-8620 Filed 3-22-79; 8:45 a.m.]

[4510-29-M]

EMPLOYEE BENEFIT PLANS

Notice of Proposed Exemption for Certain Transactions Involving Grumman Corporation Pension Trust (Application No. D-762)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the lending by the Grumman Corporation Pension Trust (the Plan) of securities to broker-dealers and/or banks which provide services to the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan and other persons participating in the proposed transaction. The proposed exemption, if granted, would be effective until the final disposition of a class exemption request currently under consideration by the Department regarding the lending of securities by plans to broker-dealers. If a class exemption is granted the security lending practices of the Plan will thereafter be subject to the class exemption.

DATES: Written comments must be received by the Department of Labor on or before 25 April, 1979.

ADDRESSES: All written comments (preferably at least six copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20216, Attention: Application No. D-762. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION:

Frederic G. Burke of the Department of Labor, (202) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). This application was filed with both the Department and the Internal Revenue Service. Effective December 31, 1978, however, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47113, October 17, 1978) transferred the authority to issue exemptions of the type requested to the Secretary of Labor. This notice of pendency, therefore, is issued solely by the Department.

SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are sum-

marized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

The Plan proposes to lend securities owned by the Plan to broker-dealers and banks who are parties in interest and disqualified persons with respect to the Plan by virtue of providing services to the Plan but who are not fiduciaries with respect to the Plan. It is the understanding of those responsible for the daily management of the Plan assets that the loaned securities may be used by borrowers to balance inventories in their trading department, cover short sales, avoid fails and expedite processing of legal transfers. A collateral security agreement will govern the terms of each loan by the Plan. Under the agreement the borrowing broker-dealer or bank will be required to provide cash or short-term United States Treasury obligations to the Plan as collateral in an amount not less than 100% of the market value of the securities loaned. In the event the market value of any loaned security at the close of business on any trading day exceeds by 5% or more the amount of the collateral, the Plan will retain the right to demand that the borrower deposit with the Plan an amount in cash (certified or bank cashier's check) which together with the collateral then on deposit, will equal the market value of the loaned securities. The bank or broker-dealer will be required to comply with any demand by the Plan for additional collateral not later than the business day following the receipt of such demand.

The Plan will be entitled to retain any income earned by or upon the collateral during the period of the loan, or alternatively, to receive, at an agreed rate, a reasonable return on the loan either in the form of a loan fee or of a premium (which will take into account prevailing interest rates). All dividends, interest or other distributions on loaned securities will accrue to the benefit of and will be transmitted to the Plan. The rate of return of the Plan from the loaned securities is expected to vary from ½ of 1% up to the short-term money market rates in effect from time to time, and the additional annual return on the loaned securities is expected to average at least 1½% over and above dividends and interest earned on the underlying securities.

The collateral security agreement provides that the Plan may request the return of the loaned securities upon five (5) days notice to the borrower (certain securities have a delivery period of less than 5 days and return may be demanded on such shorter notice) and is entitled to retain the collateral in full satisfaction of the borrower's obligations under the agreement in the event the borrower is unable to tender the borrowed securities.

Under the collateral security agreement the borrower will indemnify and hold the Plan harmless from any damages, loses, costs and expenses that the Plan may incur due to the failure of the borrower to perform its obligations under agreement.

The Plan trustees will maintain a continuous review of the loan transactions. The review will be conducted by personnel who are not involved in the investment or trading processes of the lending program and the Trustees will be provided monthly statements showing the positions and conditions both of the securities loaned, dividends, interest and any accessions thereto, and of the collateral received in return for the loan.

At present, the applicants do not contemplate that the securities lending program will involve the payment of commissions, finders fees or other compensation by the Plan or Grumman Corporation, although the investment managers at some future date may employ finders or brokers if the conditions in the securities lending markets then warrant.[1]

Although the lending agreement provides that the lender waives the right to vote the securities, the Plan may terminate any loan and reacquire the securities in time to submit proxies if there is a vote on a matter that would affect the investment. If the borrower is unable to redeliver the securities upon termination of a loan, the trust will receive the outright ownership of the collateral in exchange.

Notice to Interested Persons

Notice will be provided to participants and beneficiaries of the Plan. Such notice will be provided by publication in newsletters designed to reach the substantial majority of the Plan participants and beneficiaries. Such notice will be given contemporaneously with the publication of the notice of pendency of such exemption in the Federal Register.

[1] No relief would be granted by the exemption proposed herein from the restrictions of section 406 of the Act and section 4975(c)(1) of the Code for payment to a party in interest of any commission, finder's fee or other compensation for services in connection with the effecting of a loan of securities by the Plan to a broker-dealer, bank or other person. It should be noted, however, that to the extent such services are provided for a fee or other compensation, they may be exempt under section 408(b)(2) of the Act and section 4975(d)(2) of the Code, and regulations thereunder, from the restrictions of section 406(a) of the Act and section 4975(c)(1) (A) through (D) of the Code if the conditions set forth in those sections are met.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 401(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and of their beneficiaries;

(2) The proposed exemption if granted, will not extend to transactions prohibited under section 406 (b)(1), (b)(2), (b)(3) of the Act, and section 4975 (c)(1)(E) and (c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries of the plan, protective of the rights of participants and beneficaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments

All interested persons are invited to submit written comments on the proposed exemption to the address and within the time period set forth above. All comments will be made a part of the record. Comments should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption for a limited

duration as discussed below, under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the loan of securities of the Plan to broker-dealers and banks which are parties in interest with respect to the Plan by virtue of providing services to the Plan. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

DURATION OF PROPOSED EXEMPTION

The Department is currently considering several requests for a class exemption for the lending of securities by plans under circumstances that would be similar to those contemplated by this exemption request. The applications requesting a class exemption are numbered D-1102, D-1108 and D-1130 and are available for public inspection in the Public Documents Room of Pension and Welfare Benefits Programs at the address given above. The Department proposes to grant the individual exemption requested for the Grumman Plan on a temporary basis only. If granted, the exemption proposed herein would terminate upon the final disposition of the class exemption requests described above. If a class exemption is granted, it will be available to the Plan, subject to any conditions which such exemption may contain.

Signed at Washington, D.C., this 16th day of March, 1979.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-8621 Filed 3-22-79; 8:45 am]

[4510-29-M]

EMPLOYEE BENEFIT PLANS

Notice of Proposed Exemption for Certain Transactions Involving Better Homes Realty, Inc. Savings Plan and Trust (Application No. D-1014)

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of a 2.47 acre parcel of real property by Better Homes Realty, Inc. Savings Plan and Trust (the Plan) and Joseph Napier, as joint owners of the property, to George E. White, Jr., president and majority shareholder of Better Homes Realty, Inc. (Better Homes), the sponsoring employer of the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, George E. White, Jr., and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before April 23, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D-1014. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Robert N. Sandler of the Department of Labor, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of section 406(a)(1), 406(b)(1), and (b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of Better Homes pursuant to section 408(a) of the Act, and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency of the exemption is issued solely by the Department.

SUMMARY OF FACTS AND REPRESENTATIONS

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

In January 1972, George E. White, Jr., president of Better Homes, obtained an option on certain real property in Pensacola, Florida. The option was obtained jointly by Mr. White and Joseph Napier, a real estate developer in Pensacola, Florida who is independent of Better Homes, Mr. White and the Plan. After obtaining the option to the property in his individual name, Mr. White then presented the option to the Plan trustees. Mr. White is one of seven Plan trustees, all of whom are employees of Better Homes.

In exchange for Mr. White giving the Plan trustees the opportunity to participate in the acquisition of the property with Mr. Napier, the trustees agreed to allow Mr. White to purchase whatever portion of the property Mr. White considered he needed for development and business purposes, as long as the Plan received a reasonable return on monies expended for the property and expenses incurred in carrying the property. Mr. Napier also agreed to this provision. This agreement was never reduced to writing.

The property, consisting of approximately 69.38 acres, was purchased by Mr. Napier and the Plan for $220,000 in 1972. Mr. Napier and the Plan each hold an undivided one half interest in the property. All of the property except for a 15 acre tract has now been developed as residential property and there is now afforded a prime location for a new sales office for Better Homes, at one of the intersections created by the subdivision development of the property. Mr. White proposes to purchase for cash on his own behalf, from the Plan and Mr. Napier, a portion of the property amounting to 2.47 acres for the purpose of building a new sales office which will be leased to Better Homes. The original cost of the propertty was $7,830, of which the Plan's share was one-half, or $3,915. The purchase price that Mr. White would pay if the exemption were granted would be the appraised price of $30,000, the Plan's share of which would be $15,000. The appraisal was performed by Swaine-Hoffman and Associates, an independent appraiser.

The 2.47 acre parcel has produced no income for the Plan and Napier since

they purchased it in 1972. No improvements have been made to the property and there have been no attempts to sell the property to an independent third party. The cash that the Plan would receive would increase needed Plan liquidity and enable the Plan to invest the proceeds in an income producing asset.

NOTICE TO INTERESTED PARTIES

Notice of the proposed exemption will be given to all interested parties, including the trustees of the Plan and all participants and beneficiaries of the Plan, within ten days of the publication of this notice in the FEDERAL REGISTER, by mailing copies of the notice of proposed exemption to them.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary of other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, that a fiduciary discharge his duties respecting the plan solely in the interests of the participants and beneficiaries of the plan in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act, and section 4975(c)(1)(F); of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of the participants and beneficiaries; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Code and Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

WRITTEN COMMENTS AND HEARING REQUEST

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available with the application for exemption at the address set forth above.

PROPOSED EXEMPTION

Based on the representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1. If the exemption is granted, the restrictions of section 406(a)(1), 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a 2.47 acre parcel of land located in the Southeast quarter of Section 6, Township 1 South, Range 30 West, Escambia County, Florida by Joseph Napier and the Plan, who each own undivided one-half interests in the parcel, to George E. White, Jr., for a total cash purchase price of $30,000, to be equally divided between Joseph Napier and the Plan, provided that this amount is not less than the fair market value of the property. The pending exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 16th day of March, 1979.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc 79-8622 Filed 3-22-79; 8:45 am]

[4510-29-M]

[Prohibited Transaction Exemption 79-10]

EMPLOYEE BENEFIT PLANS

Exemption From the Prohibitions Respecting a Transaction Involving Fred & Wayne's Car Care Centers, Inc. Profit Sharing Plan and Trust (D-682)

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption enables Fred & Wayne's Car Care Centers, Inc. Profit Sharing Plan and Trust (the Plan) to sell real property to Fred Kvarfordt, Jr., a party-in-interest and disqualified person with respect to the Plan, and to lease the same property to Fred Kvardorft, Jr., from January 1, 1977, until the date the sale is consummated.

FOR FURTHER INFORMATION CONTACT:

C. E. Beaver of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On February 16, 1979, notice was published in the FEDERAL REGISTER (44 FR 10143) of the pendency before the Department of Labor (the Department) of a proposal for an exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by the trustee of the Plan, the Bank of Commerce (the Trustee), located in Idaho Falls, Idaho, and the two fiduciaries and sole participants, Wayne J. Peterson and Fred Kvarfordt, Jr. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. No public comments and no request for a hearing were received by the Department.

This application wad filed with both the Department and the Internal Revenue Service, but the notice of pendency was issued solely by the Department because, effective December 31, 1978, section 102 of the Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this exemption is granted solely by the Department.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or party-in-interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things, require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act, nor does the fact that the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

EXEMPTION

In accordance with section 408(a) of the Act and section 4975(c)(2) of the code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the plans.

Therefore, the exemption proposed in the notice of February 16, 1979 (44 FR 10143) is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 16th day of March, 1979.

IAN D. LANOFF,
Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-8623 Filed 3-22-79; 8:45 am]

[4510-29-M]

[Prohibited Transaction Exemption 79-9]

PLANS TO PURCHASE CUSTOMER NOTES FORM EMPLOYERS MAINTAINING PLANS

Temporary Class Permit Exemption

AGENCY: Department of Labor.

ACTION: Grant of Temporary Class Exemption.

SUMMARY: This document contains a temporary class exemption from certain restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). It permits employee benefit plans to purchase certain notes from employers any of whose employees are covered by the plan where the employers receive such notes from their customers in the ordinary course of their business and the notes are collateralized by security agreements on the property purchased by the customers.

FOR FURTHER INFORMATION CONTACT:

Charles Humphrey, Office of Fiduciary Standards, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (202-523-8881). This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On October 14, 1977, notice was published in the FEDERAL REGISTER (42 FR 55321) of the pendency before the Department of Labor (the Department) and the Internal Revenue Service (the Service) of a temporary class exemption from the restrictions of sections 406(a), 406 (b)(1) and (2) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code.

The proposed class exemption was based on more than 45 applications that requested the Department and the Service to grant individual exemptions to permit employee benefit plans to purchase customer notes from employers any of whose employees are covered by the plan. According to these applicants, prior to the enactment of the Act, it had been a common practice among businesses engaged in the retail sale of property (e.g., construction equipment or motor vehicles) for the seller to accept a secured note for part of the purchase price of the property and then sell the note to its employee benefit plan or to an unrelated third party financial institution. The applicants represented that these notes were good investments for plans, providing adequate security in the event of default and returns which were generally greater than the returns available from alternative investments.

The proposed exemption contained specific conditions to protect the interest of plan participants, including requirements that the sale of the notes be on arm's length terms; that the employer guarantee repayment of the note if it is more than 30 days in arrears; that no more than 25 percent of plan assets be invested in customer notes of the employer; that the note be adequately secured; that the term of the note not exceed a certain number of months, determined by the security underlying the note; and that insurance against loss or damage to the collateral be provided by the obligor until the note is repaid or repurchased by the employer. Because the Department and the Service believed that it would be appropriate for it to reassess the basis for the exemption, the exemption was proposed to be temporary in nature, and would expire on December 31, 1981. In order to enable the Department and the Service to monitor the operation of the exemption to determine whether it should be made permanent, modified or be permitted to lapse upon expiration, the proposed exemption required certain information to be submitted to the Service by a plan which entered into a transaction in reliance on the exemption.

The exemption was proposed in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 19715-1 C.B. 722, and all interested persons were invited to submit

comments and request a public hearing on the proposed exemption. Pursuant to these requests and to notice published in the FEDERAL REGISTER on January 20, 1978 (43 FR 2968), a public hearing was held on March 9, 1978, in which interested persons were afforded the opportunity to present their views on the proposed exemption.

It should be noted that under Presidential Reorganization Plan No. 4 of 1978, effective December 31, 1978, the authority of the Secretary of the Treasury to issue exemptions under section 4975 of the Code has been, with certain exceptions not here relevant, transferred to the Secretary of Labor, and the Secretary of the Treasury is bound by the exemptions issued by the Secretary of Labor pursuant to such authority. Therefore, this exemption is issued solely by the Department.

DISCUSSION OF SIGNIFICANT COMMENTS AND MODIFICATIONS TO THE CLASS EXEMPTION: Over 170 comments supporting the grant of the exemption have been received. Several commentators, while supporting the exemption, suggested that certain sections of the exemption be changed, as discussed below.

DEFINITION OF CUSTOMER NOTES (SECTION I): Several commentators recommended the use of the term "security agreement" rather than "conditional sales contract" in defining the term "customer notes," since under the Uniform Commercial Code (UCC), the term "security agreement" is the generic term for any agreement which creates or provides for a security interest. This suggestion was accepted and incorporated in the exemption. Accordingly, the reference to "conditional sales contract" has been deleted and the term "security agreement," as defined in UCC section 9-105(1)(1), has been substituted in its place.

PERCENTAGE LIMITATION (SECTION IID): Many commentators urged that the proposed limitation that only 25 percent of plan assets can be invested in customer notes of the employer be increased; some suggested that this limitation be eliminated. The commentators stated that plans were adequately protected without this percentage limitation. They argued that their plans had invested substantially in customer notes prior to the effective date of the Act and had achieved, without any increased risk of loss, a higher net yield on their investments than plans which had not invested in such notes.

Many of the commentators suggested that any increase in the percentage limitation should be accompanied by additional safeguards to protect plan participants. The suggested safeguards included: 1) requiring additional security; 2) requiring a third party to purchase any note in default; 3) requiring the employer to have a net worth sufficient to satisfy its obligation as guarantor on the notes; 4) requiring at least a 15 percent customer down payment; or 5) limiting the percentage of plan assets that may be invested in the customer notes of any one customer.

After considering the comments, the Department has decided that the percentage limitation should be increased, but that any increase should be accompanied by additional protections for plan participants. Accordingly, the exemption has been revised to permit plans to invest up to 50 percent of plan assets in customer notes of the employer, and a new condition has been added which provides that any acquisition of customer notes after the date of the exemption which would cause a plan to hold more than 10 percent of plan assets in the notes of any one customer will not be covered by the exemption. Current plan holdings of customer notes would not be affected by this condition. These changes should, in the Department's view, offer plans the flexibility of investing a higher percentage of plan assets in such notes, while providing an additional safeguard for plan participants. The Department will specifically monitor the operation of this condition to determine whether at the expiration of the interim exemption the condition should be modified in light of plan experiences.

EMPLOYER GUARANTEE OF REPAYMENT (SECTION II E): Several commentators argued that it is unreasonable to consider a note in default (in which case, under the terms of the exemption, the employer would be required to repurchase the note) because it is 30 days in arrears. According to the commentators, even the best customers may, for valid business reasons, be in arrears for a longer period of time. The commentators noted that some industries are seasonal and that many excellent accounts have temporary cash flow problems and urged that a plan should be given additional time to consider the reasons for a missed payment—e.g., whether the circumstances are permanent or temporary or whether the plan expect repayment within a reasonable time period. They argued that this additional time would provide the plan sufficient flexibility to retain what it believes are sound investments. Most of the commentators suggested extending the default period to 60 or 90 days.

In light of these comments, the Department has lengthened to 60 days the period after which a note would be deemed to be in default for purposes of this exemption.[1] The Department notes, however, that plan fiduciaries have certain responsibilities under section 404 of ERISA with respect to delinquent payments, regardless of the length of the "default period" in this exemption.

SEASONED NOTES (SECTION II H): Section II H of the exemption requires repayment of the note to be made within a certain number of months, determined by the type of property which secures the note. Several commentators questioned whether these time limits for the maximum duration of customer notes refer to the remaining term of a seasoned note at the time it is sold to the plan or only to the original term of a newly issued note. These commentators stated that the exemption should cover the sale of seasoned notes, because notes on which the debtor has shown the ability to make timely payment may be better investments than newly issued notes. The exemption is not limited to the acquisition of newly issued notes. The purchase of seasoned notes, therefore, is permitted if the remaining term of the note at the time it is sold to the plan satisfies the requirements of Section II H, and the requirements of the exemption are otherwise satisfied.

MISCELLANEOUS: The exemption, as proposed, would expire on December 31, 1981. In order to provide the Department a sufficient period of time to monitor the operation of the exemption, the expiration date has been changed to June 30, 1984. The provision which would have required the submission of information to the Service has been changed to require that the information be submitted to the Department. In addition, in response to several comments, the time for filing the requested information has been changed to coincide, generally, with the filing of the applicable Form 5500 series annual return/report. Further, the amount of information which must be submitted has been reduced.

The Department was requested to expand the scope of the exemption to include the sale of notes secured by leases, intangible personal property, real property, mortgage contracts, construction notes, etc. However, as stated in the notice of pendency, the Department has not received sufficient information to determine that a class exemption for such transactions can be proposed with adequate safeguards against abuse. The Department, however, will continue to consider applications for these types of transactions on an individual basis.

Questions have been raised concerning the applicability of the temporary

[1] The Department has also modified Section II to make clear that the prohibited transaction provisions of the Act and the Code shall not apply to a repurchase by the employer in accordance with the terms of the exemption.

class exemption to a contribution of customer notes to an employee benefit plan by the employer who sponsors the plan. It is the Department's view that to the extent a contribution of customer notes constitutes a prohibited indirect sale between a plan and a party in interest, the transaction would be exempt if the conditions of this class exemption are satisfied.[2]

The Department also has been asked whether plans may hold, beyond the expiration date, notes purchased before such date in accordance with the terms of the exemption. The Department intends to permit plans to hold, beyond June 30, 1984, notes purchased before that date in conformance with the terms of the exemption, in order not to require plans to dispose of all of their customer notes purchased from the employer by June 30, 1984. In this regard, the Department expects that its evaluation of the temporary exemption and its determination whether the exemption should be made permanent, modified, or extended will be made and published in the FEDERAL REGISTER sufficiently in advance of the expiration date so as to avoid any undue disruption of plan investment activities.

GENERAL INFORMATION: The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other disqualified person/party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his/her duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) The exemption set forth herein is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(5) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notice of October 14, 1977, the Department makes the following determinations:

(i) The class exemption set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of participants and beneficiaries of the plans.

EXEMPTION

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

SECTION I. DEFINITION OF CUSTOMER NOTES.

For purposes of this exemption a customer note is a two-party instrument, executed along with a security agreement for tangible personal property, which is accepted in connection with, and in the normal course of, the employer's primary business activity as a seller of such property. A two-party instrument is a promissory instrument used in connection with the extension of credit in which one party (the maker) promises to pay a second party (the payee) a sum of money.

SECTION II. GENERAL EXEMPTION.

Effective immediately the restrictions of sections 406(a), 406(b) (1) and (2), and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply until July 1, 1984, to the purchase and holding by employee benefit plans of customer notes (as defined in Section I) acquired from employers any of whose employees are covered by such plans and the repurchase of such notes by such employers in accordance with paragraph (E), below provided that the following conditions are met:

A. Within seven months after the close of a plan year during which a plan engages in a transaction in reliance on this class exemption, the trustees or other appropriate fiduciary of the plan shall submit the following information to the U.S. Department of Labor, Pension and Welfare Benefit Programs, 200 Constitution Avenue, N.W., Washington, D.C. 20216 (Attention: Customer Notes):

1. Name and address of employer;

2. Employer's identification number;

3. Name and address of plan administrator;

4. Plan administrator's identification number;

5. Plan name and number.

B. Upon request by the Department, the trustees or other appropriate fiduciary of a plan which engaged in a transaction in reliance on this exemption shall submit to the Department such additional information regarding transactions subject to this exemption as may be requested. All requests for additional information shall be in writing.

C. Any sale of customer notes to the plan is on terms at least as favorable to the plan as an arm's length transaction with an unrelated third party would be.

D. The acquisition of a customer note from the employer shall not cause a plan to hold: (i) more than 50 percent of the current value (as the term is defined in section 3(26) of the Act) of plan assets in customer notes of the employer; and (ii) more than 10 percent of plan assets (as defined above) in customer notes of any one customer.

E. The employer guarantees in writing the immediate repayment of the outstanding balance of the note and accrued interest in the event the note is more than 60 days in arrears, or the obligor on the note fails to comply with any terms or conditions of the note; or in the event the obligor shall become insolvent, commit an act of bankruptcy, make an assignment for the benefit of creditors or a liquidating agent, offer a composition or extension to creditors, make a bulk sale; or in the event any proceeding, suit or action at law, in equity or under any of the provisions of the Bankruptcy Act or of amendments thereto for reorganization, composition, extension, arrangements, receivership, liquidation, or dissolution shall be begun by or against the obligor; or in the event of the appointment under any jurisdiction at law or in equity of any receiver of any property of the obligor; or in the event the condition of affairs of the obligor shall so change as to, in the opinion of the plan trustees or other appropriate fiduciaries, impair its security or increase its credit risk; or should the obligor fail to take proper care of the goods or abandon the same.

[2] Fiduciaries of plans to which customer notes are contributed should be aware, however, that the decision by a plan fiduciary to accept the notes is subject to the same standards of prudence under section 404 of ERISA which would apply to a decision to purchase such notes for cash.

F. The plan receives adequate security for the note. For purposes of this exemption, the term adequate security means that the note is secured by a perfected security interest in the property purchased by the obligor on the note so that if the security is foreclosed upon, or otherwise disposed of, in default of repayment of the loan, the value and liquidity of the security is such that it may reasonably be anticipated that loss of principal or interest will not result. In no event shall adequate security mean an interest in intangible personal property, such as, but not limited to, accounts, contract rights, documents, instruments, chattel paper, and general intangibles.

G. Insurance against loss or damage to the collateral from fire or other hazards will be procured and maintained by the obligor until the note is repaid or repurchased by the employer, and the proceeds from such insurance will be assigned to the plan.

H. Repayment must be provided for in the following manner:

1. Where the note is secured by heavy equipment, the term shall in no event exceed 60 months. For purposes of this exemption, heavy equipment shall include machinery sold by equipment distributors such as, but not limited to, earth moving, material handling, pipe laying, power generation, and construction machinery manufactured according to standard specifications, such as, but not limited to, portable air compressors, backhoes, cranes, crushers, dozers, earthboring machines, excavators, fork lifts, graders, hydraulic hammers, loaders, rollers, scrapers, tractors, trailers, trenchers, trucks over 10,000 pounds, and highway material handling equipment, but shall not include such equipment which has been specifically designed and manufactured to a user's specifications and which cannot reasonably be expected to be resold in the ordinary course of the equipment distributor's business.

2. Where the note is secured by passenger automobiles and light-duty highway motor vehicles, the term shall in no event exceed 48 months. For purposes of this exemption, passenger automobiles and light-duty highway motor vehicles are defined as vehicles which have a gross weight of 10,000 pounds or less, are propelled by means of their own motor and are a type used for highway transportation.

3. Where the note is secured by tangible personal property other than heavy equipment or motor vehicles, described in paragraph H 1 and 2 above, the term shall in no event exceed 36 months.

I. A plan which relies upon this exemption shall maintain or cause to be maintained for a period of six years from the date of such transaction such records as are necessary to enable the Department to determine whether the conditions of this exemption have been met, except that:

1. A prohibited transaction will not be deemed to have occurred if due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six year period; and

2. Such employer shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph J below.

J. Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph I above are unconditionally available at their customary location for examination during normal business hours by:

1. The Internal Revenue Service;

2. The Department of Labor;

3. Plan participants and beneficiaries;

4. Any employer of plan participants;

5. Any employee organization any of whose members are covered by the plan; or

6. Any duly authorized employee or representative of a person described in subparagraph (1) through (5) of this paragraph.

SECTION III. SPECIAL EXEMPTION.

A. The restrictions of sections 406(a) and 406(b) (1) and (2), and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the purchase and holding by employee benefit plans of customer notes purchased on or before June 30, 1975, from employers any of whose employees are covered by such plan, provided that the following conditions are met:

1. The terms of the purchase of the note by the plan were at least as favorable to the plan as an arm's length transaction with an unrelated third party would have been;

2. The plan received adequate security as defined in Section (II)(F) above; and

3. Such purchases were ordinarily and customarily made by the plan prior to January 1, 1975.

B. The restrictions of section 406(a) and 406(b) (1) and (2) of the Act and section 4975(c)(1) (A) through (E) of the Code shall not apply until September 20, 1979 to the sale, exchange, or other disposition of customer notes which are owned by the plan on October 14, 1977, to a disqualified person or party in interest if:

1. Such sale is made in order to comply with the conditions of this exemption; and

2. The plan receives not less than adequate consideration.

Signed at Washington, D.C., this 16th day of March, 1979.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U. S. Department of Labor.

[FR Doc. 79-8617 Filed 3-22-79; 8:45 am]

[4510-28-M]

Office of the Secretary

[TA-W-4709]

BLU-BELLE KNITTING MILLS, FALL RIVER, MASSACHUSETTS

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4709: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979 in response to a worker petition received on January 12, 1979 which was filed on behalf of workers and former workers producing men's knitted sweaters at Blu-Belle Knitting Mills, Fall River, Massachusetts.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5534). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Blu-Belle Knitting Mills, its manufacturers, customers of the manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' sweaters, knit cardigans and pullovers increased absolutely from 1976 to 1977 and from 1977 to 1978.

The Department conducted a survey of the principal manufacturers for which Blu-Belle worked in 1977 and 1978. These manufacturers decreased contracts with Blu-Belle from 1977 to 1978 and increased purchases of imported men's sweaters in the same

period. A Departmental survey of the manufacturers' customers showed that customers representing a significant proportion of the manufacturers' sales decline from 1977 to 1978 increased their reliance on imported men's sweaters during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's knitted sweaters produced at Blu-Belle Knitting Mills, Fall River, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Blue Belle Knitting Mills, Fall River, Massachusetts who became totally or partially separated from employment on or after September 2, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 16th day of March 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-8930 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4753 and 4753A]

BRIERWOOD SHOE CORP., NORTHERN SHOE DIVISION PULASKI, WIS., CLINTONVILLE, WIS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of labor herein presents the results of TA-W-4753: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 29, 1979, in response to a worker petition received on January 26, 1979, which was filed on behalf of workers and former workers producing children's shoes at the Brierwood Shoe Corporation, Northern Shoe Division, Pulaski, Wisconsin. The investigation was expanded to include workers of the Clintonville, Wisconsin plant of the Northern Shoe Division. The Pulaski and Clintonville plants primaily produce children's, infants', and women's footwear.

The Notice of Investigation was published in the FEDERAL REGISTER on February 6, 1979 (44 FR 7249). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of the Northern Shoe Division of the Brierwood Shoe Corporation, its customers, the American Foot Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of children's nonrubber footwear increased relative to domestic production in 1977 compared to 1976 and decreased absolutely and relatively in the first nine months of 1978 compared to the same period of 1977.

U.S. imports of infant's and babies' nonrubber footwear increased relative to domestic production in 1977 compared to 1976 and decreased absolutely and relatively in the first nine months of 1978 compared to the same period of 1977.

U.S. imports of women's nonrubber footwear, except athletic, increased relative to domestic production in 1977 compared to 1976 and increased absolutely and relatively in the first nine months of 1978 compared to the same period of 1977.

Evidence developed during the course of the investigation revealed that purchases by one customer accounted for a significant percentage of Northern Shoe's total sales in 1977. A Departmental survey revealed that this customer reduced purchases of children's and infants' footwear from Northern Shoe and from other domestic sources in 1978 compared to 1977 while increasing its purchases of like or directly competitive imported footwear. The survey also revealed that this customer reduced purchases of women's footwear from Northern Shoe and other domestic sources in 1978 compared to 1977 while increasing its purchases of imported women's footwear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of import of articles like or directly competitive with children's, infants', and women's footwear produced at the Pulaski and Clintonville, Wisconsin plants of the Northern Shoe Division of the Brierwood Shoe Corporation contributed importantly to the decline in sales or production and to the total or partical separation of workers of those plants. In accordance with the provisions of the Act, I make the following certifications:

"All workers of the Pulaksi, Wisconsin plant of the Northern Shoe Division of the Brierwood Shoe Corporation who became totally or partially separated from employment on or after December 20, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

"All workers of the Clintonville, Wisconsin plant of the Northern Shoe Division of the Brierwood Shoe Corporation who become totally or partially separated from employment on or after June 17, 1978, are eligible to apply for adjustment assistment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 16th day of March 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration and Planning.

[FR Doc. 79-8931 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4696]

BURLINGTON INDUSTRIES, INC., KLOPMAN MILLS DIVISION, MAYFLOWER PLANT, CRAMERTON, N.C.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4696: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 15, 1979 in response to a worker petition received on January 8, 1979 which was filed on behalf of workers and former workers of the Mayflower plant, Cramerton, North Carolina, Klopman Division, Burlington Industries, Incorporated. The investigation revealed that the correct name of the division is the Klopman Mills Division, that the articles produced were yarn-dyed shirting weight and bottom weight textile fabrics.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Burlington Industries, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment as-

sistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric decreased from 464 million square yards in 1976 to 453 million square yards in 1977. Imports increased from 341 million square yards in the first nine months of 1977 to 386 million square yards in the same period in 1978. The ratio of imports to domestic production of finished fabric has been less than two percent from 1974 through 1977.

In October, 1977, Burlington Industries announced that its Sportswear Division would cease marketing the Galey and Lord line of fabric produced at the Mayflower plant. In January, 1978, the Mayflower plant closure was announced.

Results of a U.S. Department of Labor survey indicated that most customers of the Sportswear Division who responded to the survey did not increase their purchases of imported fabric in 1977 as compared to 1976 while decreasing purchases of the Galey and Lord line of fabric. Customers which reported switching to imported fabric represented less than one percent of the Sportswear Division's sales in 1977.

CONCLUSION

After careful review, I determine that all workers of the Mayflower plant, Cramerton, North Carolina, Klopman Mills Divison, Burlington Industries, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-8934 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4755]

C & C FASHIONS, INC., WEEHAWKEN, N.J.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 29, 1979 in response to a worker petition received on January 22, 1979 which was filed on behalf on workers and former workers producing cloth coats at C & C Fashions, Incorporated, Weehawken, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on February 6, 1979 (44 FR 7249). No public hearing was requested and none was held.

The petitioning group of workers in this case was included in a determination (TA-W-3674) issued on November 13, 1978 which certified as eligible to apply for adjustment assistance all workers engaged in the production of ladies' coats and raincoats at C & C Fashions, Incorported, Weehawken, New Jersey. C & C Fashions ceased operation in March 1978. Since all workers separated, totally or partially, from C & C Fashions, Incorporated on or after June 24, 1977 (impact date) and before April 1, 1978 (termination date of determination) are covered by an existing determination, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 15th day of March 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-8935 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-2075]

CAPEHART CORP. (FORMERLY WAKEFIELD INDUSTRIES, INC.), NORWICH, CONN., NEW YORK, N.Y.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 222 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on December 23, 1977 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers at the Norwich, Connecticut plant of the Capehart Corporation (formerly Wakefield Industries, Incorporated) (TA-W-2075).

The Notice of Certification was published in the FEDERAL REGISTER (43 FR 1155) January 6, 1978.

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers at the Capehart Corporation Sales Division, New York, New York. Further investigation revealed that workers of the New York Sales Division were engaged in employment related to the production of modular and console stereo units and should have been included in the original certification as eligible to apply for adjustment assistance.

The Sales Division was not identified in the initial investigation or the original certification because the company maintained separate records and ledgers for sales staff in other locations.

CONCLUSION

Based on the additional evidence, a review of the entire record and in accordance with the provisions of the Act, I make the following certification:

"All workers at the Norwich, Connecticut plant and the New York, New York Sales Division of the Capehart Corporation (formerly Wakefield Industries, Incorporated) who became totally or partially separated from employment on or after May 9, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 19th day of March 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-8936 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4727]

ELLEN KATE CLOTHING CO., NEWBURGH, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4727: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 22, 1979 in response to a worker petition received on January 16, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' rainwear and sportswear at the Ellen Kate Clothing Company, Newburgh, New York. The investigation revealed that the firm produces ladies' raincoats and outercoats.

The Notice of Investigation was published in the FEDERAL REGISTER on January 30, 1979 (44 FR 5953). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Ellen Kate Clothing Company, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act

must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, girls' and infants' raincoats increased in the first three quarters of 1978 compared with the like period of 1977.

U.S. imports of women's, misses' and children's coats and jackets increased in 1977 compared with 1976. Imports decreased in the first three quarters of 1978 compared with the like period of 1977. The ratio of imports to domestic production increased from 48.3 percent in 1976 to 54.9 percent in 1977.

The Department surveyed major customers (manufacturers) for whom Ellen Kate performed contract work. Respondents accounting for a significant proportion of the subject firm's contract work indicated that they increased purchases of imported women's coats while decreasing contract work with Ellen Kate.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the women's raincoats and outercoats produced at Ellen Kate Clothing Company, Newburgh, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Ellen Kate Clothing Company, Newburgh, New York who became totally or partially separated from employment on or after August 18, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 16th day of March 1979.

JAMES F. TAYLOR,
Director, Office of Management Administration, and Planning.

[FR Doc. 79-8937 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4720]

FABERGE, INC., RIDGEFIELD, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4720: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 18, 1979, in response to a worker petition received on January 15, 1979, which was filed on behalf of workers and former workers producing cosmetics, perfume, shampoo and toilet articles, in general, at the Ridgefield, New Jersey plant of Faberge, Incorporated. The investigation revealed that the plant primarily produced fragrances and shampoos.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Faberge, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A survey of the customers of Faberge, Incorporated revealed that customers did not increase purchases of imported fragrances and shampoo. The survey further revealed that customers which decreased purchases from Faberge, Incorporated had increased purchases from other domestic sources in 1978.

CONCLUSION

After careful review, I determine that all workers of the Ridgefield, New Jersey plant of Faberge, Incorporated are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 79-8938 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4528]

FLORSHEIM SHOE CO., CAPE GIRARDEAU, MO.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a certification of eligibility to apply for adjustment assistance on February 28, 1979, applicable to all workers of the Cape Girardeau, Missouri, plant of the Florsheim Shoe Company who became totally or partially separated from employment on or after October 1, 1978. The Notice of Certification was published in the FEDERAL REGISTER on March 6, 1979, (44 FR 12293).

At the request of a former employee, a further investigation was made by the Director of the Office of Trade Adjustment Assistance. A review of the case revealed that a number of separations occurred before the impact date originally set in the Department's certification of the Cape Girardeau, Missouri, facility. These layoffs were not covered by the original impact date.

The intent of the certification is to cover all workers at the Florsheim Shoe Company who were adversely affected by the decline in the production of men's footwear related to import competition. The certification, therefore, is revised providing a new impact date of December 11, 1977.

The revised certification applicable to TA-W-4528 is hereby issued as follows:

"All workers of the Cape Girardeau, Missouri, plant of the Florsheim Shoe Company who became totally or partially separated from employment on or after December 11, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C., this 19th day of March 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-8939 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4558]

GIBSON, INC., KALAMAZOO, MICH.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4558: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 28, 1978 in response to a worker petition received on December 22, 1978 which was filed by the United Steel Workers of America on behalf of workers and former workers producing acoustic and electric guitars, mandolins and banjos at the Kalamazoo, Michigan plant of Gibson, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on January 5, 1979 (44 FR 1485). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Gibson, Inc., Norlin Music, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. With regard to workers producing electric guitars without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that declines in shipments and production of electric guitars at the Kalamazoo plant of Gibson Inc., were attributable to a shift in electric guitar production from the Kalamazoo plant to Gibson's Nashville, Tennessee plant. Total Gibson electric guitar production (including the Kalamazoo and Nashville plants) increased from 1977 to 1978.

With regard to workers producing acoustic guitars, mandolins and banjos, it is concluded that all of the requirements have been met.

Imports of non-electric guitars increased from 901,545 units in the first three quarters of 1977 to 1,044,280 units in the first three quarters of 1978.

Gibson acoustic guitars are marketed nationwide to retail music outlets. Gibson acoustic guitars are sold to customers which represent a substantial proportion of the total domestic music retailers market. The ratio of aggregate imports to domestic production for non-electric guitars has been in excess of 490 percent since 1973. The ratio increased from 737 percent in 1976 to 953.7 percent in 1977. More than four out of every five fretted musical instruments sold in the United States in 1977 were imported.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with acoustic guitars, mandolins and banjos produced at the Kalamazoo, Michigan plant of Gibson, Inc. contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Kalamazoo, Michigan plant of Gibson, Inc. engaged in employment related to the production of acousitc guitars, mandolins and banjos who became totally or partially separated from employment on or after January 15, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

It is further determined that all workers of the Kalamazoo, Michigan plant of Gibson, Incorporated engaged in employment related to the production of electric guitars are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of March 1979.

C. Michael Aho,
Director, Office of Foreign Economic Research.

[FR Doc. 79-8940 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4711]

GRAND FASHIONS, INC., HOBOKEN, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4711: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979, in response to a worker petition received on January 12, 1979, which was filed on behalf of workers and former workers producing ladies' coats at Grand Fashions, Incorporated, Hoboken, New Jersey.

The Notice of Investigation was published in the Federal Register on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Grand Fashions, Incorporated, its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Production at Grand Fashions, Incorporated increased in 1978 compared to 1977. Production increased in the second, third, and fourth quarters of 1978 compared to the same quarters in 1977. The decline in production and employment at Grand Fashions, Incorporated in the first quarter of 1978 can be attributed to the seasonal patterns typical to the women's coat industry.

Conclusion

After careful review, I determine that all workers of Grand Fashions, Incorporated, Hoboken, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

Harry J. Gilman,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-8941 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4491 and 4491A]

GREENSBORO MANUFACTURING CO., DIVISION OF GENESCO, INC., GREENSBORO, N.C., MOUNTAIN CITY, TENN.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4491 and 4491A: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 8, 1978 in response to a worker petition received on December 6, 1978 which was filed on behalf of workers and former workers producing women's and children's nightwear at the Greensboro, North Carolina plant of the Greensboro Manufacturing Company, a Division of Genesco, Incorporated. The investigation revealed that the Greensboro Manufacturing Company primarily produces women's and children's nightwear at two plants. The investigation was expanded to include an additional plant located in Mountain City, Tennessee.

The Notice of Investigation was published in the Federal Register on December 19, 1978 (43 FR 59179-80). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Greenboro Manufacturing

Company, its customers (including other manfacturers), the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's and children's nightwear increased absolutely and relatively from 1976 to 1977 and increased absolutely from 1977 to 1978.

The Department conducted a survey of customers of Greensboro Manufacturing. The survey indicated that customers which accounted for a significant proportion of Greensboro's sales decreased purchases from Greensboro and increased purchases of imported women's and children's nightwear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with women's and children's nightwear produced at Greensboro Manufacturing Company's, Greensboro, North carolina and Mountain City, Tennessee plants contributed importantly to the decline in sales and to the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Greensboro, North Carolina and Mountain City, Tennessee plants of the Greensboro Manufacturing Company, a Division of Genesco who became totally or partially separated from employment on or after December 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 19th day of March 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-8942 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4700]

LA SALLE FASHIONS, INC., HOBOKEN, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4700: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 15, 1979 in response to a worker petition received on January 9, 1979 which was filed on behalf of workers and former workers producing ladies' coats at La Salle Fashions, Incorporated, Hoboken, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of La Salle Fashions, Incorporated its manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's, misses', and children's coats and jackets increased both absolutely and relative to domestic production from 1976 to 1977 and increased absolutely from 1977 to 1978.

A departmental survey of the manufacturers which contract with La Salle Fashions, Incorporated revealed that those manufacturers increased their purchases of imported women's coats from 1977 to 1978 and decreased orders with La Sale Fashions, Incorporated during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats produced at La Salle Fashions, Incorporated, Hoboken, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of La Salle Fashions, Incorporated, Hoboken, New Jersey who became totally or partially separated from employment on or after January 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of March 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-8943 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4702, 4702A and 4702B]

McGREGOR-DONIGER, INC., Dover, N.J., plant, DOVER, N.J. CORPORATE OFFICE; NEW YORK, N.Y., CORPORATE OFFICE

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4702, TA-W-4702A and TA-W-4702B: investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigations were initiated on January 15, 1979 in response to a worker petition received on January 8, 1979 which was filed on behalf of workers and former workers producing leather jackets, shirts, knit shirts, slacks and outerwear for men at McGregor-Doniger, Incorporated, Dover, New Jersey. The investigation revealed that the Dover, New Jersey manufacturing plant only produces men's outerwear and men's sweater shirts. The investigation was expanded to include the Dover, New Jersey and the New York, New York corporate office workers of McGregor-Doniger, Incorporated who are involved in the integrated production process of all types of men's apparel produced by McGregor-Doniger, Incorporated.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of McGregor-Doniger, Incorporated, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' outer coats and jackets increased from 20,034 thousand units in 1975 to 22,060 thousand units in 1976. The increasing trend continued in 1977 when imports increased to 27,432 thousand units. In 1978, imports of men's and boy's outer jackets and coats declined slightly to 27,093 thousand units. The ratio of imports to domestic production increased form 28.1 percent in 1975 to 29.6 percent in 1976 and then further increased to 35.3 percent in 1977. This ratio is not currently available for 1978.

U.S. imports of men's and boys' knit sport and dress shirts (excluding T-shirts) increased from 66.2 million units in 1975 to 74.0 million units in 1976. The increasing trend continued in 1977 and 1978 when imports increased to 75.2 million units and 107.5 million units, respectively. The ratio of imports to domestic production remained constant at 22.9 percent in 1975 and 1976 and then declined to 19.7 percent in 1977. This ratio is not currently available for 1978.

Evidence developed during the course of the investigation revealed that men's outer jackets represented a substantial proportion of production at the Dover, New Jersey manufacturing plant of McGregor-Doniger, Incorporated in 1977 and 1978.

McGregor-Doniger, Incorporated imports men's outer jackets. These company imports increased by 54.8 percent in 1978 when compared to 1977, exceeding the 1978 level of production of men's outer jackets at the Dover, New Jersey manufacturing plant of McGregor-Doniger, Incorporated.

The corporate offices, both in Dover, New Jersey and in New York City, provide support functions for the Dover manufacturing plant and for the manufacturing plants of McGregor-Doniger's subsidiaries. The Dover corporate offices handle company-wide payroll, purchasing, accounts payable and accounts receivable while the New York City office handles company-wide sales and merchandising; thus, the corporate office workers are involved in the integrated production process of men's apparel for McGregor-Doniger, Incorporated.

Workers at five out of a total of seven manufacturing plants of McGregor-Doniger, Incorporated and its subsidiaries were certified as eligible to apply for trade adjustment assistance by the U.S. Department of Labor (TA-W-1693, 4124, 4216, 4217, 4436). These five plants represent a substantial portion of McGregor-Doniger's domestic production. The support services provided by the corporate offices are integral to the production process at these five plants.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's outer jackets produced at the Dover, New Jersey manufacturing plant of McGregor-Doniger, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant.

I further conclude that increases of imports of articles like or directly competitive with men's outer jackets, sweaters, sweater shirts, knit shirts, sport shirts, trousers and shorts produced at McGregor-Doniger, Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers at the Dover, New Jersey and New York, New York corporate offices of McGregor-Doniger, Incorporated. In accordance with the provisions of the Act, I make the following certifications:

All workers at the Dover, New Jersey plant, at the Dover, New Jersey corporate office and at the New York, New York corporate office of McGregor-Doniger, Incorporated who became totally or partially separated from employment on or after January 5, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of March 1979.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-8944 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4713]

NOVA SPORTSWEAR, LONG BRANCH, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4713: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979, in response to a worker petition received on January 12, 1979, which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing sportswear at Nova Sportswear, Long Branch, New Jersey. The investigation revealed that the plant primarily produces women's sports culottes.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5534). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Nova Sportswear, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Sales equals production at Nova Sportswear. Production at Nova increased in 1978 compared to 1977. Decline in the spring and summer months of 1978 are attributable to the seasonality of the women's sport culottes industry.

CONCLUSION

After careful review, I determine that all workers of Nova Sportswear, Long Branch, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-8945 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4757]

OPELIKA MANUFACTURING CORP., WHITEHOUSE DIVISION, JACKSON, MICH.

Negative Determination regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W—4757: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 25, 1979 in response to a worker petition received on January 22, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing hospital garments at the Jackson, Michigan plant of the Whitehouse Division of Opelika Manufacturing Corporation.

The Notice of Investigation was published in the FEDERAL REGISTER on February 6, 1979 (44 FR 7249). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Opelika Manufacturing Corporation, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to

whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the total or partial separation, or threat thereof, and to the absolute decline in sales or production.

The Jackson, Michigan plant was a member of the Whitehouse Division before closure in May 1978. The company closed the plant because of efficiency considerations and the inability to attract a stable labor force. All production at the Jackson, Michigan plant was transferred to other Whitehouse Division plants and all workers were given the opportunity for employment at other company facilities. Sales of hospital garments by the Whitehouse Division of the Opelika Manufacturing Corporation increased in 1978 compared to 1977, and increased in each quarter of 1978 compared to the like quarter of 1977.

CONCLUSION

After careful review, I determine that all workers of the Jackson, Michigan plant of the Whitehouse Division of the Opelika Manufacturing Corporation are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 19th day of march 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-8946 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4714]

PETERS SPORTSWEAR COMPANY INC. PHILADELPHIA, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4714: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979 in response to a worker petition received on January 12, 1979 which was filed on behalf of workers and former workers producing men's classic golf jackets, outerwear, leather jackets, corduroy suits and sportcoats at Peters Sportswear Company, Incorporated, Philadelphia, Pennsylvania. The investigation revealed that the plant primarily produces zippered sports jackets.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5534). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Peters Sportswear Company Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of men's and boys' nontailored outer jackets increased absolutely from 1976 to 1977 and from 1977 to 1978.

U.S. imports of men's and boys' outer coats and jackets (tailored) increased absolutely from 1976 to 1977 and from 1977 to 1978.

U.S. imports of leather coats and jackets incresed absolutely from 1976 to 1977 and in the first three quarters of 1978 compared to the first three quarters of 1977.

On February 22, 1979 the U.S. Department of Commerce certified Peters Sportswear Company, Incorporated eligible to apply for trade adjustment assistance. In drawing its conclusions the Department of Commerce found that customers who had increased purchases of imports while decreasing purchases from Peters Sportswear Company had contributed significantly to Peters Sportswear's loss of sales and production from 1977 to 1978.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the zippered sports jackets produced at Peters Sportswear Company Incorporated contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Peters Sportswear Company Incorporated who became totally or partially separated from employment on or after August 18, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 16th day of March 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-8947 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4759]

PRACTICAL AUTOMATION OF NEW HAMPSHIRE, INC., PLYMOUTH, N.H.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4759: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 29, 1979 in response to a worker petition received on January 23, 1979 which was filed on behalf of workers and former workers producing parts and subassemblies for alphanumeric and numeric needle printers at Practical Automation of New Hampshire, Incorporated, Plymouth, New Hampshire. The investigation revealed that the plant produces parts for computer printers produced at another company location.

The Notice of Investigation was published in the FEDERAL REGISTER on February 6, 1979 (44 FR 7249). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Practical Automation, Incorporated, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Practical Automation of New Hampshire, Incorporated produced parts for computer printers produced at a plant of its parent firm, Practical Automation, Incorporated. Practical Automation of New Hampshire, Incorporated closed and all production was transferred to another domestic plant of Practical Automation, Incorporated.

Sales and production of computer printers at Practical Automation, Incorporated increased in 1977 from 1976 and increased in 1978 from 1977.

CONCLUSION

After careful review, I determine that all workers of Practical Automa-

tion of New Hampshire, Incorporated, Plymouth, New Hampshire are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of March 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-8948 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4741]

RAINETTE FASHIONS, NEW YORK, N.Y.

Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 24, 1979 in response to a worker petition received on January 9, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing women's raincoats and jackets at the New York, New York facility of Rainette Fashions.

The investigation revealed that the petition was filed by the International Ladies' Garments Workers' Union.

The Notice of Investigation was published in the FEDERAL REGISTER on January 30, 1979 (44 FR 5952). No public hearing was requested and none was held.

Rainette Fashions is a trade label owned by Suz-ette Fashions of Jersey City, New Jersey. All of the garments sold with the Rainette Fashions label are produced and sold by Suz-ette Fashions. Rainette Fashions has no employees or facilities. On January 5, 1979, a petition was filed on behalf of workers and former workers of Suzette Fashions (TA-W-4656). Since there are no workers employed by Rainette Fashions and since the workers engaged in the production of the garments sold with the Rainette label are the subject of the ongoing investigation of TA-W-4656, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 15th day of March, 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-8949 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4656, etc.]

Suz-ette Fashions, Inc., Etc.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of Suz-ette Fashions, Inc., Jersey City, New Jersey and New York, New York, TA-W-4656, 4743, Jo Feld Fashions, New York, New York, TA-W-4737 and Disco Togs, Jersey City, New Jersey, TA-W-4735.

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4656, 4743, 4737, 4735: Investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation of TA-W-4656 was initiated on January 10, 1979 in response to a worker petition received on January 5, 1979 which was filed on behalf of workers and former workers engaged in employment related to the production of women's coats, pants suits and jackets at the Jersey City, New Jersey facility of Suz-ette Fashions. The investigation revealed that the plant produces women's coats, jackets and raincoats.

The investigations of TA-W-4735, 4737 and 4743 were initiated on January 24, 1979 in response to petitions received on January 9, 1979 which were filed by the Amalgamated Clothing and Textile Workers of America on behalf of workers and former workers at the New York, New York showrooms of Jo Feld Fashions and Suzette Fashions and at the New York, New York retail store of Disco Togs. The investigation revealed that the two showrooms and the retail outlet are owned and operated by Suz-ette Fashions, that the Disco Togs retail outlet is located in Jersey City, New Jersey and that the petitions were filed by the International Ladies' Garment Workers' Union.

The Notice of Investigation for TA-W-4656 was published in the FEDERAL REGISTER on January 19, 1979 (44 FR 4039-40). The Notice of Investigation for TA-W-4735, 4737 and 4743 was published on January 30, 1979 (44 FR 5952). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Suz-ette Fashions, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

With respect to workers producing cuttings at the Jersey City, New Jersey facility of Suz-ette Fashions, it is concluded that all of the requirements have been met.

Imports of women's, misses' and children's coats and jackets increased absolutely and relative to domestic production in 1977 compared to 1976 and decreased absolutely in the first three quarters of 1978 compared to the like 1977 period.

Imports of women's, girls' and infants' raincoats increased in the first nine months of 1978 compared to the same period of 1977.

Company imports of coats, jackets and raincoats increased in 1978 compared to 1977.

With respect to workers engaged in administrative, shipping and receiving operations at the Jersey City, New Jersey facility of Suz-ette Fashions and with respect to all workers at the New York, New York showrooms of Jo Feld Fashions and Suz-ette Fashions and at the Jersey City, New Jersey facility of Disco Togs, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Company sales of coats and jackets increased in 1978 compared to 1977. Company bookings, orders that predate actual sales and production, also increased in both quantity and value terms in 1978 compared to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of articles like or directly competitive with women's and misses' coats, jackets and raincoats produced at the Jersey City, New Jersey facility of Suz-ette Fashions contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

"All workers in the cutting department of the Jersey City, New Jersey facility of Suz-ette Fashions who became totally or partially separated from employment on or after December 29, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

I further determine that all workers engaged in administrative, shipping and receiving operations at the Jersey facility of Suz-ette Fashions and all workers at the New York, New York showrooms of Jo Feld Fashions and Suz-ette Fashions and all workers at the Jersey City, New Jersey facility of Disco Togs are denied eligibility to

apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

HARRY J. GILMAN,
Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-8950 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4544]

TAUNTON DRESS, INC., TAUNTON, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4544: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 19, 1978 in response to a worker petition received on December 15, 1978 which was filed on behalf of workers and former workers producing ladies' dresses, pantsuits and blouses at Taunton Dress, Incorporated, Taunton, Massachusetts. The investigation revealed that jackets, skirts and slacks are also produced.

The Notice of Investigation was published in the FEDERAL REGISTER on December 29, 1978 (43 FR 61039). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Taunton Dress, Incorporated, its manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or apporpriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The sole manufacturer for whom Taunton Dress performs contract work does not import ladies' dresses, pantsuits, blouses, jackets, skirts and slacks or utilize foreign contractors. This manufacturer decreased contracts with Taunton Dress and increased contracts with other domestic firms from 1977 to 1978.

CONCLUSION

After careful review, I determine that all workers of Taunton Dress, Incorporated, Taunton, Massachusetts are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 19th day of March 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-8951 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4513]

VITA COATS, INC., SOUTH EL MONTE, CALIF.

Revised Notice of Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Notice of Negative Determination Regarding Eligibility to Apply for Adjustment Assistance on February 1, 1979, applicable to workers and former workers at Vita Coats, Inc., South El Monte, California. The Notice of Negative Determination was published in the FEDERAL REGISTER on February 9, 1979, (44 FR 8387).

On the basis of additional information, the Office of Trade Adjustment Assistance on its own motion reviewed the determination. Imports of women's misses' and children's coats and jackets increased both absolutely and relative to domestic production in 1977 compared to 1976. Imports of women's, misses' and children's coats and jackets increased absolutely in 1978 compared to the average level of imports during the period 1974 through 1977. The review revealed that workers at Vita Coats' principal manufacturer were certified eligible for trade adjustment assistance. A significant proportion of that manufacturer's customers surveyed increased their purchases of imported women's coats in 1978 compared to 1977. Thus, increased imports of ladies' coats have contributed importantly to worker separations at Vita Coats, Inc., at South El Monte, California.

The revised notice of determination applicable to TA-W-4513 is hereby issued as follows:

"All workers of Vita Coats, Inc., South El Monte, California, who became totally or partially separated from employment on or after January 1, 1979, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the trade Act of 1974."

Signed at Washington, D.C., this 19th day of March 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-8952 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4718]

WESTFORTH MANUFACTURING CO., INC., WILLIAMSPORT, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4718: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 16, 1979 in response to a worker petition received on January 12, 1979 which was filed on behalf of workers and former workers producing men's classic golf jackets, outerwear, leather jackets, corduroy suits and sportcoats at Westforth Manufacturing Company, Incorporated, Williams>port, Pennsylvania.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (43 FR 5534). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Westforth Manufacturing Company, Incorporated, Peters Sportswear Company, Incorporated, its customers, manufacturers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Westforth Manufacturing Company, Incorporated's sales of men's and boys' outerwear increased in quantity and value from 1976 to 1977 and from 1977 to 1978. Sales and production are approximately equal.

CONCLUSION

After careful review, I determine that all workers of Westforth Manufacturing Company, Incorporated, Williamsport, Pennsylvania are denied eligibility to apply for adjustment as-

sistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 16th day of March 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 79-8953 Filed 3-22-79; 8:45 am]

[4510-28-M]

[TA-W-4707]

WILSON COUNTY GARMENT CO., WATERTOWN, TENN.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-4707: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 15, 1979 in response to a worker petition received on January 8, 1979 which was filed on behalf of workers and former workers producing ladies' woven blouses at Wilson County Garment Company, Watertown, Tennessee.

The Notice of Investigation was published in the FEDERAL REGISTER on January 26, 1979 (44 FR 5533). No public hearing was requested and none was held.

The determination was based upon information obtained principally from officials of Wilson County Garment Company its manufacturer, customers of the manufacturer, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

U.S. imports of ladies' blouses and shirts increased absolutely from 1976 to 1977. Imports increased absolutely in the first nine months of 1978 compared to the same period of 1977.

The manufacturer for whom Wilson County Garment performed contract work did not purchase imported blouses or utilize foreign contractors. Sales of woven blouses by this manufacturer decreased from 1977 to 1978. The Department conducted a survey of customers of this manufacturer. The survey revealed that customers accounting for a significant proportion of the sales decline in 1977 decreased purchases from the manufacturer and increased purchases of imported blouses from 1976 to 1977 and in the first five months of 1978 compared with the same period of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' blouses produced at Wilson County Garment Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Wilson County Garment Company, Watertown, Tennessee who became totally or partially separated from employment on or after January 4, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 16th day of March 1979.

C. MICHAEL AHO,
Director, Office of Foreign Economic Research.

[FR Doc. 8954 Filed 3-22-79; 8:45 am]

[4510-28-M]

WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility To Apply

Petitions have been filed with the Secretary of labor under Section 221(a) of the trade act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of March 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Brierwood Shoe Corp., Oconto Division (Retail Clerks Boot & Shoe Workers Union).	Oconto, Wis	3/12/79	3/12/79	TA-W-4,961	Men's workboots.
Imperial Reading Corp. (United Garment Workers of America).	Marshall, Tex	3/12/79	2/27/79	TA-W-4,962	Denim jeans.
Henry I. Siegel Co., Inc. (company)	Camden, Tenn	3/14/79	3/9/79	TA-W-4,963	Men's and women's styled jeans and dungarees.
Henry I. Siegel Co., Inc. (company)	Tiptonville, Tenn	3/14/79	3/9/79	TA-W-4,964	Dress vests and denim vests; dungaree jackets and dress coats and jackets.
Henry I. Siegel Co., Inc. (company)	Trezevant, Tenn	3/14/79	3/9/79	TA-W-4,965	Men's and women's styled jeans and dungarees.
Henry I. Siegel Co., Inc. (company)	Johnson City, Tenn	3/14/79	3/9/79	TA-W-4,966	Men's and women's styled jeans and dungarees.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Henry I. Siegel Co., INc. (company).....	Cerona, Miss.....	3/14/79	3/9/79	TA-W-4,967	Men's and women's blazers, sport coats and suit coats.
Henry I. Siegel Co., Inc. (company).....	Gleason, Tenn.....	3/14/79	3/9/79	TA-W-4,968	Men's and women's styled jeans and dungarees.
Henry I. Siegel Co., Inc. (company).....	Saltillo, Tenn.....	3/14/79	3/9/79	TA-W-4,969	Men's and women's skirts.
Henry I. Siegel Co., Inc. (company).....	Hohenwald, Tenn.....	3/14/79	3/9/79	TA-W-4,970	Men's dress slacks.
Henry I. Siegel Co., Inc. (company).....	South Fulton, Tenn.....	3/14/79	3/9/79	TA-W-4,971	Ladies' amd men's styled jeans, denim skirts and men's dress slacks.
Henry I. Siegel Co., Inc. (company).....	Bruceton, Tenn. (Rowland Mill Road).	3/14/79	3/9/79	TA-W-4,972	Pressing, warehousing and shipping of men's suit coats, men's and women's slacks, jeans, shirts, vests, coats, suits, and skirts.
Henry I. Siegel Co., Inc. (company).....	Bruceton, Tenn. (Lexington St.).	3/14/79	3/9/79	TA-W-4,973	Men's suit coats, men's and women's slacks, jeans, shirts, vests, coats, suits and skirts.
Tobin Hamilton Co., Inc. (USWA).....	Mansfield, Mo.....	3/13/79	3/9/79	TA-W-4,974	Children's shoes.

[FR Doc. 79-8932 Filed 3-22-79; 8:45 am]

[4510-28-M]

WORKER ADJUSTMENT ASSISTANCE

Investigations Regarding Certifications of Eligibility To Apply

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, of both, of such firm or subdivision and to the actual or threatened total of partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of March 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Brown Shoe Company (Workers).....	Bernie, Mo.....	3/6/79	2/6/79	TA-W-4,950	Ladies' shoes and boots.
Cotillion Knitting Mills (ILGWU).....	Brooklyn, N.Y.....	3/12/79	3/7/79	TA-W-4,951	Ladies' sportswear.
Gary Lee Company, Inc. (Company)...	Phillipsburg, N.J.....	3/12/79	3/6/79	TA-W-4,952	Ladies' blouses.
Gary Lee Company, Inc. (Company)...	Alpha, N.J.....	3/12/79	3/6/79	TA-W-4,953	Ladies' blouses.
Gillette Industries Inc., DBA La-Crosse Garment Mfg. Co.	La Crosse, Wis.....	3/12/79	3/5/79	TA-W-4,954	Jackets, vests and sleeping bags.
Granarja Novelty Corporation (Company).	Brooklyn, N.Y.....	3/12/79	3/5/79	TA-W-4,955	Pasting and wire works.
National Musical String Company (ACTWU).	New Brunswick, N.J.....	3/12/79	3/7/79	TA-W-4,956	Musical strings.
New-Tronics Corp. (U.A.W.).....	Brook Park, Ohio.....	3/12/79	3/8/79	TA-W-4,957	Communication antennas.
Suntogs, Inc. (Workers).....	Miami Lake, Fla.....	3/12/79	3/5/79	TA-W-4,958	Childrens' wear.
Uniroyal Incorporated, Naugatuck Footwear (U.R.W.).	Naugatuck, Conn.....	3/13/79	3/5/79	TA-W-4,959	Rubber canvas footwear.
Warren Shirt Company (Workers).....	Lebanon, Pa.....	3/12/79	3/6/79	TA-W-4,960	Jackets, ski coats.

[FR Doc. 79-8933 Filed 3-22-79; 8:45 am]

[4510-28-M]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Offiee of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number of proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of the Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitutional Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 13th day of March 1979.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Abate Clothing, Inc. (company)	Atlantic City, N.J	3/8/79	3/1/79	TA-W-4,924	Men and women's coats, overcoats, dresses and suits.
Chien Industries, Inc. (USWA)	Burlington, N.J	3/8/79	2/28/79	TA-W-4,925	Pressed and stamped metal products such as housewares.
Jane Colby, Div. of USI Industries (ILGWU).	Clifton Forge, Va	3/1/79	2/22/79	TA-W-4,9926	Ladies' apparel.
Jane Colby, Div. of USI Industries (ILGWU).	Fairfield, Va	3/1/79	2/22/79	TA-W-4,927	Ladies' apparel.
Converse Rubber Company, Presque Isle Division (company).	Presque Isle, Maine	3/12/79	3/1/79	TA-W-4,928	Rubber, Canvas and leather athletic and leisure footwear.
Converse Rubber Company, Div. Headquarters (company).	Wilmington, Mass	3/12/79	3/1/79	TA-W-4,929	Rubber, canvas and leather athletic and leisure footwear.
Converse Rubber Company, Granite State Div. (company).	Berlin, N.H	3/12/79	3/1/79	TA-W-4,930	Rubber, canvas and leather athletic and leisure footwear.
Ralph Edwards Sportswear, Inc. (ACTWU).	Sikeston, Mo	3/5/79	3/1/79	TA-W-4,931	Leather outerwear for men and some women.
Franglo, Inc. (ACTWU)	Hazleton, Pa	3/5/79	3/1/79	TA-W-4,932	Children's knitwear.
Joville Mfg. Co. (ACTWU)	Danville, Pa	3/5/79	3/1/79	TA-W-4,933	Children's knitwear.
Leggio Coat Co. (workers)	Brooklyn, N.Y	3/8/79	3/1/79	TA-W-4,934	Ladies' coats.
McAdoo Mfg. Co., Inc. (ACTWU)	McAdoo, Pa	3/5/79	3/1/79	TA-W-4,935	Children's knitwear.
Perry Norvell Shoe Factory (Retail Clerks International Union).	Huntington, W.Va	3/5/79	2/28/79	TA-W-4,936	Men's footwear.
Robinson-Phillips Coal Compnay, Alpine Mine #1 (U.M.W.A.).	Wyoming County, W. Va	2/23/79	2/16/79	TA-W-4,937	Mining of coal.
Robinson-Phillips Coal Company, Alpine Mine #2 (U.M.W.A.).	Wyoming County, W. Va	2/23/79	2/16/79	TA-W-4,938	Mining of coal.
Robinson-Phillips Coal Company, Elklick Mine #64 (U.M.W.A.).	Wyoming County, W. Va	2/23/79	2/16/79	TA-W-4,939	Mining of coal.
Robinson-Phillips Coal Company, #55 Horse Creek Mine (U.M.W.A.).	Wyoming County, W. Va	2/23/79	2/16/79	TA-W-4,940	Mining of coal.
Robinson-Phillips Coal Company, #61 Mill Creek Mine (U.M.W.A.).	Wyoming County, W. Va	2/23/79	2/16/79	TA-W-4,941	Mining of coal.
Robinson-Phillips Coal Company, #8 Indian Creek Mine (U.M.W.A.).	Wyoming County, W. Va	2/23/79	2/16/79	TA-W-4,942	Mining of coal.
Robinson-Phillips Coal Company, Ace Mine (U.M.W.A.).	Wyoming County, W. Va	2/23/79	2/16/79	TA-W-4,943	Mining of coal.
Robinson-Phillips Coal Company, Carol Mine (U.M.W.A..	Wyoming County, W. Va	2/23/79	2/16/79	TA-W-4,944	Mining of coal.
Robinson-Phillips Coal Company, Twin Branch Mine (U.M.W.A.).	McDow County, W. Va	2/23/79	2/16/79	TA-W-4,945	Mining of coal.
Robinson-Phillips Coal Company, Lobo Mine (U.M.W.A.).	McDow County, W. Va	2/23/79	2/16/79	TA-W-4,946	Mining of coal.
Robinson-Phillips Coal Company, Preparation Plant (U.M.W.A.).	Marianna, W. Va	2/23/79	2/16/79	TA-W-4,947	Cleaning of coal.
Wilker Brothers Co., Inc. (workers)	McKenzie, Tenn	3/8/79	3/2/79	TA-W-4,948	Men, women and children's robes and pajamas.
Winter Scene Fashions, Inc. (workers)	Hoboken, N.J	3/1/79	2/15/79	TA-W-4,949	Ladies' coats and suits.

[FR Doc. 79-8222 Filed 3-22-79; 8:45 am]

[4510-28-M]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 2, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 12th day of March 1979.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cambridge Tailoring Company (ACTWU).	Baltimore, Md	3/5/79	3/1/79	TA-W-4,912	Men's suits and sportcoats.
Cavalier Clothes, Inc. (ACTWU)	Jamaica, N.Y	3/5/79	3/1/79	TA-W-4,913	Men's and women's tailored clothing.
Fibreboard Corp., Standard Plant of the Sonora Div. (Lumber & Sawmill Workers Union).	Standard, Calif	3/5/79	3/1/79	TA-W-4,914	Components for wood boxes.
Freeland Sportswear Company (ACTWU).	Freeland, Pa	3/5/79	3/1/79	TA-W-4,915	Contractor of men's outerwear and some women's.
The Gross-Felbel Company (International Association of Bridge, Structural & Ornamental Iron Workers Union).	Hillsboro, Ohio	3/6/79	3/1/79	TA-W-4,916	Banking equipment: safes, vault doors safety deposit boxes, metal fabrication.
Imperial Reading Corporation (workers).	Lafayette, Tenn	3/6/79	2/21/79	TA-W-4,917	Men's shirts.
Lebow Brothers, Inc. (ACTWU)	Baltimore, Md	3/5/79	3/1/79	TA-W-4,918	Men's suits and sportcoats.
Patmore Coat, Inc. (workers)	Paterson, N.J	3/6/79	3/1/79	TA-W-4,919	Contractor of ladies' coats.
Pioneer Tanning Company, Inc. (company).	Salem, Mass	3/6/79	3/1/79	TA-W-4,920	Contract tanners of sheepskin for hat leathers.
J. Schoeneman, Inc. (ACTWU)	Winchester, Va	3/5/79	3/1/79	TA-W-4,921	Men's suits and sportcoats.
White Eagle Coal Company, AA Left Mains Mine (U.M.W.A.).	Raleigh County, W. Va	3/6/79	2/28/79	TA-W-4,922	Mining of low-volatile coal.
White Eagle Coal Company, K Mine (U.M.W.A.).	Raleigh County, W. Va	3/6/79	2/28/79	TA-W-4,923	Mining of low-volatile coal.

[FR Doc. 79-8223 Filed 3-22-79; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-32]

NASA ADVISORY COMMITTEES

Annual Comprehensive Review

Pursuant to Section 7(b) of Pub. L. 92-463, the Federal Advisory Committee Act, October 6, 1972, and implementing instructions of Office of Management and Budget Circular No. A-63, Transmittal Memorandum No. 5, as amended February 5, 1979, NASA is conducting a comprehensive review of its advisory committees. The public is hereby invited to submit comments on continuation of the NASA advisory committees. Following is a list of committees proposed for continuation, with a short description of the functions of each.

AEROSPACE SAFETY ADVISORY PANEL

The Panel is chartered by Congress "to review safety studies and operations plans referred to it and shall make reports thereon, shall advise the Administrator with respect to the hazards of proposed or existing facilities and proposed operations and with respect to the adequacy of proposed or existing safety standards, and shall perform such other duties as the Administrator may request." Pursuant to carrying out its statutory duties, the Panel reviews, evaluates and advises on those program management policies, management systems, procedures and practices that contribute to risk identification and assessment by management. Priority is given to those programs that involve the safety of manned flight.

NASA ADVISORY COUNCIL (NAC)

The function of the Council is to consult with and advise the NASA Administrator with respect to plans for, work in progress on, and accomplishments of NASA's aeronautics and space programs.

NAC AERONAUTICS ADVISORY COMMITTEE

Concerned with basic aeronautics research and with aeronautics research and technology applicable to commercial air transportation (including all transport types, such as conventional, short, and vertical take-off and landing; and supersonic transports), general aviation, helicopters, and military aircraft. Technical disciplines relevant to the listed aviation categories include, but are not limited to aerodynamics, aeronautical propulsion, avionics, structures and materials, and such special factors as aviation safety, aircraft operating systems, and man-vehicle technology.

NAC AERONAUTICS ADVISORY COMMITTEE, SUBCOMMITTEE ON AVIATION SAFETY REPORTING SYSTEM

Established as a necessary element defined in the FAA/NASA Memorandum of Agreement to support the FAA's Aviation Safety Program. The Subcommittee provides review and evaluation of the Aviation Safety Reporting System and design and implementation plan, evaluation of the critical elements in the system, and evaluation of the progress of the operational system.

NAC HISTORICAL ADVISORY COMMITTEE

Concerned with the NASA History Program, including review of historical archives, official NASA histories and historical reports, historical service to NASA and Government, and the program's relation to academic and public activities.

NAC LIFE SCIENCES ADVISORY COMMITTEE

Concerned with the study and support of life in space utilizing the multiple disciplines of medical sciences, biological sciences, biotechnology, planetary biology and quarantine, manned missions, operational support, and life sciences payloads; application of space technology to life sciences problems on earth, with emphasis on medicine, ecology, and animal tracking; occupational and environmental medicine through health maintenance and awareness programs, medical data handling systems, and the provisions of medical test-bed for advanced bioinstrumentation; and technology utilization for life sciences.

NAC SPACE AND TERRESTRIAL APPLICATIONS ADVISORY COMMITTEE

Concerned with the application of space-related capabilities to agriculture; forestry; hydrology; atmospheric sciences; ocean sciences, including oceanography and ocean dynamics; geosciences, including geology, mineral exploration, earth dynamics, and land capability; and communications applications, including data management systems.

NAC SPACE SCIENCES ADVISORY COMMITTEE

Concerned with the observation and study of major and minor bodies of the solar system and their interactions with the interplanetary environment; basic matter and energy in the space environment; cosmology and relativity physics; stars, nebulae, galaxies, and interstellar and interplanetary space, and intergalactic matter; the physical properties and nuclear and electromagnetic processes of the sun and the solar-planet relationships; and the origin and characteristics of energetic particle radiation, including radiation belts, interplanetary plasma, solar and galactic cosmic rays, and auroral particles.

NAC SPACE SYSTEMS AND TECHNOLOGY ADVISORY COMMITTEE

Concerned with research and technology applicable to space systems, including information systems, spacecraft systems, space power systems, and space transportation systems. The committee is concerned also with technology discipline activities in electronics, space power and propulsion, materials and structures, and includes consideration of the technologies required to utilize space systems in earth communications, for terrestrial energy applications, and for materials processing in space.

NASA WAGE COMMITTEE

Primary responsibility is to consider and make recommendations to the Director, Personnel Programs Division, NASA, on all matters involved in the development and authorization of a wage schedule for the Cleveland, Ohio, wage area pursuant to Pub. L. 92-392

Comments should be addressed to, or delivered to: National Aeronautics and Space Administration, Attn: Code LB-4, 400 Maryland Avenue SW, Washington, DC 20546. Comments should be received in NASA no later than close of business April 6, 1979. Additional information may be obtained from Mary R. Lippolis, 755-8383.

ARNOLD W. FRUTKIN,
Associate Administrator for External Relations.

MARCH 19, 1979.

[FR Doc. 79-8809 Filed 3-22-79; 8:45 am]

[7537-01-M]

FOUNDATION ON THE ARTS AND HUMANITIES

ADVISORY PANELS

Annual Comprehensive Review

In accordance with Section 7(b) of the Federal Advisory Committee Act (Pub. L. 92-463), the National Endowment for the Arts is currently reviewing each advisory panel to determine:

(a) whether the panel is carrying out its purpose;

(b) whether consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

(c) whether it should be merged with other advisory committees; or

(d) whether it should be abolished.

Public comments and recommendations concerning the advisory panels to the National Endowment for the Arts may be addressed to Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506 (202/634-6070).

Comments should be received by April 15, 1979.

JOHN H. CLARK,
Advisory Committee Management Officer, Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-8788 Filed 3-22-79; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published February 28, 1979 (44 FR 11279). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begins at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Groups meetings will start will be published approximately 15 days prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the April 1979 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3267, ATTN: Mary E.Vanderholt) between 8:15 a.m. and 5:00 p.m., EST.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

**Evaluation of Licensee Event Reports,* March 23-24, 1979, Washington, D.C. The Subcommittee will continue its study of Licensee Event Reports. Notice of this meeting as published in the FEDERAL REGISTER on March 8 and March 15, 1979.

**Palo Verde Nuclear Generating Station, Units 4 and 5,* March 29, 1979, Phoenix, Ariz. The Subcommittee will review the application of the Arizona Public Service Company for a permit to contruct Units 4 and 5 of this station. Notice of this meeting was published in the FEDERAL REGISTER on March 14, 1979.

**Power and electrical Systems,* March 30, 1979, Phoenix, AZ. The Subcommittee will review the potential adverse interactions through the interconnection of protection and safety systems with reactor control systems for the Westinghouse RESAR-414 design. Notice of this meeting was published in the FEDERAL REGISTER on March 20, 1979.

Combination of Dynamic Loads, April 3, 1979, Washington, D.C. The Subcommittee will review the technical basis of the NRC Staff Order to shut down five nuclear plants due to safety-related piping systems being in nonconformance with NRC requirements for withstanding earthquakes. Notice of this meeting was published in the FEDERAL REGISTER on March 19, 1979.

**Plant Arrangements,* April 4, 1979, Washington, D.C. POSTPONED INDEFINITELY. Notice of this meeting was published in the FEDERAL REGISTER on February 28, 1979.

**Regulatory Activities,* April 4, 1979, Washington, D.C. The Subcommittee will review proposed regulatory guides and revisions to existing regulatory guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations. Notice of this meeting was published in the FEDERAL REGISTER on March 20, 1979.

**Consideration of Class-9 Accidents,* April 4, 1979 at 2:00 p.m., Washington, D.C. The Subcommittee will discuss a plan of action for arriving at a recommendation to the full Committee on the role Class-9 Accidents should have in the licensing process. Notice of this meeting was published in the FEDERAL REGISTER on March 20, 1979.

**Procedures,* April 4, 1979 at 5:30 p.m., Washington, D.C. The Subcommittee will discuss the role and responsibility of the ACRS in the regulatory process. The proposal that the ACRS discontinue the practice of referencing unresolved ACRS generic items in its project reports will also be discussed. Notice of this meeting was published in the FEDERAL REGISTER on March 20, 1979.

**Waste Management,* April 18-19, 1979, Hanford, W. Va The Subcommittee will be briefed on: 1) recent developments in solidification and vitrification of high level wastes, 2) Department of Energy studies of disposal of high level wastes in both bedded salt and non-salt media (basalt, granite, seabed), 3) recent changes in the NRC Waste Management Program, and 4) State of New Mexico activities in connection with the proposed Waste Isolation Pilot Plant (WIPP) site.

**Evaluation of Licensee Event Reports, April 26-27, 1979, Washington, D.C. The Subcommittee will continue its study of Licensee Event Reports.*

**Emergency Core Cooling Systems,* May 4, 1979, Los Angeles, Calif. The Subcommittee will meet with representatives of the NRC Research Office to discuss the program for assessing and verifying ECCS/LOCA-related computer codes.

**Reactor Fuel,* May 8, 1979, Washington, D.C. The Subcommittee will discuss various items concerning NRC actions on fuel-related issues.

**Regulatory Activities,* May 9, 1979, Washington, D.C. The Subcommittee will review proposed regulatory guides and revisions to existing regulatory guides; also, it will disucuss pertinent activities which affect the current licensing process and/or reactor operations.

**Dynamic Load Combinations,* May 9, 1979 at 1:00 p.m., Washington, D.C. The Subcommittee will review with representatives of the NRC Staff the methodology for combining dynamic loads.

**Reactor Operations,* May 9, 1979, Washington, D.C. The Subcommittee will consider the request of the Northeast Nuclear Energy Company (NNECO) for an amendment to the operating license for the Millstone Nuclear Power Station, Unit No. 2 to authorize operation at the stretch power rating of 2700 MWt.

**Fluid Dynamics,* May 17-18, 1979, Washington, D.C. The Subcommittee will review the Mark I containment and the NRC Staff position on the load definitions. Other items related to the Mark I program may also be discussed.

**Evaluation of Licensee Event Reports,* May 24-25, 1979, Washington, D.C. The Subcommittee will continue its study of Licensee Event Reports.

Safeguards and Security, late May, 1979, Washington, D.C. The Subcommittee will discuss recent safeguards events, advice from its consultants, and the 1979 Review and Evaluation of the NRC Safety Research Program.

**Evaluation of Licensee Event Reports,* June 28-29 and July 19, 1979, Washington, D.C. The Subcommittee will continue its study of Licensee Event Reports.

ACRS FULL COMMITTEE MEETINGS

April 5-7, 1979.

A. **Sequoyah Nuclear Plant, Units 1 and 2—Operating License Review.

B. **Palo Verde Nuclear Generating Station, Units, 1, 2, and 3—Construction Permit Review.

C. **Anticipated Transients Without Scram—Review Proposed Alternative Plant Modifications.

May 10-12, 1979—Agenda to be announced.

June 14-16, 1979—Agenda to be announced.

Dated: March 20, 1979.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 79-8875 Filed 3-22-79; 8:45 am]

[7590-01-M]

APPLICATIONS FOR LICENSES TO EXPORT NUCLEAR FACILITIES OR MATERIALS

Pursuant to 10 CFR 110.40, "Public Notice of Receipt of an Application," please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C.

Dated this 19th day of March 1979, at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

GERALD G. OPLINGER,
Assistant Director, Export/Import and International Safeguards, Office of International Programs.

Name of applicant, date of application, date received, application number	Material type	Material in kilograms		End-use	Country of destination
		Total element	Total isotope		
Transnuclear, 03/06/79, 03/07/79, XSNMO1474.	3.0% Enriched Uranium	10,225	277.193	Reload fuel for Philippsburg I...	West Germany.

[FR Doc. 79-8877 Filed 3-22-79; 8:45 am]

[7590-01-M]

REGIONAL STATE LIAISON OFFICERS' MEETING

On April 11 and 12, 1979, the Nuclear Regulatory Commission will sponsor a regional meeting with the Governor-appointed State Liaison Officers from Montana, Idaho, North and South Dakota, Nebraska, Utah, Wyoming, Colorado, Kansas, New Mexico, Oklahoma, Arkansas, Louisiana and Texas to discuss mutual regulatory interests. The meeting, which will be open to the public, will be held in the Travis Room at the Sheraton-Dallas Hotel, Southland Center, Dallas, Texas.

Questions regarding this meeting should be directed to Sue Weissberg, Office of State Programs at (301) 492-7794.

Dated at Bethesda, Maryland this 16th day of March, 1979.

For the Nuclear Regulatory Commission.

ROBERT G. RYAN,
Director, Office of State Programs.

[FR Doc. 79-8876 Filed 3-22-79; 8:45 am]

[8010-01-M]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 15640]

BRADFORD NATIONAL CLEARING CORP. ET AL. v. SECURITIES AND EXCHANGE COMMISSION ET AL.

Remanded Issues

MARCH 14, 1979.

The Commission today announced that it is soliciting public comment on the issues remanded by the United States Court of Appeals for the District of Columbia Circuit in the *Bradford* case.[1] In that case, the court reviewed the Commission's order granting registration as a clearing agency to the National Securities Clearing Corporation ("NSCC") and affirmed that order. The court, however, remanded for further consideration the Commission's decisions (i) to permit NSCC to utilize a pricing policy known as "geographic price mutualization" ("GPM"); and (ii) to permit NSCC to select, without competitive bidding, the Securities Industry Automation Corporation ("SIAC") as facilities manager of its consolidated system.

In order to facilitate its reconsideration of those issues, the Commission also has requested that NSCC submit a written report on the two issues remanded by the Court. Those reports will be placed in the public file (File No. 600-15), and interested persons are urged to examine and comment on them.

BACKGROUND

In January 1977, the Commission granted conditional registration as a clearing agency to NSCC. NSCC was formed to assume the clearing responsibilities theretofore performed by the clearing subsidiaries of the New York Stock Exchange, Inc.,[2] The American Stock Exchange, Inc.,[3] and the National Association of Securities Dealers, Inc.[4]

Two subsidiaries of Bradford National Corporation ("Bradford") sought review of that order before the United States Court of Appeals for the District of Columbia Circuit. On September 19, 1978, the court affirmed the Commission's grant of registration but remanded "for further study and explication" the issues of GPM and competitive bidding.[5]

The Commission has reviewed carefully the opinion of the court and has reexamined the transcript of the Commission's hearings, held in June 1976 and in March and April 1978, concerning NSCC's registration. On the basis of that review, the Commission has formulated certain specific questions, set forth below, on which it believes public comment may be helpful. The questions asked do not necessarily represent an exhaustive list of all of the issues the Commission may find it appropriate to consider in making its decision on GPM and competitive bidding, nor does the Commission consider the resolution of all of the matters raised by the questions as necessarily essential to its decision. In addition, the Commission requests interested persons to submit any other comments on the issues of GPM and competitive bidding that they wish to make.

GEOGRAPHIC PRICE MUTUALIZATION [6]

1. a. What percentage of a broker-dealer's total operating costs are rep-

[1] *Bradford National Clearing Corporation et al. v. Securities and Exchange Commission et al.* Nos. 77-1199 and 77-1547 (D.C. Cir., Sept. 19, 1978).

[2] Stock Clearing Corporation.

[3] The American Stock Exchange Clearing Corporation.

[4] The National Clearing Corporation.

[5] Geographic price mutualization refers to the pricing system employed by NSCC under which it charges the same price for its services whether rendered directly in New York City, through a branch office or via remote terminals and without regard to the geographic location of the participant.

[6] The Commission recognizes that some of the following questions are probably answerable only by broker-dealers and then only with regard to their individual experiences. The Commission hopes, however, that industry groups, particularly self-regu-

Footnotes continued on next page

resented by clearing costs including comparison, clearance, settlement and associated finance charges?

b. Does the percentage tend to be higher or lower for smaller borker-dealers, who do their own clearing, than for larger ones?

c. Assuming that the proportionate cost of securities processing is higher for smaller broker-dealers, at what point and based upon what factors (including factors other than clearing costs) does a broker-dealer choose to use a corrsepondent?

d. How much, as a percentage of total clearing costs, would a broker located outside New York City, that uses a NSCC branch office at which prices were geographically mutualized, save as compared to that broker clearing:

(i) Through NSCC by establishing a New York office;

(ii) Through NSCC by utilizing direct mail clearing;

(iii) Through NSCC at non-mutualized prices; and

(iv) Through Midwest Clearing Corporation ("MCC"), Pacific Clearing Corporation ("PCC") or Stock Clearing Corporation of Philadelphia ("SCCP")?

Please specify the source of the data and the method of calculation and submit the underlying data.

2. If the information in question (1) is either not currently available or not obtainable at a reasonable cost on what information do you base your judgment to support or oppose GPM?

3. Is the cost of doing business for a broker-dealer whose principal place of business and back office are located outside of New York City lower than the cost of doing business for a broker-dealer whose principal place of business and back office are located in New York City? If so, should that differential be considered in determining whether GPM is an appropriate pricing policy? Please specify the source and nature of any data you rely on, including what city or cities were considered.

4. a. Does GPM have the effect of providing a "subsidy" to non-New York broker-dealers?

b. If so, why do those broker-dealers need a subsidy?

c. Is such a subsidy appropriate?

d. Would GPM keep inefficient broker-dealers located outside New York City in operation?

e. Do the answers to (a), (b) or (c) change if:

(i) There are competing clearing agencies? or

(ii) There is only one clearing agency which is national in scope and cooperatively owned?

5. Are there factors related solely to the pricing of clearing services that militate in favor of GPM, without regard to its effect on competition among broker-dealers?

6. What factors, if any, would justify the use of GPM by SCCP, MCC, PCC or other clearing agencies other than NSCC which would not also support its use by NSCC?

COMPETITIVE BIDDING

1. a. How many entities are potential qualified bidders for the NSCC facilities management contract?

b. Who are they?

c. How frequently could a facilities management contract for an entity such as NSCC be put up for bid without disrupting service to participants?

2. What benefits to persons other than the successful bidder are there from requiring NSCC to engage in competitive bidding? For example, would competitive bidding be expected to:

a. Reduce costs for participants?

b. Increase competition among broker-dealers?

c. Increase competition among clearing agencies?

d. Increase competition among facilities managers?

e. Provide better protection of funds and securities?

f. Otherwise further the objectives set forth in Section 17A of the Securities Exchange Act of 1934?

3. a. What factors, if any, make competitive bidding appropriate for NSCC which do not also make it appropriate for other registered clearing agencies?

b. Is it appropriate for NSCC, if it chooses, to internalize its operations and thereby make competitive bidding unnecessary?

c. Should clearing agencies other than NSCC be required to offer their facilities management for competitive bid even if they currently internalize it?

Comments are requested on or before May 7, 1979. Interested persons should submit six copies of their comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. 600-15.

In addition to seeking public comment on the issues of geographic price mutulization and competitive bidding, the Commission today also sent a letter to NSCC. That letter requests NSCC to submit written reports on the above two issues and indicates that those reports will be placed in the public file for public comment. The letter also releases NSCC from any retrictions or limitations on its operations imposed by the Commission except for those imposed in the order granting registration to NSCC and for certain other restrictions specified in the letter.

The text of that letter follows:

Mr. Jack P. Nelson
President, National Securities Clearing Corporation
55 Water Street
New York, New York 10041

DEAR MR. NELSON: As you are aware, the United States Court of Appeals for the District of Columbia Circuit on September 19, 1978 affirmed the Commission's order granting NSCC registration as a clearing agency, but remanded two issues for further study and explication. Those issue were NSCC's use of geographic price mutualization ("GPM") and NSCC's selection, without competitive bidding, of the Securities Industry Automation Corporation ("SIAC") as the facilities manage of its consolidated system.

As part of its reconsideration of GPM and competitive bidding, the commission today requested public comment on those issues both in general and on a number of specific questions. A copy of that release is enclosed.

The Commission also requests that NSCC submit written statements on NSCC's views and arguments concerning GPM and competitive bidding as well as any data supporting its views. It is our understanding that NSCC already is well along in preparing a report on its use of GPM.

With regard to competitive bidding, we request that NSCC address the following matters in addition to the questions in the release. Also, please submit any other comments which you feel are relevant.

1. If NSCC were to let a facilities management contract for bid, would you anticipate that the contract would be essentially similar to the current contract with SIAC or would the contract be modified?

2. If the contract were modified, would it be because some potential bidders may be profit-making entities not owned or controlled by the securities industry? What other factors would you expect to consider in formulating the scope of the contract?

3. Has NSCC considered internalizing any or all of the work currently done by SIAC if competitive bidding takes palce? If so, what work?

4. How long would NSCC require to prepare and submit for Commission consideration a concrete proposal for carrying out competitive bidding including:

a. specifications of the contract;

b. a description of the method for soliciting bids;

c. a description of how NSCC would select the successful bidder.

While the Commission is reconsidering GPM and competitive bidding, we believe NSCC should focus its efforts on its role in establishing the national clearance and settlement system envisioned in the order granting NSCC registration as a clearing agency. To this end, NSCC is released from any restrictions or limitations on its operations imposed by the commissin beyond those in the registration order (which, of course, remain in effect) except as follows:

(i) NSCC may not mutualize prices for services relating to listed securities which are offered through branch offices, via remote terminals, or via direct mail clearing other than to the extent permitted in the

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Footnotes continued from last page

latory organizations, will develop aggregate data. To this end, the Commission expects to contact self-regulatory organizations and explore with them the availability and development of such data or avenues to develop it. Memoranda of such discussions will be placed in the public file.

order approving your fee schedule, Securities Exchange Act Release No. 15222 (October 6, 1978), 43 FR 47620.

(ii) NSCC may not offer listed and over-the-counter processing through a single account in New York City.

(iii) NSCC should continue to mail to each other registered clearing agency a copy of each NSCC rule 19b-4 submission simultaneously with its filing with the Commission.

(iv) NSCC should continue to make its clearing information, and any other service it provides through terminal systems, available on comparable terms, to any vendor of terminal system who requests it and who can present reasonable assurance of its ability to handle such information safely.

I trust the foregoing is responsive to your letter dated November 9, 1978 asking the Commission to withdraw its letter dated October 21, 1977, which requets NSCC to place certain limitations on its activities. If you have any questions please contact Robert J. Millstone, at (202) 755-8777.

Sincerely,

PHILIP A. LOOMIS, JR.,
Commissioner.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-8910 Filed 3-22-79; 8:45 am]

[8010-01-M]

[Release No. 20957, 70-6278]

LOUISIANA POWER & LIGHT CO.

Proposed Issuance and Sale of First Bonds at Competitive Bidding

MARCH 14, 1979.

Notice is hereby given that Louisiana Power & Light Company ("Louisiana"), 142 Delaronde Street, New Orleans, Louisiana 70174, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50 promulgated therunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Louisiana proposes to issue and sell at competitive bidding up to $60,000,000 principal amount of its first mortgage bonds of a new series, having a term of not less than five years nor more than thirty years. Louisiana will determine, and give notice of, the maturity date of the bonds not later than 11:00 a.m. on the third business day preceding the day fixed for the presentation of bids. The interest rate of the bonds (which will be a multiple of ⅛th of 1%) and the price, exclusive of accrued interest, to be paid to Louisiana for the bonds (which will be not less than 98% nor more than 101¾% of the principal amount therof) will be determined by competitive bidding. The bonds will be issued under Louisiana's Mortgage and Deed of Trust, dated as of April 1, 1944, to The Chase Manhattan Bank (National Association), Trustee, as heretofore supplemented by various indentures and as it is to be further supplemented by a Twenty-sixth Supplemental Indenture to be dated as of the first day of the calendar month in which the bonds are issued. The Twenty-sixth Supplemental Indenture will include a prohibition, for a period of not more that five years, against refunding the bonds, directly or indirectly, with funds borrowed at a lower effective interest cost.

Louisiana will use the net proceeds derived from the sale of the bonds to pay, in part, short-term borrowings estimated to total $90,000,000 at the time the proceeds are received, to finance, in part, Louisiana's contruction program, and for other corporate purposes.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $190,000, including legal fees of $47,000 and accounting fees of $14,000. The fee of counsel for the purchasers of the bonds is estimated at $17,000 and will be paid by the successful bidders. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than April 12, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-8905 Filed 3-22-79; 8:45 am]

[8010-01-M]

[Release No. 20959; 70-6269]

MIDDLE SOUTH UTILITIES, INC.

Proposed Amendment of Charter to Increase Authorized Shares of Common Stock and Proposed Amendments of Charter and Bylaws Relating to Indemnification; Solicitation of Proxies in Connection Therewith

MARCH 14, 1979.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a)(2), 7 and 12(e) thereof and Rule 62 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Middle South proposes to submit to its stockholders, at its annual meeting to be held May 18, 1979, a proposal to amend its charter to increase from 100,000,000 to 153,000,000 the aggregate number of authorized shares of common stock, par value $5.00 per share. It is stated that the additional shares of authorized stock, the issuance and sale of which from time to time are to be the subject of future filings with this Commission, are necessary for financing the additional capital requirements of its subsidiaries and for its general corporate purposes.

Middle South will also submit a proposal to amend its charter to repeal its present indemnification provisions and to adopt new bylaw provisions relating to indemnification. The proposed provision would provide for indemnification as of right by Middle South, a Florida corporation, to the fullest extent permitted by subsection (1)-(5) and (7)-(9) of Section 607.014 of the Florida Statutes Annotated, as presently in effect. Indemnification in the circumstances contemplated by Section 607.014(6) would be granted in the specific case as authorized by a vote, either in person or by proxy, of a majority of the common stock then outstanding at any shareholders' meeting at which a quorum is present.

The proposed indemnification provisions would incorporate amendments which have been enacted to the Florida Corporation Law which have

broadened in some respects the authority of corporations to grant indemnity. These provisions would be broader in scope than the present indemnification provisions in terms of the kinds of persons who would be entitled to indemnification as of right and circumstances under which such indemnification would be available. Among other things, the proposed provision covers directors, officers, employees, agents and persons serving at Middle South's request as its representative in another enterprise. It affords indemnification if such persons are successful in their defense on the merits or otherwise or are determined by court order or vote of either disinterested directors of shareholders to have acted in good faith and in a manner they reasonably believed to have been in the interests of the company and with resepct to any criminal proceeding, to have had no reasonable cause to believe their conduct was unlawful. As to suits brought by or in the right of the company, however, indemnification would be withheld if such person is adjudged liable for negligence or misconduct in the performance of his duty to the company unless indemnification is approved by the court handling the matter as being fair in view of all the circumstances. Like the present indemnification provisions, the rights to indemnification provided by the proposed bylaw are not exclusive of other rights to which those seeking indemnification may be entitled.

The present indemnification provisions were in Middle South's charter in 1949 when Middle South was incorporated. They provide for indemnification of directors and officers only where disposition of an action, suit or proceeding is made in their favor. They also provide that no director or officer shall be liable for acts performed in compliance with orders issued pursuant to the Act and other applicable regulatory statutes and require that directors and officers be indemnified for expenses incurred in proceedings if it is held that the provisions are not a valid defense because they are not applicable to the class of plantiff involved.

The proposed charter and bylaw amendments will require the affirmative votes of the holders of at least two-thirds of Middle South's outstanding common stock at a meeting at which the holders of at least a majority of the outstanding shares of common stock are present. Middle South intends to solicit proxies from its shareholders in connection with these amendments.

The fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than April 5, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-8906 Filed 3-22-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5622]

PEMCOR, INC.

Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that Pemcor, Inc. (the "Applicant") (File No. 81-439) has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the provisions of Section 15(d) of the 1934 Act.

The Applicant states, in part:

1. On September 28, 1978, Applicant merged with and became a wholly owned subsidiary of Esmark, Inc. As a result of the merger, Applicant no longer has any publicly owned common stock.

2. The Applicant has filed with the Commission a Form 8-K which reflects the merger, dated September 28, 1978.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person not later than April 9, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-8907 Filed 3-22-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5652]

REGIS GROUP, INC.

Application and Opportunity for Hearing

MARCH 14, 1979.

[File No. 81-463]

Notice is hereby given that The Regis Group, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") seeking an exemption from the requirements to file reports pursuant to Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. The Applicant is a Wisconsin corporation subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act.

2. On May 1, 1978 the Applicant issued 960,547 shares of common stock and 54 shares of convertible preferred stock pursuant to a plan for the combination of the businesses of Robert W. Baird & Co. ("Baird") a Wisconsin corporation and Reinholdt & Gardner ("Reinholdt"), a Missouri Limited partnership.

3. The Applicant, which was formed for the purposes of combining the business of Baird and Reinholdt, is not engaged in any business or activity other than the holding of all issued and outstanding shares of stock (excluding directors' qualifying shares) of its operating subsidiaries which are broker-dealers registered under the 1934 Act.

In the absence of an exemption, Applicant is required to file periodic reports pursuant to Sections 13 and 15(d) of the 1934 Act. Applicant believes that its request for an order exempting it from the reporting requirements is appropriate in view of the fact that Applicant believes that the time, effort and expense involved in preparation of any additional periodic report would be disproportionate to any benefit to the public.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C.

Notice is further given that any interested person not later than April 9, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-8908 Filed 3-22-79; 8:45 am]

[8010-01—M]

[Administrative Proceeding File No. 3-5650]

YOUNKERS, INC.

Application and Opportunity for Hearing

[File No. 81-462]

MARCH 14, 1979.

Notice is hereby given that Younkers, Inc. ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 ("the 1934 Act"), for an order granting Applicant an exemption from the provisions of Sections 13 and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On January 5, 1979, Younker Brothers, Inc. merged into the Applicant. Applicant is a wholly owned subsidiary of Equitable of Iowa Companies, Inc. ("Equitable") and has no business or operations prior to the date of the merger. As a result of the merger, 101 former shareholders of Younker Brothers, Inc. hold Installment Notes of Younker's Inc. which are guaranteed by Equitable and convertible into Equitable common stock. There can be no trading market in the Notes for four years.

2. The Applicant had no business or operations and no significant assets or liabilities prior to January 5, 1979. Complete information regarding Equitable and Younker Brothers, Inc. was made available to all Younker Brothers stockholders who received Installment Notes in the prospectus-proxy statement sent to all stockholders in connection with the approval of the acquisition. Equitable is subject to the reporting requirements of the 1934 Act and subsequent financial and other information will be available on a continuing basis to interested persons.

3. Equitable intends, on a voluntary basis, to send a copy of its Annual Report to Shareholders for its 1978 fiscal year to holders of Installment Notes in addition to filing reports under the 1934 Act.

4. Equitable has filed its Form 10-Q for the period ended September 30, 1978.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than April 9, 1979 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-8909 Filed 3-22-79; 8:45 am]

[8010-01-M]

[Administrative Proceeding File No. 3-5660]

AUSTRAL OIL COMPANY INC.

Application and Opportunity for Hearing

MARCH 14, 1979.

Notice is hereby given that Austral Oil Company Incorporated (File No. 81-479) ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order exempting Applicant from the provisions of Sections 13 and 15(d) of the that Act.

The Applicant states in part:

1. On March 30, 1978, Applicant's stockholders approved a plan of complete liquidation and dissolution which will be accomplished by March 30, 1979. As a result of such plan, Applicant ceased all business activities, public trading in its securities ceased and substantially all of its properties were bought by the Superior Oil Company. The sale was consummated on March 31, 1978.

2. In the absence of an exemption Applicant would be required to file periodic reports for the year ended December 31, 1978.

Applicant believes that its request for an order exempting it from the reporting provisions of Sections 13 and 15(d) of the 1934 Act is appropriate inasmuch as there is no public trading in its stock, it has ceased all business activities and compliance would be an expense which would reduce funds available for payment of further liquidating dividends.

For a more detailed statement of the information presented, all persons are referred to the application which may be examined at the Commission's Public Reference Section, 1100 L St., N.W., Washington, D.C. 20549.

Notice is further given that any interested person, not later than April 9, 1979, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C.

20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-8902 Filed 3-22-79; 8:45 am]

[8010-01-M]

[Release No. 10629; 812-4354]

AUSTRALIAN RESOURCES DEVELOPMENT BANK LIMITED

Application for an Order Declaring that Applicant is not an Investment Company, or, Alternatively, for an Exemption Order

MARCH 15, 1979.

Notice is hereby given that Australian Resources Development Bank Limited, 379 Collins Street, Melbourne, Victoria 3000, Australia ("Applicant") filed an application on August 22, 1978, and amendments thereto on January 25, 1979, and March 7, 1979, for an order of the Commission pursuant to Section 3(b)(2) of the Investment Company Act of 1940 ("Act") declaring that Applicant is not an investment company, or, alternatively, for an order pursuant to Section 6(c) of the Act exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is an Australian bank incorporated in 1967 by the seven major Australian trading (commercial) banks ("shareholder banks") with the support of Reserve Bank of Australia ("Reserve Bank"), Australia's central bank, and two Australian state trading banks ("state banks," together with the shareholder banks, the "participating banks"). The shareholder banks are stated to have contributed 3 million Australian dollars ("A$") in equal shares to Applicant's equity capital account, while A$2.1 million of loan capital was provided by Reserve Bank and A$150,000 was provided by the state banks.

According to the application, Applicant's primary business is making refinance loans refinance to the participating banks. Applicant refinances only those loans which finance Australian ownership of or participation in Australian natural resource development projects. Applicant represents that, while these refinance loans are wholly unsecured, the participating banks are obligated unconditionally to repay the loans received from Applicant regardless of any defaults by the ultimate borrowers. Applicant further represents that, as of June, 1978, the shareholder banks accounted for approximately 89% of the A$19.8 billion on deposit with all trading banks in Australia. Applicant also makes loans directly to natural resource development projects, either alone, or more often, as a member of a consortium of banks, usually on a secured basis.

Applicant's assets are stated to have totaled approximately A$709,961,471 on September 30, 1978, of which assets the outstanding loans to the participating banks comprised approximately 80%. Applicant states that its direct loans to resource development projects comprised approximately 14% of its total assets as of September 30, 1978. Approximately 97% of Applicant's income for the fiscal year ending September 30, 1978, is stated to have been derived from its outstanding direct and refinance loans.

Applicant states that it obtains its funds primarily from public and private sales of "transferable deposits" in the Australian capital market. These transferable deposits have maturities ranging from 5 to 10 years, are listed and taxed on the Melbourne, Sydney and all other Australian Associated Stock Exchanges and are not redeemable prior to maturity. Applicant further states that it obtains additional funds by accepting term deposits, negotiable certificates of deposit and overseas deposits, and through subordinated loans and short-term "bridging loans" from Reserve Bank and the participating banks. Except for certain overseas deposits and negotiable certificates of deposit issued in minimum amounts of A$50,000, deposits are not accepted by Applicant for a period shorter than 4 years. Applicant further states that its deposit liabilities in Australia constitute and are expected to constitute a majority of its total deposit liabilities.

Applicant represents that it is authorized to carry on a banking business by the Australian Banking Act ("Banking Act"). Under the Banking Act, Applicant is subject to regulation by Reserve Bank, the Australian Treasurer, and the Australian Auditor-General. According to the application, Reserve Bank regulates Applicant's loan policies and foreign transactions, sets its interest rates, and has the power to investigate the affairs, assume control, and carry on the business of Applicant in the event that Applicant is, or is likely to become, unable to meet its financial obligations. Under the Banking Act, in the event of a bank becoming unable to meet its obligations or suspending payment, the assets of that bank in Australia are available to meet its deposit liabilities in Australia in priority to all of its other liabilities.

In addition, Applicant is required to provide Reserve Bank with periodic reports on its activities on prescribed forms. The Australian Auditor-General is required to inspect periodically Applicant's books, accounts and transactions, and according to Applicant, does so annually. Further, the Australian Treasurer, on recommendation of Reserve Bank, may direct the Australian Auditor-General to inspect Applicant at any time. Applicant has agreed with Reserve Bank concerning minimum amounts of capital which it will maintain in relation to the amounts of its various types of assets. The shareholder banks are represented to be subject to the same regulatory scheme as Applicant, and, in addition, each of those banks is required to maintain an account with Reserve Bank to hold reserves in such a proportion to its current level of Australian deposits as is determined from time to time by Reserve Bank.

According to the application, Applicant presently proposes to issue and sell unsecured prime quality commercial paper notes in bearer form and denominated in United States dollars to a commercial paper dealer in the United States which will then reoffer the notes in minimum denominations of $100,000 to American institutional investors and other entities and individuals who normally purchase commercial paper. Applicant states that its purpose for making this offering in the United States is to obtain an alternative source of supply of United States dollars which it currently obtains from the issuance of bonds in the international capital market and from the acceptance of deposits from banks in London and Singapore. Applicant represents that its notes will rank *pari passu* among themselves and equally with all its other unsecured indebtedness other than its subordinated indebtedness, (which will rank inferior to the notes) except insofar as the Banking Act provides that in the event of a bank becoming unable to meet its obligations or suspending payment, its Australian assets will be available to meet its deposit liabilities in Australia in priority to all of its other liabilities. Applicant plans to sell the notes without registration under the Securities Act of 1933 ("1933 Act"), in reliance

upon a opinion of its American counsel that the offering will qualify for the exemption from the registration requirements of the 1933 Act provided by Section 3(a)(3) of that Act and will not proceed with its proposed offering until it has received such an opinion letter. Applicant does not request Commission review or approval of such opinion letter. Section 3(a)(3) of the 1933 Act provides an exemption from registration requirements thereof for short-term commercial paper. Applicant undertakes to ensure that the dealer will provide each offeree of the notes with a memorandum describing Applicant's business and containing Applicant's financial statements. Applicant represents that such memoranda will be at least as comprehensive as those customarily used in commercial paper offerings in the United States. Such memoranda will be updated periodically to reflect material changes in Applicant's financial status. Applicant further represents that any future offerings of its securities in the United States will be done on the basis of disclosure documents at least as comprehensive as those used in the presently proposed offering. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon its compliance with its undertaking regarding disclosure memoranda.

Applicant represents that it will appoint a bank in the United States or the Commission as its agent to accept service of process in any action based on the notes and instituted in any state or federal court by the holder of any of its notes. Applicant further represents that it expressly will accept the jurisdiction of any state or federal court in the City and State of New York in respect of any such action and that both its appointment of an authorized agent and its consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the notes have been paid by Applicant. Applicant represents that it will similarly consent to jurisdiction and appoint an agent for service of process in suits arising from any other offerings of securities that it may make in the United States, which offerings Applicant states will be limited to debt or preferred securities.

Section 3(a)(3) of the Act provides, in pertinent part, that an issuer which "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis" is an investment company. Applicant states that its outstanding refinance loans and direct loans could be deemed "securities" within the meaning of Section 2(a)(36) of the Act, and accordingly that it could be characterized as owning and holding these securities, and could come within the definition of investment company contained in Section 3(a)(3) of the Act.

Section 3(b)(2) of the Act provides, in pertinent part, that notwithstanding the definition of investment company contained in Section 3(a)(3) of the Act, an issuer is not an investment company if the Commission, upon application by such issuer, finds and by order declares it to be primarily engaged in a business other than that of investing, reinvesting, owning, holding, or trading in securities.

Because Applicant admits that the refinance and direct loans made by it may be deemed securities and that Applicant might be deemed an investment company subject to the Act in connection with the proposed offering of the notes, Applicant requests an order pursuant to Section 3(b)(2) of the Act declaring that it is not an investment company. Applicant argues that its outstanding loans are commercial loans rather than investments in the participating banks and that any receipt of a "security" in connection with its lending activity is merely incidental to its function of financing resource development projects. Applicant asserts that it is primarily engaged in the business of banking rather than in the business of investing, reinvesting, owning, holding, or trading in securities.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Alternatively, Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Applicant asserts that its capital structure and operations are closely supervised and regulated by Australian banking authorities and therefore that application of the requirements of the Act to Applicant would be unnecessary and burdensome. As an Australian bank subject to such supervision and regulation, Applicant argues further that it is significantly different from the typical investment company that Congress intended the Act to regulate. Applicant asserts that based on all the facts and circumstances, granting an exemptive order pursuant to Section 6(c) of the Act would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than April 9, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order, pursuant to Section 6(c) of the Act, disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-8903 Filed 3-22-79; 8:45 am]

[8010-01-M]

[Rel. No. 20956; 31-767]

COASTAL STATES—LO-VACA SETTLEMENT TRUST AND MERCHANTILE NATIONAL BANK AT DALLAS

Application for Exemption

Notice is hereby given that Coastal States—Lo-Vaca Settlement Trust ("Settlement Trust") and Merchantile National Bank at Dallas, Merchantile National Bank Building, Dallas, Texas 75201, as trustee ("Trustee"), have filed an application for exemption pursuant to Section 3(a)(4) of the Public Utility Holding Company Act of 1935 ("Act"). All interested persons are referred to the application, which is summarized below, for a complete description of the applicants and the basis upon which an exemption is requested.

Lo-Vaca Gathering Company ("Lo-Vaca") proposes to enter into a settlement agreement ("Settlement Plan") with several of its major natural gas customers in compromise of various claims by those customers against Lo-Vaca. The effectiveness of the Settlement Plan is conditioned on, among other things: (a) The approval of the courts wherein the settling customers have cases pending and (b) an order by the Texas Railroad Commission establishing a new permanent rate for Lo-Vaca becoming final and non-appealable. Lo-Vaca is a wholly owned subsidiary of Coastal States Gas Producing Corporation ("Producing"), which is, in turn, a wholly owned subsidiary of Coastal States Gas Corporation ("Coastal").

Coastal, through its subsidiaries, is engaged in processing, gathering, transporting and selling natural gas to and for municipalities, utilities, other pipeline companies and industrial concerns. Through its Rio Grande Valley Gas Company Divison ("Rio Grande"), Coastal is directly engaged in the distribution of natural gas at retail in a number of small cities and communities in the lower Rio Grande Valley of Texas. Coastal is, accordingly, a "gas utility company," within the meaning of Section 2(a)(4) of the Act.

The Settlement Plan provides, among other things, for the restructuring of Producing into a new enterprise to be named Valero Energy Corporation ("Valero"), which will consist of Producing's present gas extraction and transportation facilities and Coastal's Rio Grande division, and for the creation of the Settlement Trust, to which various securities of Coastal and Valero, including approximately 19% of the voting securities of Valero, will be transferred for the benefit of and in settlement of claims by Lo-Vaca's customers.

The Settlement Plan further provides that the Trustee of the Settlement Trust will use its best effort to sell the securities held by the Settlement Trust by public or private sale for cash within seven years and to distribute the proceeds to the settling customers of Lo-Vaca.

Section 2(a)(7)(A) of the Act defines a "holding company" to mean any company which "owns, controls, or holds with power to vote" 10% or more of the voting securities of a public utility company. Accordingly, upon transfer of 19% of the voting securities of Valero, a public utility company, to the Settlement Trust, the Settlement Trust and the Trustee will become "holding companies." The applicants state, however, that they are entitled to an exemption from all provisions of the Act, except Section 9(a)(2), pursuant to Section 3(a)(4). Section 3(a)(4) provides an exemption for a holding company and every subsidiary company thereof if "such holding company is temporarily a holding company solely by reason of the acquisition of securities for purposes of liquidation or distribution in connection with a bona-fide debt previously contracted or in connection with a bona-fide arrangement for the underwriting or distribution of securities "

The applicants state in support of the application that the Settlement Trust will hold the securities only temporarily until disposition can be appropriately accomplished in accordance with the terms of the Settlement Plan.

Notice is further given that any interested person may, not later than April 9, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof or service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted in the manner provided in Rule 23 of the General Rules and Regulations promulgated under the Act or the Commission may take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 79-8904 Filed 3-22-79; 8:45 am]

[4710-07-M]

DEPARTMENT OF STATE

[Public Notice CM-8/176]

ADVISORY COMMITTEE ON INTERNATIONAL INVESTMENT, TECHNOLOGY, AND DEVELOPMENT

Meeting

The Department of State will hold a meeting on April 17 of the Working Group on UN-OECD Investment Undertakings of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 9:30 a.m. until 12:30 p.m. The meeting will be held in Room 6320 of the State Department, 2201 C Street, N.W., Wasington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting is to provide the Working Group with the opportunity to discuss outstanding issues in connection with the OECD Review and to review the results of the March 12-23 meeting of the UN Intergovernmental Working Group on a Code of Conduct.

Requests for further information on the meeting should be directed to Richard Kauzlarich, Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meeting must contact Mr. Kauzlarich's office in order to arrange entrance to the State Department building.

The Chairman of the working group, will as time permits, entertain oral comments from members of the public attending the meeting.

Dated: March 16, 1979.

RICHARD D. KAUZLARICH,
Executive Secretary.

[FR Doc. 79-8891 Filed 3-22-79; 8:45 am]

[4710-07-M]

[Public Notice CN-8/175]

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on standards of training and watchkeeping of the Subcommittee on Safety of Life at Sea (SOLAS), a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, April 18, 1979, in room 6200 of the Department of Transportation, 400 Seventh Street, Washington, D.C. 20590.

The purpose of the meeting will be to discuss the future work program of the IMCO Subcommittee on Standards of Training and Watchkeeping in preparation for the meeting of the Subcommittee commencing July 9, 1979 in London, England.

Requests for further information should be directed to Captain D.E. Hand, United States Coast Guard, (G-MVP/82), Washington, D.C. 20590, telephone (202) 426-1500.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,
Shipping Coordinating Committee.

MARCH 14, 1979.

[FR Doc. 79-8890 Filed 3-22-79; 8:45 am]

[4710-08-M]

Office of the Secretary

[Public Notice 655]

PARTICIPATION OF PRIVATE SECTOR REPRESENTATIVES ON U.S. DELEGATIONS

Final Guidelines

AGENCY: Department of State.

ACTION: Final guidelines.

SUMMARY: This notice contains the final guidelines concerning participation of private citizens as representatives of affected private sector interests on U.S. delegations to international conferences, meetings and negotiations. The guidelines address critera for inviting such participation on various delegations and the role on the delegation of such private citizens.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Jean Bailly, Office of the Legal Adviser, Department of State, 2201 C Street N.W., Washington, D.C. 20520. Telephone (202) 632-1572.

SUPPLEMENTARY INFORMATION: The Department published in the FEDERAL REGISTER of August 24, 1978, proposed guidelines on participation of private sector representatives on U.S. delegations for public comment (Public Notice 623; 43 FR 37783). The Department received a number of comments, for which we express appreciation. As a result, we have made changes in the guidelines, primarily to clarify points which were subject to misinterpretation.

In the case of other comments and suggestions, we did not believe that changes were warranted, or, in some cases, that suggested changes could be accommodated within existing legal constraints. Following is a summary of the principal changes.

AMENDMENTS TO THE GUIDELINES

A new Section I has been added to clarify the scope of the guidelines. The new language makes clear that the guidelines do not apply in three cases:

First, the guidelines do not, of course, supersede provisions of law applicable to particular delegations, e.g. provisions of Title I of the Trade Act of 1974 applicable to the Multilateral Trade Negotiations.

Second, the guidelines do not apply to private citizens or nationals who participate in international meetings in a personal or private capacity rather than as members of a United States delegation. The guidelines would not apply, for example, to private international meetings (e.g., Rotary International), or to the conduct of private citizens invited by an international conference or organization to provide expert advice or views in a private capacity.

Third, the guidelines do not regulate the selection and role of individuals who participate on U.S. delegations as "special government employees." The Department and other agencies on occasion appoint individuals from the private sector to serve temporarily as consultants, government advisers, or even negotiators on U.S. delegations. Such individuals are not chosen to represent private sector interests, but to provide on a temporary or part-time basis the same services as full-time government employees. As such, they may speak and negotiate for the United States to the extent decided by their government superiors. Special government employees are subject to the conflict of interest laws (18 U.S.C. 202 et seq.) and to other laws and regulations pertaining to special government employees, including restrictions on government employees embodied in the guidelines.

Several commentators objected that Section I of the proposed guidelines (now Section II) appeared to subordinate concern for the public interest and fulfillment of the delegation's mission to the objective of minimizing the size of delegations. This was not our intention, and that section has now been revised. The Department does believe—as Section III(b) continues to reflect—that delegations should not be any larger than is absolutely necessary. Larger-than-necessary delegations are more difficult to administer, may create an extravagant appearance, and may cause doubts as to the authority of the head of the U.S. delegation.

The guidelines have been amended in Section III(c)(1) to make clear that in determining invitations to prospective private sector representatives, the Department should take into account their ability to meet the objectives set out in Section II(b). The Department does not have the resources or capability in every case to determine the "best" representative or representatives of a private sector interest. Given necessary limits on delegation size, however, it is important that those invited be able to contribute.

A new Section III(c)(4) has been added to provide for the separate responsibility of the head of delegation, or his or her designee, to provide advance information for private sector representatives on the logistical details and substance of the conference. The degree of advance briefing may depend on time constraints and the sensitivity of the information, but the Department understands and agrees that advance preparation is desirable.

Section IV(f) has been revised for clarity. Some or all private sector representatives may hold or advocate the same views on matters under individual discussion, but when they differ, government officials must assess the differing views, as well as other factors. The Department does not expect, and cannot require, private sector representatives to compromise among themselves in order to present united private sector views. (Private sector representatives are not expected to agree with the U.S. position in all respects.)

Section V(b) has been amended to reflect the concern among members of private groups and associations that classification restrictions may prevent desirable communication between a private sector representative and such a group. Classified information cannot be released to unauthorized persons, but in many cases government officials can provide guidance to minimize the problem.

Section V(c) has been modified with regard to positions which private sector representative may advocate outside the delegation. We have no desire to "muzzle" the expression of private sector views outside the delegation, but private sector representatives should not use their positions to undercut the U.S. at a conference or negotiation. Private sector representatives should therefore understand that encouraging other delegations to resist those positions is cause for dismissal from a delegation. Hopefully, our intent is better spelled out in the revised language.

Several other comments and suggestions were not incorporated in the guidelines.

PROHIBITIONS AGAINST SPEAKING OR NEGOTIATING FOR THE GOVERNMENT

The most frequent complaint about the guidelines was the limitation against private sector representatives' speaking or negotiating for the United States. We believe that private sector representatives can be effective spokesmen and negotiators, but this would be inconsistent with conflict of interest laws and regulations. Persons authorized to speak or negotiate for the United States at intergovernmental meetings are considered to be "special government employees" within the meaning of—and subject to—the conflict of interest laws (sections 202 through 209 of title 18 of the United States Code). (The fact that they serve without pay is irrelevant.)

Among other things, the conflict of interest laws prevent government em-

ployees (including special government employees), from working on matters on which they or their relatives or private organizations have a private financial interest. Private sector representatives are normally chosen because of their private interests; they cannot simultaneously represent the United States on the same subject.

Not all private sector representatives have the kind of financial interest forbidden under the conflict of interest laws. For example, a representative of environmental interests may have no direct or indirect private financial stake in a marine pollution conference which would bar his or her participation as a special government employee under the laws. However, the Department does not believe that such a representative should be permitted to speak or negotiate when a representative of the shipping industry on the same delegation could not.

Some commentators suggested that conflict of interest concerns be met by requiring private sector representatives to follow instructions and policies established by the government. At least in some cases, the public interest might be served by the use of private sector representatives under appropriate safeguards, but the conflict of interest laws do not permit this flexibility. The laws are intended to avoid even the appearance of conflict. The conflict of interest requirement can be waived only if the private interest is so insubstantial that the government determines it would not be likely to affect the integrity of the services of the special government employee.

DISCRETIONARY NATURE OF PARTICIPATION OF PRIVATE SECTOR REPRESENTATIVES

Some commentators suggested that, at least in particular subject areas, the guidelines should require the participation of private sector representatives on delegations and/or guarantee them access to all meetings attended by and information available to government officials on the delegation. We do not believe that either requirement would be helpful.

Many factors are considered in determining whether private sector representatives should be included on delegations or invited to attend particular meetings. Where views of affected private sector interests are well known or may by adequately obtained in advance of an intergovernmental meeting, there is less justification to include private sector representatives on a delegation. In some cases, other governments are unwilling to discuss some matters, or will be less candid, in the presence of persons other than government officials. It would also be improper to permit private sector representatives access to meetings or information where this would accord them a financial advantage not available to members of the public. Moreover, some information involves national security or foreign policy matters not relevant to the purposes of including private sector representatives on delegations.

CONCLUSION

These guidelines constitute the first codification of Departmental rules in this area. We intend to monitor our practices, and would welcome further suggestions from the public based on experience under the guidelines.

I. APPLICATION

(a) The provisions of this part apply to delegations accredited or chosen by the Department of State to represent the United States at international conferences, meetings or negotiations. These provisions regulate the selection and role of private citizens or nationals who are invited to participate on such delegations as representatives of private sector interests and who do not perform governmental duties or functions.

(b) These provisions do not apply:

(1) To the extent of any inconsistency with provisions of law regulating particular U.S. delegations.

(2) To the conduct of private persons invited by an international organization or conference to participate in a meeting in a personal or private capacity, rather than as a representative of the United States, or as a member of a U.S. delegation.

(3) To the selection and role of private citizens or nationals who participate on delegations as "special government employees." Such persons are subject to the conflict of interest laws (18 U.S.C. 202 et seq.) and other laws and regulations. (See the Federal Personnel Manual, Chapter 735, Appendix C for the distinction between "special government employees" and persons who are invited to work with an agency in a representative capacity.)

II. GENERAL

(a) *General policy.* Private sector representatives shall be invited to participate on U.S. delegations only when such participation will further the public interest. Nothing in these guidelines shall be construed to require inclusion of private sector representatives on any delegation or to accord any right to any person, private association, or interest group to participate on any delegation.

(b) *Objective's of including private sector representatives on delegations.* Private sector representatives are invited to participate on delegations in order to:

(1) Provide, on an individual basis, informed views on policy and technical details of matters under discussion, including matters that may arise in the course of the delegation's activities (such as the need to develop a response to proposals put forth by other countries during a conference).

(2) Enable representatives of private interests directly affected by a negotiation to understand the positions being taken by other countries, the alternatives available to the United States, and the process by which agreements are reached.

(c) *Balanced representation.* Many international negotiations and meetings concern matters directly and substantially affecting two or more private interests with materially differing views, including in some cases, particular economic interests, such as industry, labor or agricultural producers, and broader-based interests, such as retail consumer or environmental interests. When private sector representatives are to be invited to participate on a U.S. delegation in such cases, officers responsible for selection and/or accreditation of the delegation shall endeavor to obtain a balanced representation of interests on the delegation. The responsible officers shall exercise judgment as to what private interests are most likely to be directly and substantially affected and the degree of difference of interest, bearing in mind the provisions set forth below in III(b). In exercising such judgment, the responsible officers shall place special emphasis on inviting a representative or representatives of broadly based interests such as retail consumers or environmental groups, where these interests are directly and substantially affected.

III. SELECTION OF PRIVATE SECTOR REPRESENTATIVES

(a) *Responsibility of Department officials.* With respect to delegations accredited by the Office of International Conferences, Department of State, that office, in consultation with the head of delegation, shall be responsible for inviting participation of private sector representatives in accordance with these regulations. With respect to all other delegations accredited or selected by the Department of State, the action office, in consultation with the head of delegation, shall be responsible.

(b) *Initial justification.* In determining whether private sector representatives should be invited to participate on a delegation, the following factors shall be considered:

(1) The importance of obtaining the informed views of private interests during the conference or negotiation.

(2) Whether consultations or the opportunity to provide written comments prior to the conference would be an adequate alternative to including par-

ticular private sector representatives on the delegation.

(3) The need to limit overall delegation size to the minimum necessary best to carry out the mission of the delegation.

(4) The number of private sector representatives that would be required, if any such representatives are included on the delegation, to provide balanced representation of the interests directly affected.

(5) Whether participation of private sector representatives is feasible within any applicable rules or understandings of the international conference or meeting.

(c) *Selection procedures.* (1) Private sector representatives may be invited from labor groups, the academic community, trade associations, specific business firms, public interest groups or from any other sources, including the public at large. Representatives shall be invited with a view to their ability to meet the objectives set out above in paragraph II(b). To the extent feasible, the responsible officers should consult with and seek the recommendations of representative private groups and associations concerning private sector representatives, but the responsible office shall not be bound by recommendations of such groups, nor shall the recommendation of such a group be required before a private sector representative may be invited to participate on a delegation.

(2) The responsible office shall not be required to invite more than one representative of a private sector interest merely because there is more than one private association or because there are differing views among individuals or entities within a private sector interest group. The representative invited is not required to commit his or her interest group, entity or association.

(3) Private sector representatives shall be given written letters of invitation. The letter of invitation shall describe the role of the representative and outline the limitations on participation as set forth in sections IV and V of these guidelines. The letter of invitation to private sector representatives of trade or business interests shall enclose antitrust guidance prepared by the Antitrust Division, Department of Justice.

(4) To the extent practicable, the head of delegation, or his or her designee, shall provide private sector representatives with advance information concerning the substance and logistics of the meeting or conference.

(5) The Department shall publish monthly in the FEDERAL REGISTER a list of those delegations which included private sector representatives, and the names of Government officials and private sector representatives participating in each such delegation during the previous month. The private affiliation or interest group of such private sector representative shall be included in the published list.

(6) Private sector representatives must have security clearances from the Government at a level equivalent to the classification of information which may be necessary to their participation on the delegation.

IV. ROLE OF PRIVATE SECTOR REPRESENTATIVES

(a) Subject to the provisions of these guidelines and any applicable law, private sector representatives on the delegation may offer views and information to government officials on the delegation, and government officials may solicit such views and information, on any matter under consideration by the delegation. The head of delegation will decide when private sector representatives may attend any meeting of the delegation or any meeting with foreign officials.

(b) Government officials shall not discuss or reveal any commercially sensitive information of an individual business entity except with other U.S. Government officials with a need to know such information. Commercially sensitive information includes but is not necessarily limited to an individual business entity's specific or anticipated costs, prices, profit margins or production goals, unless this information is already public. Government officials may not solicit or receive commercially sensitive information from a private sector representative in the presence of anyone other than government officials, and may disseminate such information only on an aggregated basis and only if such aggregated information will not tend to reveal the commercially sensitive information of any individual business entity. Aggregated information may be solicited from or provided by a private sector representative, provided that such information was aggregated by an independent auditor or other independent body, or the Government, or otherwise in accordance with U.S. law. No private sector representative is obligated, by participation on a delegation, to provide any commercially sensitive information.

(c) Government officials shall take account of the private interests of an adviser in assessing any views or information received. Government officials, wherever possible, shall seek views of other private sector representatives on the delegation representing different private interests, if views on a material point are received from one such representative.

(d) Subject to any limitations established by the head of delegation and the provisions of these guidelines, government officials may, in their discretion, provide to private sector representatives any information pertaining to the negotiation, provided that:

(1) No information classified above the level at which the private sector representatives have security clearance shall be provided, nor shall any classified information be provided to such representatives if it is not necessary to their function.

(2) No information shall be provided to any private sector representative if such information knowingly could be used for private gain, unless such information is made available to the public in timely fashion so as to preclude special financial advantage for private sector representatives. This shall include all information and proposals which would have the effect of giving commercial, competitive or market advantage to the private sector representatives or their employers or interest groups.

(e) The head of delegation shall assure that the private affiliation of private sector representatives on the delegation is made known to other delegations, wherever possible by inclusion of the private affiliation in listings of the delegation on conference records.

(f) while two or more private sector representatives may present the same or similar views on particular issues, government officials shall not request or require private sector representatives to present joint or compromise views or reports.

V. LIMITATIONS ON PRIVATE SECTOR REPRESENTATIVES

(a) No government official shall permit private sector representatives to speak for the U.S. Government at any meeting with foreign government officials. However, the head of delegation may authorize a private sector representative to explain a technical or factual point, if, in the judgment of the head of delegation, (1) this will advance U.S. objectives at the conference or negotiation; and (2) the private sector representative is best able to speak on the point under discussion.

(b) Heads of delegation shall remind private sector representatives that they may not, by law, divulge classified information to anyone but authorized to receive such information. The head of delegation shall inform private sector representatives what information is classified. It is recognized that private sector representatives may wish to report to the groups or interests they represent, and to receive views or information from those groups or interests. The head of delegation shall endeavor to provide guidance which will not inhibit such activities, within the legitimate require-

ments for protection of classified information.

(c) Private sector representatives shall not at any time negotiate or purport to negotiate for the United States Government, nor shall they advocate positions outside of the delegation during a conference or negotiation which would tend to undermine the tactical or substantive positions of the United States as determined by the head of delegation. However, no private citizen or entity shall be prohibited from expressing views on publicly available U.S. positions, whether or not the interest of the citizen or entity is represented by a private sector representative on the delegation, nor shall any private sector representative be prohibited from expressing views on the outcome of a negotiation after conclusion of the negotiation so long as classified information is not released thereby.

(d) Private sector representatives are not immune from any laws or regulations of the United States as a result of participation on a U.S. delegation, and no government officials may represent that participation confers any such immunity.

(e) Private sector representatives are not to be considered employees of the government. The Government will not pay any expenses of private sector representatives, except as funds are authorized and appropriated for this purpose. Private sector representatives are not entitled to use of any facilities of the Government, if such use would entail additional expense to the Government, nor shall they be given access to government files or communications facilities (except facilities which do not entail additional expense to the Government, or which are necessary to protect the security of information pertaining to official functions of the delegation).

(f) The head of delegation or the Office of International Conferences may limit the period of participation on a delegation of any private sector representative. The head of delegation may exclude from the delegation any private sector representative whose conduct or actions are (1) contrary to the provisions of these guidelines; (2) contrary to limitations or prohibitions imposed by the head of delegation pursuant to these guidelines or other authority; or (3) prejudicial to the interests of the United States, including the effective functioning of the delegation. No private sector representative, however, may be excluded from the delegation merely because of views provided in good faith to government officials on the delegation, nor may a private sector representative by excluded from the delegation for declining to provide views on a matter where he or she believes this would be inappropriate of prejudicial.

These guidelines will be published in the Foreign Affairs Manual.

Dated: March 15, 1979.

BEN H. READ,
Under Secretary for Management.

[FR Doc. 79-8887 Filed 3-22-79; 8:45 am]

[4710-19-M]

[Public Notice 654]

PARTICIPATION OF PRIVATE-SECTOR REPRESENTATIVES ON U.S. DELEGATIONS

List of Accredited U.S. Delegations, February 1979

As announced in Public Notice No. 623 (43 FR 37783), August 24, 1978, the Department is submitting the following list of U.S. Delegations accredited during the month of February, 1979, which included private-sector representatives.

Publication of this list is required by Article IV(c)(4) of the guidelines published in the FEDERAL REGISTER on August 24, 1978.

Dated: March 2, 1979.

PAUL J. BYRNES,
Director, Office of International Conferences.

UNITED STATES DELEGATION TO THE WORKING GROUP THREE, INTERNATIONAL NUCLEAR FUEL CYCLE EVALUATION (INFCE), VIENNA, JANUARY 22-FEBRUARY 2, 1979

Representative

Frank Hodsoll, Deputy United States Representative on Nuclear Non-Proliferation Matters, Department of State.

Advisers

Harry R. Marshall, Office of the General Counsel, Arms Control and Disarmament Agency.
Fred McGoldrick, Office of Nuclear Affairs, Department of Energy.
Jarvis L. Schwennesen (Week of January 22 only), Deputy Director, Division of Uranium Resouces and Enrichment, Department of Energy.
Robert D. Sloan, Attorney Adviser, Office of the Legal Adviser, Department of State.
Eleanor B. Steinberg (Week of January 29 only), Office of Energy and Safeguards Technology, Department of State.

Private Sector Adviser

Lawrence T. Scheinman (January 26-February 2), Director, Program on Science Technology and Society, Cornell University, Ithaca, New York.

UNITED STATES DELEGATION TO THE THIRD MEETING OF THE PREPARATORY COMMITTEE, UNITED NATIONS CONFERENCE ON SCIENCE AND TECHNOLOGY FOR DEVELOPMENT, NEW YORK, JANUARY 22-FEBRUARY 3, 1979

Representative

The Honorable Jean M. Wilkowski, Coordinator, United Nations Conference on Science and Technology, Department of State.

Alternate Representative

The Honorable William Stibravy, Deputy Permanent Representative on the Economic and Social Council of the United Nations.

Advisers

Alvin Adams (January 29-February 2), Bureau of Economic and Business Affairs, Department of State.
William Eilers, Bureau for Development Support, Agency for International Development.
Francis M. Kinnelly, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.
Frank Lancetti, Bureau of International Organization Affairs, Department of State.
James Stromayer, Deputy Coordinator, United Nations Conference on Science and Technology, Department of State.
Gilda Varrati, United States Mission to the United Nations.

Private Sector Adviser

Rodney W. Nichols, President, Rockefeller University, New York, New York.

UNITED STATES DELEGATION TO THE UNITED NATIONS CONFERENCE TO NEGOTIATE AN INTERNATIONAL ARRANGEMENT TO REPLACE THE INTERNATIONAL WHEAT AGREEMENT 1971, (RESUMED), UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD), GENEVA, JANUARY 22-FEBRUARY 9, 1979

Representative

Thomas R. Saylor, Associate Administrator, Foreign Agricultural Service, Department of Agriculture.

Advisers

Michael P. Boerner, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State.
Marsha Echols, Foreign Agricultural Service, Department of Agriculture.
Lawrence E. Hall, Grain and Feed Division, Foreign Agricultural Service, Department of Agriculture.
Dan T. Morrow, Office of the Assistant Secretary, International Affairs and Commodity Programs, Department of Agriculture.

James V. Parker, American Embassy, London.
Edmund M. Parsons, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State.
Charles E. Roh, Jr., Attorney Adviser, Department of State.

Private Sector Advisers

Michael L. Hall, President, Great Plains Wheat, Inc., Washington, D.C.
Robert Kohlmeyer, North American Export Grain Association, Washington, D.C.
Sheila Sidles, Executive Secretary, Iowa Consumers League, Centerville, Iowa.
Eugene B. Vickers, Vice President, Western Wheat Associates, Washington, D.C.
Don A. Woodward, Special Trade Affairs Representative, National Association of Wheat Growers, Washington, D.C.

UNITED STATES DELEGATION TO THE TWENTIETH SESSION OF THE POPULATION COMMISSION, UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL, NEW YORK, JANUARY 29–FEBRUARY 9, 1979

Representative

The Honorable Marshall Green, Ambassador, Coordinator of Population Affairs, Department of State.

Alternate Representative

Stephen Joseph, Deputy Assistant Administrator for Human Resources Development, Development Support Bureau, Agency for International Development.

Advisers

Samuel Baum, Assistant Chief for Demographic Research, International Statistical Programs Center, Bureau of the Census, Department of Commerce.
Franch Brecher, Economic and Social Affairs, U.S. Mission to the United Nations.
Irvin M. Cushner, Deputy Assistant Secretary for Population Affairs, Public Health Service, Department of Health, Education, and Welfare.
Lydia Giffler, Bureau of Intelligence and Research, Department of State.
Carl J. Hemmer, Office of Population, Agency for International Development.
Theodore C. Nelson, Office of the Coordinator of Population Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

Private Sector Advisers

Philander P. Claxton, Jr., President, World Population Society, Washington, D.C.
Conrad Taeuber, Director, Center for Population Research, Georgetown University, Washington, D.C.

UNITED STATES DELEGATION TO THE UNITED NATIONS COCOA CONFERENCE, UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT (UNCTAD), GENEVA, JANUARY 29–FEBRUARY 23, 1979

Representative

John P. Ferriter, Chief, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State.

Alternate Representative

David A. Ross, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State.

Advisers

Ralph Ives, Resources Policy Division, Department of Commerce.
Paul A. Pilkauskas, American Embassy, London.
William Quinn, Office of Raw Materials, Department of the Treasury.
Gordon Streeb, U.S. Mission, Geneva.

Private Sector Advisers

Merrill Bateman (January 29–February 9), Dean, School of Business Administration, Brigham Young University, Provo, Utah.
John C. K. Buckley (February 19–23), Vice President, Purchasing, The Nestle Company, White Plains, New York.
Walter Clayton (February 19–23), Vice President, Gill and Duffus, New York, New York.
Thomas H. Edwards (February 12–16), Vice President, Lonray, Inc., New York, New York.
Harold J. Gettinger (February 19–23), Vice President, Commercial, M&M/Mars, Inc., Hackettstown, New Jersey.
Julian Hemphill (January 29–February 23), Consultant, New York Cocoa Exchange, New York, New York.
Joanna Moss (February 5–9), Economist, Public Interest Economic Foundation, San Francisco, California.
William J. Shaughnessy (February 5–16), Manager, Commodity Analysis, Hershey Foods, Hershey, Pennsylvania.
Elizabeth Wood (February 12–23), Assistant Coordinator of Nutrition and Consumer Education, Consumers Co-Operative of Berkeley, Berkeley, California.

UNITED STATES DELEGATION TO THE TWENTY-THIRD SESSION OF THE GROUP OF RAPPORTEURS OF THE COMMITTEE OF EXPERTS ON THE TRANSPORT OF DANGEROUS GOODS, UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL (ECOSOC), GENEVA, FEBRUARY 5–16, 1979

Representative

Edward A. Altemos (February 5–16), Chief, International Standards Coordination, Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation.

Alternate Representative

Kenneth L. Pierson (February 12–16), Deputy Director, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of transportation.

Advisers

George E. Cushmac (February 5–16), Office of Hazardous Materials Regulation, Research and Special Programs Administration, Department of Transportation.
Larry H. Gibson, Lt., USCG (February 5–16), Chief, Cargo Systems Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.
David G. Ortez (February 5–9), Office of the Chief Counsel, Research and Special Programs Administration, Department of Transportation.

Private Sector Adviser

Orton Overman (February 12–16), Stauffer Chemical Co., Westport Connecticut.

UNITED STATES DELEGATION TO THE FIFTH SESSION OF THE SUBCOMMITTEE ON BULK CHEMICALS, INTERGOVERNMENTAL MARITIME CONSULTATIVE ORGANIZATION (IMCO), LONDON, FEBRUARY 5–16, 1979

Representative

William N. Spence, Captain, USCG, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Alternate Representative

Ronald W. Tanner, Lieutenant, USCG, Chief, Chemical Engineering Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Advisers

H. Clay Black, Shipping Attache, American Embassy, London.
Emmanuel P. Pfersich, Chemical Engineering Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Robert G. Williams, Commander, USCG, Engineering Branch, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Fritz Wybenga, Chemical Engineer, Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Private Sector Adviser

Robert K. Gregg, Assistant Manager Ocean Transportation, Dow Chemical, Freeport, Texas.

UNITED STATES DELEGATION TO THE TWENTY-EIGHTH REGULAR SESSION OF THE COMMISSION ON NARCOTIC DRUGS, UNITED NATIONS ECONOMIC AND SOCIAL COUNCIL (ECOSOC), GENEVA, FEBRUARY 12-23, 1979

Representative

The Honorable Mathea Falco, United States Representative on the Commission on Narcotic Drugs, United Nations Economic and Social Council.

Alternate Representatives

Peter Bensinger (February 12-16, 1979), Administrator, Drug Enforcement Administration, Department of Justice.

Louis N. Cavanaugh, Jr., U.S. Mission, Geneva.

Robert Chasen (February 12-16, 1979), Commissioner, U.S. Customs Service, Department of the Treasury.

George Dalley, Deputy Assistant Secretary, Bureau of International Organization Affairs, Department of State.

Alfred R. DeAngelus (February 18-22, 1979), Assistant Commissioner for Enforcement Supports, U.S. Customs Service, Department of the Treasury.

Jean Paul Smith, Assistant Director for International Activities, National Institute on Drug Abuse, Department of Health, Education, and Welfare.

Congressional Adviser

The Honorable Thomas F. Railsback, United States House of Representatives.

Advisers

Robert Angarola, General Counsel, Domestic Policy Staff, Executive Office of the President.

R. G. Dickerson (February 18-22, 1979), Deputy Commissioner, U.S. Customs Service, Department of the Treasury.

Donald Miller (February 18-22, 1979), Chief Counsel, Drug Enforcement Administration, Department of Justice.

Private Sector Adviser

David Musto, President's Strategy Council on Drug Abuse, Yale University, New Haven Connecticut.

UNITED STATES DELEGATION TO THE MEETING OF THE GROUP OF RAPPORTEURS ON AIR POLLUTION OF THE INLAND TRANSPORT COMMITTEE, ECONOMIC COMMISSION FOR EUROPE (ECE), GENEVA, FEBRUARY 12-26, 1979

Representative

Merrill W. Korth, Senior Technical Adviser, Emission Control Technology Division, Environmental Protection Agency.

Adviser

Irving L. Fuller, Office of International Activities, Environmental Protection Agency.

Private Sector Adviser

Alfred Cary, Jr., Cummins Engine Company.

[FR Doc. 79-8892 Filed 3-22-79; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

CERTAIN FASTENERS FROM JAPAN

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a satisfactory petition has been received and an investigation is being initiated to determine whether or not benefits which constitute a bounty or grant within the meaning of the countervailing duty law are granted by the Government of Japan to manufacturers of exporters of certain industrial fasteners. A preliminary determination will be made no later than August 22, 1979, and a final determination no later than February 22, 1980.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

David Chapman, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On February 22, 1979, a petition in proper form was received from the Industrial Fasteners Institute, alleging that payments conferred by the Government of Japan upon the manufacture, production or exportation of certain industrial fasteners constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). The industrial fasteners covered by the instant petition enter the United States under the following item numbers of the Tariff Schedules of the United States (TSUS): 646.17, 646.40, 646.41, 646.49, 646.51, 646.53, 646.54, 646.56, 646.58, 646.60, 646.63, 646.65, 646.72, 646.74, 646.75, 646.76, 646.78. The investigation will be limited to the determination of the bestowal of bounties or grants on non-metric industrial fasteners. Products entering the United States under TSUS items 646.54 and 646.56 have, since May 6, 1977, been subject to the imposition of countervailing duties as the result of a previous investigation conducted by the Treasury Department under the countervailing duty law (T.D. 77-128, 41 FR 23146). The treatment of the allegations of additional bounties or grants paid or bestowed on those products is described in the notice of "Suspension of Liquidation and Estimated New Net Amount of Bounty or Grant," published concurrent with this Notice. Thus, products entering the United States under TSUS items 646.54 and 646.56 will not be included in this new investigation.

The bounties or grants alleged in the petition are as follows:

(1) "The Temporary Measures Act for Small and Midsize Business with Regard to the High Yen Exchange Market" established a number of methods by which the Japanese Government can provide assistance to small and midsize businesses which are export oriented and whose competitive position has been adversely affected by the rapid appreciation of the yen.

These include:

(a) Preferential financing at interest rates lower than those commercially available from the National Finance Corporation, the Okinawa Development Finance Corporation, the Small Business Finance Corporation, the Central Bank for Commercial and Industrial Cooperatives, and from so-called "Authorized Cooperative" trade associations.

(b) Preferential financing from the same sources as mentioned above for the building of facilities necessary for conversion of manufacturing operations.

(c) Those firms which previously had been granted loans under the "Medium and Small Enterprises Modernization Financing Assistance Law" were allowed to defer repayment for up to three years.

(d) Various government credit guarantees which liberalize the coverage limitations and reduce premiums for eligible firms.

(e) Revision of an already existing law, to now allow eligible firms to carry-back losses incurred currently to

the preceding three fiscal years. Furthermore, in order to lessen the burden of local taxes, an eligible firm can carry forward losses to succeeding fiscal periods.

(2) A five year deferral of income taxes to be paid on export earnings through the operation of the Overseas Market Development Reserve (OMDR).

(3) Promotional assistance provided by the Japanese External Trade Organization (JETRO).

(4) Preferential financing to small and midsize enterprises from Government owned banks including the Small Business Finance Corporation, the Peoples Finance Corporation and the Bank for Commerce and Industrial Cooperatives.

Pursuant to section 303(a)(4) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Secretary of the Treasury is required to issue a preliminary determination within 6 months of the receipt of a petition in proper form and a final determination within 12 months of the receipt of such petition, as to whether or not any bounty or grant is being paid or bestowed within the meaning of the statute.

Therefore, a preliminary determination as to whether or not alleged payments or bestowals of benefits by the Government of Japan upon the manufacture, production or exportation of certain industrial fasteners constitute a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended, will be made no later than August 22, 1979. A final determination will be made no later than February 22, 1980.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)), and section 159.47(c), Customs Regulations (19 CFR 159.47(c)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 (Revision 15), March 16, 1978, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954 and § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), insofar as they pertain to the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

MARCH 19, 1979.

[FR Doc. 8922 Filed 3-22-79; 8:45 am]

[4810-25-M]

Office of the Secretary

DEBT MANAGEMENT ADVISORY COMMITTEES

Meetings

Notice is hereby given, pursuant to Section 10 of Public Law 92-463, that meetings will be held in Washington on April 24 and 25, 1979 of the following debt management advisory committees:

American Bankers Association.
Government Borrowing Committee.
Public Securities Associaton.
U.S. Government and Federal Agencies Securities Committee.

The agenda for the American Bankers Association Government Borrowing Committee meetings provides for working sessions on April 24 and a report to the Secretary of the Treasury and Treasury staff on April 24.

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meetings provides for working sessions on April 24 and a report to the Secretary of the Treasury and the Treasury staff on April 25.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 190, revised, I hereby determine that these meetings are concerned with informatin exempt from disclosure under section 552b(c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees are utilized by this Department at meetings called by representatives of the Office of the Secretary. When so utilized they are recognized to be advisory committees under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such these debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may or may not reflect the advice provided in reports of these committees, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of the meeting of these committees and for providing annual reports setting fourth a summary of their activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: March 19, 1979.

ANTHONY M. SOLOMON,
Under Secretary for Monetary Affairs.

[FR Doc. 79-8867 Filed 3-22-79; 8:45 am]

[1505-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 12]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 79-2968, at page 5780, Monday, January 29, 1979, at page 5784, the second column, the paragraph reading "MC 13609 (Sub-32TA)," should be corrected to read "MC 138609 (Sub-2TA)".

[1505-01-M]

[Notice No. 11]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

Correction

In FR Doc. 79-2969, at page 5787, Monday, January 29, 1979, the following corrections should be made:

1. On page 5788, the third column, the paragraph reading "MC 10641" should be corrected to read "MC 106401";

2. On page 5791, the paragraph reading "MC 14189" should be corrected to read "MC 141489".

[7035-01-M]

[Notice No. 51]

ASSIGNMENT OF HEARINGS

MARCH 20, 1979.

Cases assigned for hearing, postponement, cancellation or oral argu-

ment appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 41432 (Sub-155F), East Texas Motor Freight Lines, Inc., now assigned for prehearing Conference on April 18, 1979, at the Office of Interstate Commerce Commission, Washington, D.C. MC-C-10159, International Brotherhood of Teamster Chauffeurs, Warehousemen & Helpers Of American V. Ringsby Truck Lines, Inc., now assigned for hearing on May 21, 1979, at the Office of Interstate Commerce Commission, Washington, D.C.

MC 108119 (Sub-106F), E. L. Murphy Trucking Company, now assigned for prehearing conference on April 23, 1979, at the Office of Interstate Commerce Commission, Washington, D.C.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-8963 Filed 3-22-79; 8:45 am]

[7035-01-M]

[Ex Park No. 241; Second Revised Exemption No. 156]

ATLANTA & SAINT ANDREWS BAY RAILWAY CO., ET AL.

Exemption Under Provision of the Mandatory Car Service Rules

To all railroads

It appearing, That the railroads named below own numerous sixty-foot plain boxcars; that under present conditions, there are substantial surpluses of these cars on their lines; that return of these cars to the car owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, sixty-foot plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

*Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
East Camden & Highland Railroad Company
Reporting Marks: EACH
Providence and Worcester Company
Reporting Marks: PW

Effective March 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-8966 Filed 3-22-79; 8:45 am]

[7035-01-M]

[Ex Parte No. 241; Thirty-Fifth Revised Exemption No. 12]

ATLANTIC AND WESTERN RAILWAY, ET AL.

Exemption Under Provision of Mandatory Car Service Rules

To All Railroads:

It appearing, That the railroads named herein own numerous plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" or "XMI," and bearing reporting marks assigned to the railroads named below,[1] shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlantic and Western Railway
Reporting Marks: ATW
Chicago & Illinois Midland Railway Company
Reporting Marks: CIM
Fonda, Johnstown and Gloversville Railroad Company
Reporting Marks: FJG
Hillsdale County Railway Company Inc.
Reporting Marks: HCRC
Maryland and Pennsylvania Railroad Company
Reporting Marks: MPA
Pickens Railroad Company
Reporting Marks: PICK
Wellsville, Addison & Galeton Railroad Corporation
Reporting Marks: WAG

Effective March 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-8967 Filed 3-22-79; 8:45 am]

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*Addition.

21 Atlanta & Saint Andrews Bay Railway Company deleted.

[7035-01-M]

[Ex Parte No. 241; Thirty-Fifth Revised Exemption No. 129]

ATLANTA & SAINT ANDREWS BAY RAILWAY CO., ET AL.

Exemption Under Provision of the Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 410, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

*Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Richmond, Fredericksburg and Potomac Railroad Company
Reporting Marks: REP

*Addition.

Effective 12:01 a.m., March 15, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-8970 Filed 3-22-79; 8:45 am]

[7035-01-M]

[AB 18 (SDM)]

THE CHESSIE SYSTEM

Amended System Diagram Map

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: In the above captioned proceeding published at 42 CFR, March 6, 1979, page 12322, the amended system diagram map for the Chessie System was previously stated as being filed on January 24, 1979. The correct filed date is January 19, 1979.

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.23, that the Chessie System, has filed with the Commission its color-coded system diagram map in docket No. 18 (SDM). The maps reproduced here in black and white are reasonable reproductions of that amended system diagram map and the Commission on January 19, 1979, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the office of the Commission, Section of Dockets by requesting docket No. AB 18 (SDM).

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-8976 Filed 3-22-79; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 31 under Service Order No. 1344]

CHICAGO, ROCK ISLAND AND PACIFIC RAILROAD CO.

Rerouting of Traffic

In the opinion of Joel E. Burns, Agent, the Chicago, Rock Island and Pacific Railroad Company is unable to transport promptly all traffic offered for movement to, from, or via Peoria, Illinois, because of flooding.

It is ordered,

(a) *Rerouting traffic.* The Chicago, Rock Island and Pacific Railroad Company being unable to transport promptly all traffic offered for movement to, from, or via Peoria, Illinois, because of flooding, that line is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 10:00 a.m., March 12, 1979.

Expiration date. This order shall expire at 11:59 p.m., March 31, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-8971 Filed 3-22-79; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 30 Under Service Order No. 1344]

CLINCHFIELD RAILROAD CO.

Rerouting of Traffic

In the opinion of Joel E. Burns, Agent, the Clinchfield Railroad Company is unable to transport promptly all traffic offered for movement over its lines between Marion, North Carolina, and Spruce Pine, North Carolina, because of washouts.

It is ordered,

(a) *Rerouting traffic.* The Clinchfield Railroad Company, being unable to transport promptly all traffic offered for movement over its lines between Marion, North Carolina, and Spruce Pine, North Carolina, because of washouts, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the

rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4:00 p.m., March 7, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 16, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 7, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-8972 Filed 3-22-79; 8:45 am]

[7035-01-M]

[I.C.C. Order No. 30-A Under Service Order No. 1344]

CLINCHFIELD RAILROAD CO.

Rerouting of Traffic

Upon further consideration of I.C.C. Order No. 30, and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 30 is vacated.

This order shall become effective March 13, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C. March 13, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-8973 Filed 3-22-79; 8:45 am]

[7035-01-M]

[Amdt. No. 1 to Exception No. 15]

EXCEPTION TO SERVICE ORDER

MARCH 13, 1979.

TO: *ALL RAILROADS.*

BY THE BOARD.

Exception under section (a), paragraph (1), part (v) second revised service order No. 1332.

Upon further consideration of Exception No. 15 and good cause appearing therefor:

It is ordered,

Exception No. 15 to Second Revised Service Order No. 1332 is amended to: *Expire March 31, 1979.*

Issued at Washington, D.C., March 13, 1979.

ROBERT S. TURKINGTON,
Acting Chairman,
Railroad Service Board.

[FR Doc. 79-8968 Filed 3-22-79; 8:45 am]

[7035-01-M]

MARCH 20, 1979.

FOURTH SECTION APPLICATION FOR RELIEF

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before April 6, 1979.

FSA No. 43673, Sea-Land Service, Inc., No. 104, intermodal rates on general commodities in containers, between ports in the Far East, on the one hand, and rail carrier's terminal at Wilmington, North Carolina, on the other, by way of California Ports, in its Tariff ICC SEAU 311 and eight other individual and agency tariffs, Effective April 14, 1979. Grounds for relief—water competition.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-8965 Filed 3-22-79; 8:45 am]

[7035-01-M]

FOURTH SECTION APPLICATIONS FOR RELIEF

MARCH 20, 1979.

These applications for long and short haul or aggregate of intermediates relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before April 6, 1979.

LONG AND SHORT HAUL

FSA No. 43675, Trans-Continental Freight Bureau, Agent's No. 534, carload rates on iron or steel articles from Minnequa, Colo. to specified points in California, to be published in its Tariff ICC TCFB 3001. Grounds for relief—Motor carrier competition.

AGGREGATE-OF-INTERMEDIATES

FSA No. 43674, Trans-Continental Freight Bureau, Agent's No. 533, carload rates on iron or steel articles from Minnequa, Colo. to specified points in California, to be published in its Tariff ICC TCFB 3001. Grounds for relief—Maintenance of depressed rates to meet motor carrier competition without use of such rates as factors in constructing combination rates.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-8975 Filed 3-22-79; 8:45 am]

[7035-01-M]

[Amdt. No. 2 to I.C.C. Order No. 15 under Service Order No. 1344]

REROUTING OF TRAFFIC

To: *ALL RAILROADS.*

Upon further consideration of I.C.C. Order No. 15 (Chicago, Milwaukee, St. Paul and Pacific Railroad Company), and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 15 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., April 15, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., March 15, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-8969 Filed 3-22-79; 8:45 am]

[7035-01-M]

[Amdt. No. 2 to I.C.C. Order No. 13 under Service Order No. 1344]

REROUTING TRAFFIC

To: *ALL RAILROADS.*

Upon further consideration of I.C.C. Order No. 13, and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 13 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., April 15, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., March 15, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 12, 1979.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 79-8974 Filed 3-22-79; 8:45 am]

[7035-01-M]

[Docket No. AB-169]

TOLEDO, ANGOLA & WESTERN RAILWAY CO.

Abandonment Near Vulcan and Silica in Lucas County, OH; Notice of Findings

Notice is hereby given pursuant to Section 10903 of the Interstate Commerce Act (49 U.S.C. 10903) that by a decision entered on September 22, 1978, and the decision of the Commission, Division 1, acting as an Appellate Division, served February 12, 1979, which adopted the decision of the Commission, Review Board Number 5, which is administratively final, stating that, the present and future public convenience and necessity permit the abandonment by the Toledo, Angola & Western Railway Company of its entire 8.25 mile line of railroad extending from milepost 0.0 near Vulcan, to the end of the line at milepost 8.25, near Silica, all in Lucas County, OH, subject to the condition that applicant shall keep intact all of the right-of-way underlying the track, including any culverts and bridges, on the line between Vulcan and the Holland-Sylvania Road for a period of 120 days from the effective date of the certificate to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of abandonment will be issued to the Toledo, Angola & Western Railway Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postposed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 79-8964 Filed 3-22-79; 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).

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[6351-01-M]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., March 27, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

8a(6)—Delegation of Commission authority to communicate information to exchanges.

Aggregation policy discussion.

Regulation 1.31—availability of FCM and Exchange books and records.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-576-79 Filed 3-21-79; 3:37 pm]

[6351-01-M]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., March 27, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matter/offer of settlement; Review of exchange disciplinary action.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-577-79 Filed 3-21-79; 3:37 pm]

[6570-06-M]

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, March 27, 1979.

PLACE: Commission Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, DC 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open to the public:

1. Editorial revisions to internal procedures for handling matters brought before EEOC for coordination under Executive Order 12067.
2. Two Delegations of Authority to the Merit System Protection Board.
3. Compliance Manual Changes concerning the Early Litigation Identification Program.
4. Freedom of Information Act Appeal No. 78-8-FO1A-176, concerning a request for compliance data in connection with a consent decree.
5. Report on Commission operations by the Executive Director.

Closed to the public:

1. Proposed Decisions in Charge Nos. TAT40019, TC14-0131, 052-77-1688 and 052-77-0749.
2. Litigation Authorization; General Counsel Recommendations: Matters closed to the public under the Commission's regulations at 29 CRF 1612.13.

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.

This Notice Issued March 21, 1979.

[S-574-79 Filed 3-21-79; 1:17 pm]

[6730-01-M]

4

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: March 21, 1979, 44 FR 17290.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: March 27, 1979, 10 a.m.

CHANGES IN THE MEETING: Addition of the following item to the open session:

7. Matson Navigation Company proposed rate increase. Addition of the following item to the closed session:

1. Docket No. 77-7: Agreement Nos. 9929-2, 9929-3, 9929-4 (Modifications to the Combi Line Joint Service Agreement) and Agreement Nos. 10266 and 10266-1 (Joint Marketing Agreement Between Intercontinental Transport, B. V. and Compagnie Generale Maritime)—Consideration of the record.

[S-575-79 Filed 3-21-79; 3:32 p.m.]

[6735-01-M]

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., March 20, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Closed (pursuant to 5 U.S.C. 552b(c)(10)).

MATTER CONSIDERED: Part of this meeting involved the Commission's participation in an adjudicatory proceeding, namely *Secretary of Labor and UMWA* v. *Canterbury Coal Co.*, PITT 78-127, 78-128, 78-301-P, 78-302-P.

VOTE: Voting to close that part of the meeting: Commissioners Waldie (Chairman), Lawson, Nease, Jestrab and Backley. It was determined by this vote that Commission business required that this meeting be closed.

ATTENDANCE: Present at that closed part of the meeting were: Commissioners Waldie (Chairman), Lawson, Nease, Jestrab and Backley; Al Treherne, Robert Phares, James Lastowka, Arthur Sapper, Nathaniel Speights, Howard Schellenberg, Executive Director Donald Terry, General Counsel Dennis Clark, Joanne Kelly, Cris Gilbert and Carolyn Crittendon.

CONTACT FOR MORE INFORMATION:

Joanne Kelley, 202-653-5632.

[S-571-79 Filed 3-21-79; 9:31am]

[6210-01—M]

6

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS.

TIME AND DATE: 10:00 a.m. Wednesday, March 28, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Proposed statement to be presented to the Subcommittee on Domestic Monetary Policy of the House Committee on Banking, Finance and Urban Affairs regarding proposed amendments to the Federal Reserve Act and FOMC procedures.

2. Proposed amendments to Section 23A of the Federal Reserve Act to be submitted to the Congress.

3. Any agenda items carried forward from a previously announced meeting.

NOTE: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: March 20, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[6210-01-M]

7

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: To be published March 23, 1979 S-1572-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, March 28, 1979.

CHANGES IN THE MEETING: Addition of the following closed item to the meeting: (This item will be considered in a closed portion following the open meeting).

Proposed revision to Federal Reserve Bank employee salary structure adjustment policies.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: March 21, 1979.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-573-79 Filed 3-21-79; 11:46 am]

[7715-01-M]

8

POSTAL RATE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 17025, March 20, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE CLOSED MEETING: March 20, 1979, 8:30 a.m.

CHANGES IN THE MEETING: Meeting date and time changed to March 22, 1979, 8:30 a.m.

Meeting remains closed pursuant to 5 U.S.C. 552b(c) (2) (6).

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Telephone 202-254-5614.

[S-578-79 Filed 3-21-79; 3:52 pm]

[8120-01-M]

9

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 9:30 a.m., Thursday, March 22, 1979.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS FOR ACTION: Further consideration of power rates.

CONTACT PERSON FOR MORE INFORMATION:

James L. Bentley, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3357, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-566-1401.

SUPPLEMENTARY INFORMATION:

TVA BOARD ACTION

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires that this meeting be called at the time set out above and that no earlier announcement of the meeting was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Approved:

DAVID FREEMAN.

RICHARD M. FREEMAN.

Disapproved:

Dated: March 21, 1979.

[S-579-79 Filed 3-21-79; 3:52 am]

federal register

FRIDAY, MARCH 23, 1979

PART II

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

■

STOCKYARDS AND SLAUGHTERING ESTABLISHMENTS

Specific Approval

[3410-34-M]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

STOCKYARDS AND SLAUGHTERING ESTABLISHMENTS

Specific Approval

The regulations in 9 CFR Part 78, as amended, contain restrictions on the interstate movement of cattle, other domestic animals, and bison to prevent the spread of brucellosis. This document lists certain stockyards and slaughtering establishments as specifically approved for purposes of the regulations, on the basis of a determination of their eligibility for such approval under § 78.25(b) of the regulations. Therefore, notice is hereby given that the following stockyards and slaughtering establishments are specifically approved under said regulations as indicated below:

SPECIFICALLY APPROVED SLAUGHTERING ESTABLISHMENTS

The following slaughtering establishments preceded by an asterisk are specifically approved for the purposes of §§ 78.7, 78.8, and 78.12a, of Title 9, Code of Federal Regulations, concerning brucellosis reactors, exposed cattle and cattle from quarantined areas, and for the purposes of §§ 78.9, 78.10, and 78.11 of said Title 9, concerning cattle only from herds not known to be affected, cattle from qualified herds, and cattle from herds of unknown status. The slaughtering establishments preceded by an asterisk entered into a Memorandum of Understanding with the State and Veterinary Services containing standards which control the handling of all classes of cattle including brucellosis reactors, exposed cattle, cattle from quarantined areas and cattle from herds of unknown status. The slaughtering establishments not preceded by an asterisk entered into a Memorandum of Understanding with the State and Veterinary Services containing standards which restrict the class of cattle handled by them to cattle from herds not known to be affected, cattle from qualified herds and cattle from herds of unknown status. Slaughter establishments not preceded by an asterisk are prohibited from handling brucellosis reactor, exposed cattle, and cattle from a quarantined herd.

The following slaughtering establishments not preceded by an asterisk are specifically approved for the purposes of § 78.11 only:

ALABAMA

Florence Frozen Foods, Florence
*R. L. Zeigler Company, Inc., Selma

ARKANSAS

*AR Valley Institutional Packing Company, Pine Bluff
*Broadway Packing Company, Inc., Jonesboro
*Cleburne County Packing Co., Inc., Heber Springs
*Corning Meat Processing, Corning
*Edwards Packing Company, Batesville
*Scott Ewell Butcher Shop, Little Rock
*Fox Slaughtering & Processing Company, Prairie View
*Hawthorne Packing Company, Hot Springs
*Hot Springs Packing Company, Hot Springs
*Hunt Packing Company, Pine Bluff
*J and J Beef Company, Inc., Searcy
*Kruse Packing Company, Inc., Alexander
*Massey Meat Company, Paragould
*McKiever Packing Company, Monticello
*Meachan Packing Company, Batesville
*Mhoon Beef Company, Fayetteville
*Miller Packing Company, Inc., Judsonia
Mitchell Locker Plant, Sheridan
Morrilton Packing Company, Inc., Morrilton
*Mountain View Custom Butchering, Mountain View
*Pocahontas Frozen Food Locker, Pocahontas
*Purcell Packing Company, Paragould
*Reeder Meat Company, Arkadelphia
Russellville Packing Company, Inc., Russellville
*Rodman Wholesale Meats, Inc., North Little Rock
*Sheridan & Harold Freer d.b.a. Freer Meats, Ivan
*Taylor Brothers Wholesale Meats, Gurdon
*Twin Lakes Packing Company, Gassville
V.I.P. Foods, Pine Bluff
*White County Packing, Inc., Searcy
*Wilf Packing Company, Pleasant Plains

DELAWARE

*Family Butcher, Dagsboro
*Kemp's Meat Market, Willow Grove

FLORIDA

*Beall Packing House, Bonifay
*Bristol Meat Processing, Bristol
*Brocks Meat House, Vernon
*Chaires Circle "C" Beef, Tall
*Corbin 4-Point Packing House, Chipley
*Dilmore Meats, Cottondale
*Dozier School for Boys, Marianna
*Driggers & Son Meat Company, Jasper
*Easons Custom Cut Meat, Quincy
*Esto Meat Processors, Inc., Esto
Florida Packing & Provision Co., Inc., Palatka
*Gated Meat Company, Quincy
*H. S. Camp and Sons, Ocala
*Johnstons Locker Plant, Monticello
*Jones Chambliss Company, Jacksonville
*Micklers Market, Ponte Vedra
*Nettles Sausage Company, Lake City
Register Meat Company, Cottondale
*Simmons Meat Packing House, Vernon
*S & S Meat Packing, Green Cove Springs
*Stones Chipley Packing Company, Chipley
*Suber's Meat Plant, Quincy
Suwannee Packing Company, Live Oak
*Taylor Industries of Santa Rosa County, Jay
*Thompsons Meat Supply, Inc., Pensacola
*Tri-City Market, Century
*Union Correctional Center, Raiford
*Valley Packing Company, McAlpin
*Wilkerson Sausage Company, Glendale

GEORGIA

*Dalton Slaughter House, Dalton
*North Georgia Meat Processing Company, Cohutta
*Walker Meats, Carrollton

IDAHO

Alpine Pac, Boise
*Bledsoe Packing Company, Rupert
*Boise Valley Packing, Eagle
Bonds Meat Packing, Fruitland
*Bryant Packing Company, Burley
*Clark's For Shopping, Inc., Oakley
*Custom Packing, Inc., Pocatello
Eden Cold Storage d.b.a. Kenneth Hutchins, Eden
*Emmett Meat Company, Emmett
*Fred's Custom Butchery, Ucon
*Gem Meat Packing Company, Boise
Genesee Meats, Genesee
Gibson Brothers Meat, Burley
Greenfield Packing, Meridian
Goodby Sons Meats, Inc., Sandpoint
Hi' Boy Meat, Emmett
Hillcrest Packing Company, Nampa
*Hoehns Custom Packing, Idaho Falls
*Hoffman & Sons, Roberts
*Hopkins Packing Company, Blackfoot
Howard's Meats, Grangeville
*Hubbard Packing Company, Preston
*Hunters Pack, Driggs
*Johnson Meats, Kingston
Johnston Brothers, Caldwell
*Jones Custom Meats, Rigby
*Marsh Valley Packing Company, Downey
*Mickelson Pack, Inc., Blackfoot
*Mill Stream Pack, Malad
*Nampa Packing Company, Nampa
*Parr's Locker Storage, Wendell
Peoples Quality Pack, Rupert
*P&H Custom Meats, Wilder
R&J Market, Riggins
*Skow's Custom Cutting-Slaughter Plant, Lewiston
Sonnen's Meats, Greencreek
*Tri "B" Meat Company, Idaho Falls
Valley Meats, Stites
*Walton's Cow Palace, Soda Springs
*Y-J Foods, Inc., Coeur d'Alene

ILLINOIS

*Bartlow Bros., Inc., Rushville
*Beiermann Packing Company, Jerseyville
*Bergman Meat Packing Company, Pittsfield
*David's Frozen Food Center, Milford
*DeSchepper Packing Company, Milan
*Edgar County Locker, Paris
*Hansen Packing Company, Jerseyville
*Harmon Packing Company, Paris
*Hartrich Meat Processing Plant, Sainte Marie
*Hill Packing, Danville
*Humphrey Packing Co., Lawrenceville
*Jamison's Country Fresh Meats, Inc., Atwood
*Johannes Market, Quincy
*Jones Packing Company, Harvard
*Ed Kabrick Beef, Inc., Plainville
Papineau Lockers, Papineau
*Parks Processing Plant, Warren
*Petroff Packing Company, Benton
*Rock River Provision Company, Inc., Rock Falls
*Sievers Meat Processing, Palestine
*Streck Packing Company, Belleville
*Weyhaupt Brothers Packing Company, Belleville
*Young Packing Company, Danville
*Y and T Packing Company, Springfield

INDIANA

*Becher Brothers, Dale
*Bloomington Packing Company, Bloomington
*Brook Locker Plant, Inc., Brook
*Clark & Moore, Monticello
*Dewig Bros. Packing Company, Inc., Haubstadt
*Fisher Packing Company, Portland
*Gutzweiler Packing Company, Jasper
*Harger's Inc., Hamilton
*Harlow Meat Market, Seymour
*Lengerich Meats, Inc., Monroe
*Glen Manley Custom Butchering, Decatur
*Melcho Packing Company, Carlisle
*Merkley & Sons, Inc., Jasper
*Middlebury Cold Storage, Inc., Middlebury
*Miller Packing Company, Kokomo
*Mischler Packing, Lagrange
*Ossian Packing Company, Inc., Ossian
*Walter Price Abattoir, Inc., Plymouth
*Pride Packing Company, Inc., Terre Haute
*Roos Packing Company, Indianapolis
*Rose City Packing Company, Inc., Newcastle
*Rutzel Slaughter House, Aurora
*Schmitt Packing Company, Inc., Decatur
*Schuler Packing Company, Ferdinand
*Sinnett & Son Packing Company, Wadesville
*Spendal Meats, Clinton
*Standard Packing Company, Kokomo
*State Line Packing, Momence, Ill.
*Straub & Smith Packing Company, Indianapolis
*Top-of-Indiana Beef Company, Ft. Wayne
*Troy Packing Company, Inc., Indianapolis
*Vetter Meat Company, Kokomo
*Vietti Packing Company, Clinton
*Ward Packing Company, Monon
*Wilcox Inc., North Liberty
*Wolf's Processing Plant, New Albany
*Young Bros., Inc., Ladoga

LOUISIANA

*Autin Packing Company, Houma
*H. O. Berry Packing Company, Bastrop
*Circle "V" Meat Processing Plant, Abbeville
*Crawford Slaughter House, Covington
*L. A. Frey & Sons, Inc., Lafayette
*Harold's, Raceland
*Micelle's Meat Packer, Lake Charles
*Millwood Packing Company, Baton Rouge
*North LA Packing Company, Sarepta
*Parish Processing Company, Franklinton
*River Land Food Corporation, Gonzales
*Ruston Processing Plant, Inc., Ruston
*Savoie's Meat Market, Lockport
*Shreveport Packing Company, Shreveport
*J. W. Strother, Oakdale
*Thompson Packers, Satsuma

MARYLAND

*Arcticaire Locker Plant, Frederick
*A & W Country Meats, Inc., Taneytown
*Bauerlein Meats, Inc., Hampstead
*B. H. Boyles, Inc., Emmitsburg
*Brook Meadow Provisions Corp., Hagerstown
*Burger, Roy S., Williamsport
*Burtner's Meats, Burkittsville
*Calvert Meats, Inc., Prince Frederick
*Cecil Provision Company, Elkton
*Dorsey Brothers, Woodsboro
*Frostburg Meats, Frostburg
*Galviniell Company, Conowingo
*Gladhill Brothers, Damascus
*Garricks Meats, Westminster
*Greises Meats, Inc., Cumberland
*Harsh, Sr., M. D., Williamsport
*Hemps, Inc., Jefferson
*Roy L. Hoffman & Sons, Inc., Hagerstown
*Granville McCollister, Cambridge
*Martins Meats, Joppa
*Maurer & Miller Meats, Inc., Manchester
*Mt. Airy Locker Company, Mount Airy
*135 Meat Market, Inc., Mt. Lake Park
*George L. Reid, Inc., Baltimore
*George G. Ruppersburger & Sons, Inc., Baltimore
*Schmidt, A. W. and Son, Inc., Baltimore
*Norman J. Shriver, Jr., Emmitsburg
*H. W. Shuff Meats, Thurmont
*Thompson's Market, Maryland Line
*W. W. Will, Sykesville
*Woodlawn Farms, Sharpsburg

MICHIGAN

*Ada Beef Company, Ada
*Bay DeNoc Packing, Escanaba
*Bellefeuil Brothers, Wilson
*Bob's Market, Cadillac
*Brady's Midway, Cassolopis
*Carltons Freezer Processing, Inc., Blissfield
*Charlotte Meats, Inc., Charlotte
Custer Brothers #212, Nashville
*Mark DeBoer & Son Wholesale Beef Company, St. Johns
*Dowker Packing Company, Inc., Gaylord
*Dunleavy & Sons, Highland
*Eds Meat Processing, Union City
Feldman Brothers, Detroit
*Fishers Custom Foods, Union
Geukes Market, Middleville
*Bert Hazekamp & Son, Muskegon
*Hillsdale County Meat, Waldron
Houghton Beef Packers, Ionia
*J & L Meats, Jonesville
*Kastel Slaughterhouse, Riga
*Keefer's Market, Morenci
*Lake Superior Beef, Dafter
*L & J Slaughter, Lake City
L & M Packing Company, Monroe
*Louie's Wholesale Meats, Traverse City
*Ludka Packing, Inc., Traverse City
*Maynard Packing Company, Port Huron
*Meats & Fruits by Anderson, Inc., Kalamazoo
*Milligans Packing Company, Parma
*Don Moors Farm Fresh Meats, Inc., Homer
*Mosherville Meat Processing, Jonesville
*Newsom's Slaughter House #130, Niles
*Reznik Packing, South Haven
*Rocheleau Meats, Cheboygan
*Rochester Packing Company, Rochester
*C. Roy & Son, Yale
*Salem Packing Company, Northville
*Hubert H. Smith Packing Company, Muskegon
*Snyder's Wholesale Beef, Fowler
*Stanley Packing Company, Marshall
*Tamaren Beef Company, Detroit
*Terrills Super Market, Marcellus
*Will and Son Meat Packers, Memphis
*Ray Weeks & Sons Company, Inc., Richmond
*Zimmermans Market, Marine City

MISSISSIPPI

*Barton's Meat Processing Market, Batesville
*A & A Country Meat Packers, Pelahatchie
*Bryant's Meats, Inc. Taylorsville
*Calhoun County Processing Plant, Calhoun City
*Choctaw County Processing Company, Weir
*Comer Packing Company, Aberdeen
*Custom Butchering Company, Yazoo City
*Davis Country Meats, Inc., West Point
*Delta Packing Company, Inc. Meridian
*Ecru Meat Processing Plant, Ecru
*Ezell's Processing Plant, Union
*Hinds Junior College Cold Storage, Raymond
*Holmes County Cold Storage Company, Lexington
*Isbell Curing Plant, Corinth
Jackson Packing Company, Jackson
*Little Princess Foods, Inc., Forest
*McCoy's Meat Processing, Pontotoc
*Meridian Packing Company, Meridian
*Miller & White Meat Company, Starkville
*Moore's Meats, Smithville
*Mosby's, Meridian
*Murphree Bros. Slaughtering & Packing Plant, Tremont
*Myers Processing Plant and Market, Newton
*Ormon Sausage Plant, Ellisville
*Oswalt's Meat Processing, Columbus
*Owen Bros. Packing Company, Meridian
*Passbach Meats, Inc., Natchez
*Paul's Meat Service, Louisville
*Peebles & Peebles Slaughter Plant, Philadelphia
*Ponderosa Processing Plant, DeKalb
*River Route Packing Company, Dundee
*Simmons Packing Company, Kosciusko
*Suitor Meat Company, Rienzi
*Sundown Ranch & Processing Plant, Grenada
*Wall Meat Processing Plant, Inc., Hickory Flat
*Winona Packing Company, Winona
*Wilson Slaughter House, Crystal Springs

NORTH CAROLINA

*Ashe Abattoir, West Jefferson
*Banks' Packing Company, Etowah
*A. L. Beck & Sons, Inc., Winston-Salem
*Bladen Cold Storage, Inc., Elizabethtown
*James E. Bringle, Inc., Salisbury
*Z. B. Bullock, Inc., Rocky Mount
*Bruns and Beach Meat, Morganton
*Caldwell's Meat Processing, Maiden
*Cool Springs Meat Processing, Statesville
*Frank Corriher, Landis
*Crawley & Higgins Abattoir, Morganton
*Disher Packing Company, Yadkinville
*Falcon Wholesale Meats, Falcon
*Gaston County Abattoir, Mt. Holly
*Hudson Freezer Locker, Hudson
*Jenkins Foods, Shelby
*Key Packing Company, Robbins
*Ledford's Livestock Farm Slaughter Plant, Franklin
*Lincoln Frozen Foods, Lincolnton
*Marion Packing Company, Marion
*Matkins Meats, Gibsonville
*Harold McLaughlin, Mooresville
*Meat Processors, Inc., Maiden
*Micro Slaughter House, Micro
*Mount Airy Abattoir, Mount Airy
*Parker Meat Company, Vass
*Peacock Meat Company, Inc., Rocky Mount
*Price's Custom Meat, Hickory
*Quaker Brand Meats, Belvidere
*Rainbow Meat Products, Robersonville
*Sessoms Packing Company, Ahoskie
*Sluder's Packing Company, Asheville
*Southeastern Meat Processors, Inc., Whiteville
*Stallings Wholesale Meats, Elizabeth City
*Stewart's Abattoir, Mt. Airy
*Tabor City Freezers, Tabor City
*Thomas Brothers Abattoir, North Wilkesboro
*Town and Country Packing Company, Asheville
*Walter Bradley Packing Company, Dillsboro
*Ward's Slaughterhouse, Hendersonville
*Wayne Mays Meat Processing, Taylorsville

*White Packing Company, Salisbury

OHIO

*B.A.A.R. Inc. dba Edgerton Locker Service, Edgerton
*Merle Bishop dba Bishop Locker & Abattoir Plant, Hamler
*Busse & Sons, Inc., Fort Loramie
*Caven's Meats, Inc., Conover
*Cuyahoga Meat Co., Cleveland
*DeLuca Slaughtering Establishment, Rayland
*William Enos dba Enos Meats, Cambridge
*Gibson Packing Co., Zanesville
*Samuel L. Gifford, Warren
*Hall Bros., Inc., Olmstead Falls
*Henderson Meats, Waterloo
*Henry Packing Company, Perrysburg
*Lancer Meat Processing Co., Inc., Troy
*Harold and Kenneth LePage dba LePage Meats, Cambridge
Robert Lloyd dba Lloyd's Packing Company, Youngstown
*J. E. McConnell, David McConnell, & Kenneth McConnell, Richmond
*Emery Molnar, Jr.; Emery Molnar II, and Daniel G. Molnar dba Molnar Packing Company, Millbury
*Mahan Packing Company, Bristolville
Edward B. Meloni dba Meloni's Packing, Kinsman
*Northmont Beef, Inc., Brookeville
Joseph R. Nosse, Middlefield
*J. D. Pacer Packing Company, Toledo
*Gary Peden dba Peden's Meats, Kinsman
*Steve Polansky Market, Inc., Amherst
*Preferred Meats, Inc., Sardinia
Pride of Lima Provision Co., Lima
*Ragers County Butcher Shop, Inc., Van Wert
*Carl C. Rittenberger, Sr., Inc., Zanesville
*Roberts Meats, Camden
*Rockford Locker Service, Rockford
*Routh Packing Co., Inc., Tiffin
*St. Mary's Cooperative Locker Service, Swanton
Richard G. Sturgis & Charles R. Ralston dba Sturgis Packing Company, Kenton
*Superior Beef, Inc., Dayton
*Suter's Meat Market, Greenville
*Trenton Frozen Locker, Trenton
*Valley Packing Co., Inc., Lansing
*R. F. VonderHaar dba VonderHaar Markets, Inc., Fort Recovery
*Marjorie Weber dba Woodsfield Packing Company, Woodsfield
*Werling and Son, Inc., Burkettsville
*Winners Meat Farm, Greenville
Robert Winner Sons, Inc., Osgood
*Zink Meat Products, Miamisburg

OKLAHOMA

*Abbott Processing Plant, Gracemont
*A and J Meat Processing, Lawton
*Anchor Packing Company, Tulsa
*Apache Meat Processing, Inc., Apache
*Arctic Locker Plant, Davis
*Banfield of Tulsa, Tulsa
*Bauer & Son Slaughterhouse, Sand Springs
*Braden Packing Company, Ponca City
*Joe S. Brown & Sons Packing Company, Tulsa
*B.T.'s Packing Company, Chickasha
*Buerger Brothers Slaughterhouse, Oklahoma City
*Cable Meat Center, Marlow
*Calera Processing Plant, Calera
*Canadian Valley Meat Company, Oklahoma City
*C. H. Miller and Son Packing Company, Sapulpa
*Clinton Packing Company, Clinton
*Cosby's Meat Processing, Enid
*Davis Packing Plant, Stigler
*Dudley Tucker Slaughterhouse, Durant
*Enid Packing Company, Enid
*Fairfax Packing Company, Fairfax
*Fincannon and Son, Sand Springs
*Ft. Cobb Locker, Ft. Cobb
*Gibson Meat Company, Lawton
*Harris Packing Company, Oklahoma City
*Harymons Slaughter House, Tuttle
*Minco Meat Company, Minco
*Moores Processing Plant, Antlers
*Moore's Processing Plant, Durant
*Mountain View Meat Company, Stilwell
*O'Brien Meat Company, Tulsa
*R & S Packing Company, Tonkawa
*Ralph Crane Packing Company, Perkins
*Green County Smoke House, Tahlequah
*Elmer Miller Packing Company, Covington
*Okmulgee Packing Company, Okmulgee
*Red Steer Processing Plant, Calumet
*Sterling Meat Company, Sterling
*Walker Meats, Carrollton
*Wickham Packing Company, Sapulpa
*Woods Meat Processing Plant, Westville
*W. R. Meat Company, Sulphur

SOUTH CAROLINA

*Bishop Slaughtering House, Erhardt
*Blue Ridge Beef, Belton
*Blue Ridge Beef Plant, Inc., Pageland
*C. G. Burbage Meats, N. Charleston
*Carolina Abattoir, Columbia
*Caughman Meat Plant, Lexington
*Cheraw Packing, Cheraw
*Childress Poultry Company, Lauren
*Coleman's Meats & Processing Company, Duncan
*Conway Refrigerator and Locker Company, Conway
*Cottingham Packing Company, Dillon
*Count's Sausage Company, Prosperity
*Cromer's Abattoir, Inman
*Edgefield Locker Plant, Inc., Edgefield
*Fountain Inn Frozen Food Plant, Inc., Fountain Inn
*Gilliam Provision Company, Inc., Pelzer
*G & W Packing Company, Hickory Grove
*Hemingway Refrigerator and Locker Company, Hemingway
*Holly Hill Locker Company, Holly Hill
*Kimmerlin Meats, Inc., Orangeburg
*Lancaster Frozen Foods, Inc., Lancaster
*Loris Cold Storage, Inc., Loris
*Lynn's Meat & Produce, Darlington
*Marvin Meats, Inc., Hollywood
*Mullins Food Processing Corp., Mullins
*Nichols Cold Storage, Nichols
*Oconee Abattoir, Seneca
*Palmetto Meat & Packing Company, Inc., Moncks Corner
*Ravenel Abattoir, Ravenel
*R & R Meats, Walterboro
*Richardson's Slaughter Plant, Gresham
*Saluda Frozen Food Center, Saluda
*Snowhill Processing Plant, Chesterfield
*South Carolina Department of Corrections, Columbia
*Sumter Frozen Foods, Inc., Sumter
*Union Packing Company, Inc., Union
*Vaughn Packing Company, Inc., Greer
*Walker Farms Abattoir, Anderson
*Weinburg's Sausage Plant, Darlington
*Williamsburg Packing Company, Kingstree
*Wilson Sausage Company, Florence
*Winn's Locker Plant, Estill
*Wright's Provision Company, Inc., Anderson

TEXAS

*Allen's Wholesale Meats, Inc., McKinney
*Anderson Slaughtering & Processing, Inc., Sherman
*Atlanta Locker Plant, Atlanta
*Auge Packing Company, San Antonio
*Berryhill Packing Company, Inc., Levelland
*Burkes Quality Meats, Lufkin
*Caddo Packing Company, Inc., Marshall
*Graham Ice & Locker, Graham
*Haley's Meats, Crowley
*Hensley Packing Company, Denton
*Kay Packing Company, Inc., Houston
*Kleimann Meat Packing Company, Tomball
*Morton Packing Company, Morton
*Nemecek Brothers, West
*Peveto Packing Company, Orange
*Tyler Packing Company, Tyler
*Zummo Meat Company, Beaumont

UTAH

*Dahl Brothers Packing Company, South Jordan
*Double D Pack, Inc., Brigham City
*Eliason Packing Company, Inc., Logan
*Lower Packing Company, Smithfield
*Dale T. Smith & Sons Meat Packing Company, Inc., Draper
*Spanish Fork Packing Company, Spanish Fork

VIRGINIA

George H. Meyer Sons, Inc., Richmond
*Lee Packing Company, Pennington Gap
Meixels Meat Packing, Chesapeake
*Suffolk Packing Company, Inc., Suffolk

WEST VIRGINIA

*Barnharts Beef & Pork, Hedgesville
*Bluegrass Dressing Plant, Lewisburg
*Camp Packing Company, Parkersburg
*Chadwick Slaughterhouse, Wayne
Cloverdale Packing, Inc., Parkersburg
*DeVault Meat Packing, So. Morgantown
*Edens Slaughterhouse, Bills Creek, Winfield
*Edwards Custom Meats, Gallipolis
Fancher's Meats, Shinnstown
Fotos and Company, Cranberry
*Glaspell Meats, Shinnstown
Greenbrier Foods dba Jeffries Slaughterhouse, Lewisburg
*Harkers Custom Slaughtering, Fairview
*Harris Meat Processing, Burlington
*Hawse Food Market, Moorefield
*Huffs Slaughtering, Delbarton
*Hyde's Meat Market, Enterprise
*Independent Dressed Beef Company, Inc., Morgantown
*Jones Custom Processing, Ona
Frank Kidwiler Butcher Shop, Harpers Ferry
*Lambert Packing Company, Squire
*Livengood Slaughter House, Centenary
*S. S. Logan Packing Company, Huntington
*Lubeck Meat Packing, Inc., Lubeck
*L. M. McCown and Son, Charleston
*McDaniel Custom Butchering, West Columbia
Martini Packing Company, Inc., Wheeling
*Murphy's Slaughters, Volga
*Nate Stuart and Son, Inc., Mt. Claire
*Rolfe Custom Slaughtering, Ona
*Romney Slaughterhouse, Romney
*Rush's Custom Slaughtering, Fairview
*Smittle Packing, Paden City
Solomon's Market, Fairview
*Spitznogle, Glen L., Slaughtering Establishment, Blacksville
*Staggs Meat Market, Burlington
*Steve Davis Custom Butchering, Fairview
*Thompson Brothers, Brushy Fork

*Tony's Packing Company, Beckley
*Vincent's Community Market, Shinnstown
*Virts Processing Plant, Bunker Hill
*Wade Meat Processing, Morgantown
*Wines Weston Meats, Weston
*Winfield Custom Slaughtering, Winfield
*E. G. Wolfe, Jr., Evans
*Woodell's Meats, Green Bank
*Yoho's Slaughterhouse, Pleasant Valley
*Young & Stout, Bridgeport
*Zien Farm, Irish Ridge

WISCONSIN

Bob's Country Market, Woodville
Buster's Cheese House, Turtle Lake
Central Packing Company, Sullivan
*Clinton Packing, Inc., Clinton
Coenen Packing Company, Appleton
Dreier's Meat Market, Black Creek
Faust, Henry & Sons, Mayville
Feider's Meats, Belgium
Fennie Meat Plant, Colfax
Foss Locker Plant, Sparta
Green County Frozen Food, Monroe
Hagert's Locker Service, Siren
Harry Hanson's Meat Market, Franksville
Helland's Food and Locker Service, Juda
Holmen Locker Service, Holmen
Jay Dee Cutting, Rosholt
Kimmes Hereford Farm, Superior
*Highway 45 Locker Plant, Inc., Antigo
Lake Geneva Pack, Inc., Geneva
Luck Meats and Locker Service, Luck
Marceille's Meats, Wausau
Marchant Food, Inc., Brussels
Paulus Market, Cedarburg
*Royal Meats, Watertown
Sawyer Farm & Meat Plant, Inc., East Troy
Schroedl's Market, Jefferson
Seymour Meat Processing, Peshtigo
J. Schams Company, La Crosse
S & S Meats, Stoughton
Stemmerdink Livestock Company, Oostburg
*Stricklers Market, New Glarus
Super Lockers, Inc., Amery
Tarlton Meat Products, Athelstane
Thomson Packing Company, Inc., West De Pere
Townsend-Piller Packing Co., Cumberland
Weber's Processing Plant, Inc., Cuba City
Weinstein's Packing Co., Superior
*Wunderlich Packing Co., Sharon

SPECIFICALLY APPROVED STOCKYARDS

The following stockyards preceded by an asterik are specifically approved for the purposes of §§ 78.7, 78.8, 78.12a, Title 9, Code of Federal Regulations, concerning brucellosis reactors, exposed cattle and cattle from quarantined areas, and for the purposes of §§ 78.9, 78.10, and 78.11 of said Title 9, concerning cattle not known to be affected with brucellosis, cattle from qualified herds, and cattle from herds of unknown status. The following stockyards not preceded by an asterik are specifically approved for the purposes of §§ 78.9, 78.10, and 78.11, concerning cattle only from herds not known to be affected, cattle from qualified herds, and cattle from herds of unknown status, because these markets entered into a Memorandum of Understanding with the State and Veterinary Services containing standards which prohibit the handling of brucellosis reactors, exposed cattle, and cattle from quarantined areas. The approved stockyards not preceded by an asterik are prohibited from handling brucellosis reactors, exposed cattle and cattle from quarantined areas because of a restriction imposed by the State or because the approved stockyard does not have adequate facilities to assure that the various classes of cattle can be kept adequately segregated to prevent the spread of brucellosis.

ALABAMA

*Alabama Livestock Auction, Inc., Uniontown
*Arab Stockyards, Arab
*Barrett Livestock Market, Inc., Wetumpka
*Capital Stockyard, Montgomery
*C.B.S. Cattle Company, Inc., Montgomery
*C. L. Chambers & Son, Brundidge
*Chatom Livestock Auction Co-operative, Chatom
*Cherokee County Stockyard, Centre
*Cleburne County Livestock Sales, Inc., Ranburne
*Conecuh Stock, Evergreen
*Cullman Stockyard, Cullman
*Dadeville Stockyards, Inc., Dadeville
*Dothan Livestock Auction, Inc., Dothan
*Enterprise Livestock Auction, Inc., Enterprise
*Escambia County Cooperative, Inc., Brewton
*Farmers Cooperative Market, Inc., Frisco City
*Farmers Cooperative Market, Inc., Opp
*Farmers Livestock Co-op., Elba
*Fayette Stockyards, Inc., Fayette
*Florence Trading Post, Florence
*Geneva Stockyards, Inc., Geneva
*Gray & Sons Stockyard, Clanton
*Hamilton Stockyard, Inc., Hamilton
*Headland Stockyards, Inc., Headland
*Henry County Livestock Association, Inc., Abbeville
*Hodges Stockyard, Inc., Montgomery
*Hooper Stockyard, Inc., Montgomery
*Kennamer Livestock Commission Co., Guntersville
*Kennett-Murray Company, Montgomery
*Limestone County Stockyard, Inc., Athens
*Linden Stockyard, Linden
*Livingston Stockyard, Livingston
*Louisville Livestock Company, Louisville
*Madison County Livestock Company, Huntsville
*Marion Stockyard, Inc., Marion
*McLane-Garret Cattle Company, Inc., Montgomery
*Northwest Alabama Livestock Association, Russellville
*Parkman Cattle Company, Inc., Hope Hull
*Pickens County Livestock Commission Co., Aliceville
*Roanoke Stockyard, Inc., Roanoke
*Robertsdale Livestock Auction, Inc., Rob>ertsdale
*L. A. Roll & Son Cattle Co., Montgomery
*Stokes & Brogden Stockyard, Inc., Andalusia
*Triple S Stockyards, Inc., Montgomery
*Valley Stockyard, Decatur
*Wallace Livestock Auction, Inc., Ashville
*Jerry Welsh Livestock, Montgomery
*West Alabama Stockyard, Eutaw
*White's Livestock Auction, Morris
*Winfield Livestock Commission Company, Winfield

ARIZONA

*Arizona Livestock Auction, Inc., Phoenix

ARKANSAS

*Arkansas National Stockyards, Inc., Little Rock
*Ash Flat Livestock Auction, Inc., Ash Flat
*Atkins Livestock, Atkins
*Batesville Livestock Auction, Inc., Batesville
*Beebe Auction Company, Beebe
*Bentonville Livestock Auction, Bentonville
*Boone County Livestock Auction, Harrison
*Carroll County Livestock Auction, Berryville
*Cattlemen's Livestock Market, Glenwood
*Central Arkansas Auction, Morrilton
*Clark County Livestock Auction Co., Arkadelphia
*Cleburne County L/S Auction, Heber Springs
*Corning Livestock Auction, Inc., Corning
*County Line Sale Barn, Inc., Ratcliff
*Decatur L. S. Auction, Decatur
*Drew County Auction Sale, Monticello
*Eudora Livestock Auction Company, Eudora
*Farmers Livestock Auction, Springdale
*Farmers and Ranchers Livestock Auction, Inc., Charlotte
*Farmers and Ranchers Livestock Auction, Mountain View
*Farmers & Ranchers Livestock Auction, Inc., Batesville
*Fulton County Auction, Salem
*Glover Livestock Commission Company, Pine Bluff
*Bob Gorden Livestock Auction, Mena
*Harrison Stockyard Auction, Inc., Harrison
Hope L/S Auction, Inc., Hope
*Jonesboro Stockyard, Jonesboro
*Lewis Livestock Auction, Conway
*London Livestock Auction, London
*Magnolia Livestock Auction, Magnolia
*Meridith Livestock Auction, Inc., Pocahontas
*Montgomery County Auction, Mt. Ida
*Montgomery Livestock Auction, Searcy
*Mountain Home Livestock Auction, Inc., Mountain Home
*Nettleton Stockyards, Jonesboro
*North Arkansas Livestock Auction, Green Forest
*Nuel Hill Livestock Auction, Batesville
*Ola Livestock Auction, Ola
*Paragould Stockyards, Inc., Paragould
*Purcell Livestock, Purcell
*Rector Auction Barn, Inc., Rector
*Rex White Livestock Auction, Russelville
*Saline-Ouachita Valley Commission Co., Warren
*Scott County Livestock Auction, Waldron
*Searcy County Auction Company, Marshall
*Shantz Livestock Auction, North Little Rock
*Siloam Springs Sale Barn, Siloam Springs
*Van Buren County Auction, Clinton
*Washington County Sales Company, Fayetteville

COLORADO

*Alamosa Auction, Alamosa
*A. A. Blakley Livestock Commission Co., Inc., Denver
*Basin Livestock Commission Co., Inc., Durango
*Brush Livestock of Colorado, Inc., Brush
*Burlington Producers Livestock Marketing Assn., Burlington
*Calhan-Cash Auction Market, Calhan
*Cortez Livestock Auction, Inc., Cortez
*Delta Sales Yard, Delta

*Denver Stockman's Market Company, Denver
*Elizabeth Livestock Auction, Elizabeth
*Farmer & Rancher Livestock Commission Co., Fort Collins
*Fowler Auction Company, Fowler
*Greeley Producers Association, Greeley
*Hotchkiss Sale Yard, Hotchkiss
*Kay National Western Livestock Market, Inc., Denver
*K & R Livestock Commission Co., Broomfield
*La Junta Livestock Commission Co., La Junta
*Lamar Livestock Commission Co., Lamar
*Limon Livestock Auction Company, Limon
*Livestock Exchange, Inc., Brush
*Longmont Sale Yard, Longmont
*Monte Vista Livestock Commission Company, Inc., Monte Vista
*Ranchland Livestock Commission Co., Inc., Wray
*Rifle Livestock, Inc., Rifle
*Salida Livestock Sales, Inc., Salida
*Sterling Livestock Commission Co., Inc., Sterling
*Stratton Livestock Marketing Center, Stratton
*Tri-County Livestock Commission Company, Broomfield
*Valley Livestock Auction Company, Fruita
*Valley Livestock Auction Company, Grand Junction
*Winter Livestock Commission Company, La Junta
*Yuma Livestock Auction, Yuma
*Zavislan Livestock Auction, Pueblo

CONNECTICUT

Middlesex Livestock Auction, Durham
North Franklin Commission Sale, North Franklin

DELAWARE

*Carroll's Sales, Inc., Felton

FLORIDA

Cattleman's Livestock Auction of Tampa, Inc., Tampa
*Chipley Livestock Company, Chipley
Columbia Livestock Market of Lake City, Inc., Lake City
*Interstate Livestock Auction Market, Inc., Seffner
*Jacksonville Livestock Auction, Inc., Whitehouse
*Jay Livestock Auction Market, Jay
*Madison Livestock Auction Market, Inc., Madison
Monticello Livestock Market, Inc., Monticello
*Neel & Edwards Livestock Company, Quincy
*Tindel Livestock Auction Market, Inc., Graceville
*West Florida Livestock Market, Inc., Marianna
*Suwannee Valley Livestock Market, Live Oak

GEORGIA

*Bainbridge Auction Market, Inc., Bainbridge
*Carroll County Livestock Sales Barn, Carrollton
*Columbus-Muscogee Livestock Auction, Inc., Columbus
*Coosa Valley Livestock Company, Rome
*Franklin Country Livestock Market, Carnesville
*Georgia Farmers Livestock, Cumming
*Georgia Farm Products Sales Corp., Thomaston
*La Grange Stockyards, La Grange
Lanierland Livestock Auction, Gainesville
*North Georgia Farmers Livestock, Canton
*Peoples Livestock Market, Inc., Cartersville
*Pierce County Stock Yard, Inc., Blackshear
*Seminole Livestock, Inc., Donaldsonville
Southwest Georgia Livestock Market, Inc., Camilla
*Sumter Country Livestock Association, Americus
*Valdosta Livestock Company, Valdosta
*Wheeler Brothers Livestock Market, Eastonolle

IDAHO

*Blackfoot Livestock Commission Co., Blackfoot
*Boise Valley Livestock Commission Co., Caldwell
*Bonners Ferry Livestock, Inc., Bonners Ferry
*Cahce Valley Auction, Prestion
*Coeur d'Alene Livestock, Inc., Coeun d'Alene
*Cottonwood Sales Yard, Cottonwood
Custer Country Livestock Marketing Assn., Mackay
*Emmett Livestock Commission Co., Emmett
*Gooding Livestock Commission Co., Gooding
*Idaho Livestock Auction, Idaho Falls
*Jerome Producer's Livestock, Jerome
*Nampa Livestock Market, Inc., Nampa
*Ranchers Auction Company, Inc., Twin Falls
*Rexburg Livestock Auction, Inc., Rexburg
*Salmon River Livestock Market, Salmon
*Shoshone Salesyard, Inc., Shoshone
*Spencer Livestock Commission Co., Lewiston
*Treasure Valley Livestock Auction, Inc., Caldwell
*Twin City Sales Yard, Inc., Lewiston
*Twin Falls Livestock Commission Co., Twin Falls
*Valley Livestock Commission Co., Rupert
*Weiser Livestock Commission Co., Weiser

ILLINOIS

*Barnard Livestock Auction Market, Wanye City
*Barry Livestock Marketing Center, Pacatonia
*Bloomington Livestock Commission Co., Bloomington
*Breed's Livestock Sales, Elizabeth
*Carthage Livestock Auction, Carthage
*Chicago-Joliet Marketing Center, Inc., Joliet
*Dameron Livestock Auction, Inc., Vienna
*Danville Livestock Commission Co., Danville
*Decker's Livestock, Inc., Milford
*DeWane Livestock Exchange, Belvidere
*Greenville Livestock, Inc., Greenville
*Heinold Cattle Market, Brookport
*Heinold Livestock Sales, El Paso
*Illinois Auction Commission Company, Paris
*Interstate Producers Livestock Association, Shelbyville
*Jennings Sale Company, Macomb
*Kankakee Livestock Company, Bourbonnais
*Kewanee Sale Barn, Kewanee
*Mercer County Livestock Auction, Viola
*Olney Livestock Commission Co., Olney
*Paris Livestock Sales Company, Paris
*Peoria Union Stockyards Company, Peoria
*Rock Island Auction Sales, Inc., Rock Island
*Harry Schrader Marketing Center, Dakota
*St. Louis National Stockyards Co., National Stockyards
*United Market Center, Inc., Goreville
*Winslow Marketing Center, Inc., Winslow

INDIANA

*Boswell Salebarn, Boswell
*Claypool Sales, Inc., Silver Lake
*Delta Livestock Auction & Commission Co., Fort Wayne
*Evansville Union Stockyards Company, Inc., Evansville
*Henry County Livestock Auction, New Castle
*Indianapolis Livestock Market, Indianapolis
*Lowell Livestock Auction, Lowell
*Owen & Monroe Company Feeder, Gosport
*Producers Livestock Assn., Vincennes
*Producers Marketing Association, Inc., Centerville
*Producers Marketing Association, Columbia
*Producers Marketing Association, W. Lafayette
*Producers Marketing Association, Montpelier
*Producers Marketing Association, Terre Haute
*Reynolds Salebarn, Reynolds
*Rochester Sale Barn, Rochester
*Shipshewana Livestock Auction, Shipshewana
*Star Sale Barn, Greensburg
*Stoney Pike Salebarn, Loganport
*Topeka Livestock Auction, Inc., Topeka
*Valparaiso Community Salebarn, Valparaiso

IOWA

Ackley Sales Pavilion, Ackley
Adams County Livestock Auction, Corning
Adel Sales Pavilion, Adel
Albia Sales Company, Inc., Albia
Algona Livestock Auction & Exchange, Algona
Anamosa Livestock Auction Sales, Anamosa
Anita Livestock Auction Company, Anita
Aplington Livestock Sales Co., Inc., Aplington
Audubon County Livestock Exchange, Audubon
Avoca Auction Co., Avoca
Bedford Sales Co., Bedford
*Belle Plaine Livestock Auction, Inc., Belle Plaine
*Bingley Sale Co., Inc., Knoxville
Bleil & Chapman Livestock Auction, Moville
Bloomfield Livestock Market, Inc., Bloomfield
Bradley Livestock Auction, Red Oak
Carroll Livestock Sales, Carroll
Cascade Sales Barn, Cascade
Centerville Sales Company, Centerville
*Central Iowa Stockyards, Webster City
*Chariton Sales, Inc., Chariton
Clarinda Auction Co., Clarinda
Phil Clark & Sons Sales Company, Knoxville
Colfax Livestock Sales Co., Colfax
Coggon Livestock Sales Co., Coggon
Cresco Livestock Market, Cresco
*Creston Livestock Auction, Inc., Creston
Decorah Sales Commission, Decorah
Denison Livestock Auction, Denison
DeVries Auction, Buffalo Center
*Dunlap Livestock Auction, Dunlap
Dyersville Sales Barn, Dyersville

Edgewood Sales Barn, Inc., Edgewood
*Elkader Sales Barn, Elkader
Fairfield Livestock Commission, Fairfield
Farmers Auction Market, Eldora
Farmers Livestock Auction, Carroll
Forest City Cow Palace/Jennings Bros., Inc., Forest City
Greenfield Community Sale, Inc., Greenfield
Grinnell Livestock Exchange, Grinnell
*Guthrie Stock Pavilion Company, Inc., Guthrie Center
Hampton Auction Sales, Hampton
Hawkeye Livestock Auction, Fairfax
The Hayes Cattle Co., Ida Grove
*Humeston Livestock Auction, Humeston
Independence Sales Company, Inc., Independence
Interstate Producers Livestock Assn., Waukon
Iowa County Livestock Auction, Marengo
Irwin Commission Co., Irwin
Jansma & Van Kley, Sioux Center
Kalona Sales Barn, Inc., Kalona
Keoco Auction Co., Sigourney
*Keosauqua Sale Co., Inc., Keosaqua
Kimballton Auction Co., Kimballton
*Lamoni Livestock Sales Co., Lamoni
Le Mars Livestock Sales Co., Le Mars
Lenox Livestock Auction, Lenox
Leon Sales, Leon
Livestock Auction, Denison
Lizer Livestock Auction, Inc., Gowrie
Madison County Auction, Winterset
Manning Livestock Auction, Manning
Mapleton Livestock Sales Co., Mapleton
Maquoketa Sales Co., Inc., Maquoketa
Iowa Falls Livestock Sales, Iowa Falls
Massena Livestock Auction, Massena
Mechanicsville Sale Barn, Mechanicsville
Middletown Auction Sales, Inc., Middletown
Monticello Sales Barn, Monticello
Montezuma Sales Company, Inc., Montezuma
Moorhead Auction Company, Moorhead
Mount Ayr Livestock Market, Mount Ayr
Northeast Iowa Sales Commission, Waukon
North Iowa Livestock Exchange, Garner
Nesvik Livestock Market, Spirit Lake
*New Liberty Livestock Auction, New Liberty
Northside Sales Co., Sibley
Oelwein Dairy Sales, Oelwein
Oelwein Livestock Exchange, Oelwein
Ollie Livestock Exchange, Ollie
Orient Sales Co., Inc., Orient
Osceola Sales Company, Osceola
Oskaloosa Livestock, Inc., Oskaloosa
Perry Sales Pavilion, Perry
Petersen Sheep & Cattle Company, Inc., Spencer
Riceville Sale Pavilion, Riceville
Rock Valley Sales Co., Rock Valley
Rubey Auction Company, Red Oak
Russell Sales Co., Inc., Russell
Sales Company of Hawarden, Inc., Hawarden
Sheldon Livestock Sales Company, Sheldon
Shenandoah Livestock Auction, Inc., Shenandoah
*Sioux City Stockyards, Sioux City
Spencer Dairy Cattle Exchange, Spencer
Spencer Livestock Sales, Inc., Spencer
Stanton Livestock Auction Market, Stanton
Storm Lake Auction Co., Storm Lake
Story City Auction Sales, Inc., Story City
Stuart Sales Company, Stuart
*Tama Livestock Auction, Inc., Tama
Thielen Cattle Company, Harlan
Thompson Livestock Commission Co., Inc., Davis City
Tri-State Livestock Auction Company, Inc., Sioux Center
Traer Auction Company, Inc., Traer
United Livestock Auction, Inc., Maquoketa
Van's Calf Farm, Hospers
Waitt Cattle Company, Sioux City
Walker Sales Company, Walker
*Wapello Livestock Sales, Inc., Wapello
Washington Livestock Auction, Inc., Washington
Waverly Sale Company, Waverly
Wayland Livestock Auction Market, Wayland
West Union Auction Exchange, West Union
Winneshiek Co-op Sales Commission, Decorah
Jake Zoet Livestock Company, Sheldon.

KANSAS

*Allen County Livestock Auction, Gas City
*Anderson County Sale Company, Garnett
*Anthony Livestock Company, Anthony
*Atchison Co. Auction Co., Inc., Atchison
*Atwood Sale Barn Inc., Atwood
*Beloit Livestock Auction, Inc., Beloit
*Caldwell Community Sale, Caldwell
*Cedar Vale Sales Company, Cedar Vale
*Central Livestock Corporation, South Hutchinson
*Chandler Livestock Auction, Smith Center
*Circle "L" Livestock Sale, Liberal
*Clay Center Livestock Company, Inc., Clay Center
*Coffey County Livestock Market, Burlington
*Coffeyville Livestock Sales Co., Inc., Coffeyville
*Coffeyville Stockyards, Inc., Coffeyville
*Colby Livestock Auction, Inc., Colby
*Coldwater Commission Company, Coldwater
*Council Grove Livestock Commission Co., Council Grove
*Dighton Livestock Auction, Dighton
*Dodge City Livestock Commission Co., Inc., Dodge City
*Douglass Livestock Commission Co., Douglass
*El Dorado Livestock Auction, El Dorado
*Emmett Livestock Sales, Emmett
*Emporia Livestock Sales Co., Inc. Emporia
*Eureka Auction Sale, Eureka
*Farmers and Ranchers Commission Company, Salina
*Farmers Livestock Exchange, Inc., Wakarusa
*Fort Scott Sale Company, Inc., Fort Scott
*Franklin County Sale Company, Inc., Ottawa
*Fredonia Livestock Sales Company, Inc., Fredonia
*Garden City Livestock Market, Inc., Garden City
*Glasco Livestock Exchange, Glasco
*Goodland Livestock Commission Co., Goodland
*Great Bend Livestock Commission, Inc., Great Bend
*G and V Cattle Company, Elkhart
*Hansen Livestock Auction, Concordia
*Hays Livestock Market Center, Hays
*Herington Livestock Commission Co., Herington
*Hiawatha Auction Inc., Hiawatha
*Hill City Sale Barn, Hill City
*Hoxie Livestock Sales Co., Hoxie
*Hutchinson Livestock Commission Co., Hutchinson
*Holton Community Sale, Holton
*Holton Livestock Exchange Inc., Holton
*Iola Community Sale, Iola
*J & J Commission Company, Effingham
*Junction City Livestock Sales, Junction City
*Kingman Community Sale, Kingman
*Kiowa Sales Company, Inc., Kiowa
*Larned Livestock Market Center, Larned
*Lawrence Livestock Sale Co., Inc., Lawrence
*Manhattan Commission Company, Inc., Manhattan
*Mankato Livestock, Inc., Mankato
*Marysville Livestock Commission Co., Marysville
*McKinley-Winter Livestock Commission Company, Inc., Dodge City
*Medicine Lodge Sale Co., Inc., Medicine Lodge
*Miami County Livestock Co., Inc., Medicine Lodge
*Miami County Livestock Co., Inc., Paola
*Moline Auction Co., Inc., Moline
*Norton Livestock Auction, Inc., Norton
*Oakley Livestock Commission Co., Inc., Oakley
*Oberlin Livestock Commission Co., Inc., Oberlin
*Onaga Livestock Commission Company, Onaga
*Osborne Livestock Commission Co., Inc., Osborne
*Overbrook Livestock Auction, Overbrook
*Parsons Livestock Auction, Inc., Parsons
*Phillipsburg Sales Co., Inc., Phillipsburg
*Plainville Livestock Commission Co., Inc., Plainville
*Pratt Livestock Commission Co., Pratt
*Quinter Livestock Commission Co., Quinter
*Reynolds Livestock Sales, Abilene
*Rezac Livestock Commission Company, St. Mary's
*Rush County Livestock Sale, La Crosse
*Russell Livestock Commission Company, Russell
*Sabetha Livestock Auction, Sabetha
*St. Francis Livestock Sales Company, St. Francis
*The Stockmans Livestock Exchange, Bellville
*Sylvan Sales Company, Inc., Sylvan Grove
*Syracuse Sale Company, Syracuse
*Wakeeney Livestock Commission Co., Inc., Wakeeney
*Wichita Union Stockyards, Witcha
*Winfield Livestock Auction Co., Inc., Winfield

KENTUCKY

*Albany Stockyards, Albany
*Blue Grass Stockyards, Inc., Lexington
R. B. Berry and Son Livestock Company, Inc., Clinton
*Bowling Green Livestock Market, Inc., Bowling Green
*Bourbon Stockyards Company, Inc., Louisville
*Bourbon Livestock Center, Bowling Green
*Boyle County Stockyards, Danville
*Breckinridge County Livestock Center, Irvington
Brown Livestock Company, Clinton
*Bullitt County Stockyards, Shepherdsville
*Burkesville, Stockyard, Burkesville
Carnes Livestock Market, Leitchfield
*Catlettsburg Livestock Sales Co., Catlettsburg
*Christian County Livestock Market, Inc., Hopkinsville
*Clark County Livestock Market, Winchester
*Clay-Wachs Stockyards, Lexington
*Edmonton Livestock Market, Edmonton
*Elizabethtown NFO Reload, Glendale

Faire Stockyard, Bardwell
*Farmers Commission Company, Thompkinsville
*Farmers Livestock Market, London
*Farmers Livestock Market, Mayfield
*Farmers Livestock Market of Glasgow, Inc., Glasgow
*Farmers Livestock Marketing Co-op, Russellville
*Farmers Stockyard, Flemingsburg
*Franklin-Simpson Livestock Company, Franklin
*Garfield Auction Market, Harned
*Garrard Stockyards Company, Lancaster
*Glasgow Livestock Market, Glasgow
*Good Day Stockyards, Princeton
*Graves County Livestock, Inc., Mayfield
*Grayson County Stockyard Market, Inc., Leitchfield
*Green County Stockyards, Greensburg
*Hart County Livestock Market, Munfordville
*Henry County Stockyard, Inc., Sulphur
*Horse Cave Stockyard, Horse Cave
*John M. Riley Livestock Market, Mayfield
*Kentuckiana Livestock Market, Owensboro
*Kentucky-Tennessee Livestock Market, Inc., Guthrie
*King Livestock Company, Inc., Hopkinsville
*Laurel Sales Company, London
Fred Madison and Sons Sale Barn, Bowling Green
*Madison Sales Company, Richmond
*Mammoth Cave Marketing Corporation, Smiths Grove
Mantle Stockyards, Bardwell
*Maysville Stockyards, Maysville
*Morganfield Stockyard, Morganfield
*N.F.O. Collection Point, Walton
*NFO Freedom Collection Point, Mt. Herman
*New Farmers Livestock Market, Somerset
Ohio Valley Producers Livestock Association, Inc., Clinton
*Owen County Stockyards, Owenton
*Owsley County Stockyards, Booneville
*Paducah Livestock Auction, Paducah
*Paintsville Livestock Market, Paintsville
*Paris Stockyards, Inc., Paris
*Pennyrile Stockyard, Inc., Hopkinsville
Purchase Reload NFO, Fancy Farm
*Ratliff Stockyard, Mt. Sterling
*Russell County Stockyards, Russel Springs
*Schneider and Colston Sale Barn, Walton
*Somerset and Pulaski County Livestock Market, Inc., Somerset
*Taylor County Stockyards, Campbellsville
*Washington County Livestock Center, Springfield
*Wayne County Livestock Market, Monticello
*West Kentucky Land & Cattle Company, Inc., Marion
*Williamstown Stockyards, Inc., Williamstown

LOUISIANA

*Abbeville Commission Company, Abbeville
*Amite Livestock Company, Inc., Amite
*Bastrop Livestock Auction, Bastrop
*Clark Livestock Commission Company, Benton
*Delhi Livestock Auction, Inc., Delhi
*DeQuincy Livestock Commission Co., DeQuincy
*DeRidder Livestock Commission Co., DeRidder
*A. Dominique's Cow Palace, Inc., Markesville
*Dominique Stockyards, Inc., Baton Rouge
*Dominique's Inc., Opelousas
*Eunice Stockyards,Inc., Eunice
*Fairchild Livestock Sales, Inc., dba North Tangipohoa Stockyard, Kentwood
*Farmer & Stockman, Clarence
*Franklin Livestock Auction, Winnsboro
*Franklinton Stockyards, Inc., Franklinton
*Guilbeau-Kennedy Stockyards, Inc., Baton Rouge
*Guilbeau-Kennedy Stockyards, Opelousas
*W. H. Hodges & Company, Inc., Crowley
*W. H. Hodges & Company, Inc., New Roads
*W. H. Hodges & Company, Inc., Alexandria
*Homer Livestock Sales, Inc., Homer
*Jennings Tate Commission Barn, Inc., Ville Platte
*Kentwood Livestock Sales, Kentwood
*Livestock Producers, Inc., Bossier City
*Bill Lyles Auction, Grand Cane
*Lum Brothers Stockyards, Inc., Vidalia
*Mansfield Livestock Auction, Mansfield
*Micelle's Commission Yard, Inc., Lake Charles
*Raceland Stockyards, Raceland
*Red River Livestock Auction Company, Coushatta
*Voiron's Stockyard, Thibodaux
*West Monroe Livestock Auction, Inc., West Monroe

MAINE

Crosman's Livestock Sales, Corinna
Ben Tilton & Sons, Corinth

MARYLAND

*Aberdeen Sales Company, Inc., Aberdeen
*Baltimore Livestock Exchange, West Friendship
*Cumberland Stockyards, Inc., Cumberland
*Farmers Livestock Exchange, Inc., Boonsboro
Farmers Market and Auction, Charlotte Hall
*Four States Livestock Auction, Inc., Hagerstown
*Frederick Livestock Auction, Inc., Frederick
*Friend's Stockyards, Inc., Accident
*Grantsville Community Auction, Inc., Grantsville
*Hunters Sale Barn, Inc., Rising Sun
*Harry Rudnick and Sons, Inc., Galena
*Western Maryland Stock Yards, Inc., Westminster
Woodsboro Livestock Sales, Woodsboro

MASSACHUSETTS

Farmers Live Animal Market Exchange, Inc. (FLAME), Littleton
*Michelson's Livestock Commission Auction, Inc., South Easton
Northamption Coop. Auction Market, Whately

MICHIGAN

Andy Adams Sale Barn, Hillsdale
Coldwater Livestock Auction, Coldwater
Dundee Agricultural, Dundee
Michigan Livestock Exchange, Cassopolis
Napoleon Livestock Auction, Napoleon

MINNESOTA

Arends Sale Yard, Inc., Blue Earth
Benson Livestock Exchange, Benson
Canby Livestock Sales Company, Canby
East-Central Livestock Auction, Inc., Mora
Jim Erickson Livestock, Mabel
Farmers Livestock Auction Market, Caledonia
Ivanhoe NFO Collection Point, Ivanhoe
Kasson Livestock Exchange, Kasson
Lanesboro Sales Commission, Inc., Lanesboro
Lewiston Livestock Market, Lewiston
Long Prairie Livestock Auction Market, Long Prairie
Luverne Livestock Auction, Luverne
*Pipestone Livestock Auction, Pipestone
Rush City Livestock Market, Inc., Rush City
*St. Paul Union Stockyards, St. Paul
Spring Grove Livestock Exchange, Inc., Spring Grove
Spring Valley Sales Co., Inc., Spring Valley
Top Livestock Auction, Edgerton
Truman Livestock Sales, Truman
Zumbrota Livestock Auction Market, Inc., Zumbrota

MISSISSIPPI

*Alcorn County Stockyards, Corinth
*Askew's Buying Station, Edwards
*Baker Commission Company, Batesville
*Billingsley Auction Sale, Inc., Senatobia
*Booneville Commission Company, Booneville
*C & R Farms, Inc., Meridian
*Carl's Commission Company, Pontotoc
*Cattle Incorporated, Hattiesburg
*Central Livestock Company, Brandon
*Central Mississippi Livestock Commission Company, Carthage
*Chicasaw Livestock Auction, Inc., Houston
*Corinth Livestock Commission Company, Corinth
*Cow Palace, Inc., McComb
*Dixie Stockyards, Inc., Meridian
*East Mississippi Farmers Livestock Company, Philadelphia
*Fairchild Livestock Sales, Inc., Hazlehurst
*George County Stockyard, Inc., Lucedale
*George Ford Stockyard, Pontotoc
*Glynn Robinson Stockyard, Inc., West Point
*Grenada Livestock Exchange, Grenada
*Harrell Stockyard, Inc., Morton
*Kosciusko Stockyard, Kosciusko
*Laurel Stockyard, Laurel
*Lexington Sales Company, Inc., Lexington
*Lincoln County Livestock Commission, Inc., Brookhaven
*Lipcomb Commission Company, Como
*Livestock Producers Association, Tylertown
*Lum Commission Company, Vicksburg
*Magnolia Cattle Company, Tupelo
*Meridian Order Buyers, Meridian
*Meridian Stockyards, Inc., Meridian
*Mid-Mississippi Livestock Company, Canton
*Mid-South Order Buyers, Jackson
*Mississippi-Alabama Stockyard, Inc., Saltillo
*Mississippi Livestock Producers Assn., Jackson
*Mississippi Order Buyers, Inc., Jackson
*M and W Cattle Company, Starkville
*M and W Cattle Company, Hattiesburg
*Natchez Stockyards, Inc., Natchez
*New Albany Sales Company, New Albany
*Oxford Livestock Market, Inc., Oxford
Prairie Livestock, Inc., West Point
*Quinn Cattle Company, Jackson
*Quinn & Son Stockyard, Jackson
*Percy Quinn Stockyard, Inc., Jackson
*Ranchers & Farmers Livestock Commission Co., Macon
*Ranchers & Farmers Livestock Commission Company of Starkville, Starkville
*Ripley Sales Company, Guntown
*Ross Cattle Company, Inc., Terry
*S & A Livestock, Inc., Tupelo
*Smith Brothers Stockyard, Inc., Poplarville

*Southeast Mississippi Livestock Farmers Assn., Hattiesburg
*Southwest Stockyard, Port Gibson
*Stockyard Beef Sales, Inc., Tupelo
*Stockyard Dairy Sales, Inc., Tupelo
*Stringer Sale Barn, Columbia
*Tadlock Stockyards, Forest
*Tri-County Stockyards, Inc., Tupelo
*Tri-State Stockyards, Inc., Greenville
*Walnut Sales Company, Walnut
*Wilbanks Stockyard, Carthage
*Winona Stockyard, Winona
*Winston County Community Sale, Louisville

MISSOURI

*Adair County Livestock Market Center, Kirksville
Alton Sale Company, Alton
*Ava Sales Company, Ava
*Beck and McCord Auction Company, Sikeston
Benton County Producers Association, Warsaw
Blansit Dairy Cattle Company, Inc., Ozark
Bollinger County Livestock Producers Association, Marble Hill
*Boonville Livestock Auction, Boonville
*Brookfield Livestock Auction, Inc., Brookfield
*Brunswick Sale Company, Brunswick
Buffalo Livestock Auction, Buffalo
*Cabool Livestock Market, Cabool
Callao NFO Collection Point, Callao
*Callaway Stock Sales Co., Fulton
*W. R. Cantrell & Sons Sale Co., Archie
*Carrollton Livestock Auction, Carrollton
*Cassville Livestock Market, Inc., Cassville
*Cattlemen Auction Company, Inc., Humansville
*Central Livestock Market of Poplar Bluff, Poplar Bluff
*Central Missouri Livestock Auction, Inc., Mexico
*Central Missouri Sales Company, Sedalia
*Central Ozarks Livestock Market, Inc., West Plains
*Chillicothe Livestock Market, Chillicothe
Circle S Livestock Market, Stanberry
*City Scales, West Plains
*Clark County Sales Company, Kahoka
*Columbia Livestock Auction Market, Inc., Columbia
*Concordia Livestock Auction, Concordia
Dent County Livestock Improvement Assn., Salem
*Downing Stockyards, Downing
*Edina Auction Market, Inc., Edina
*El Dorado Sales Company, El Dorado Springs
Fair Play Livestock Auction, Fair Play
*Farmers Auction Company, Mountain View
Farmers and Traders Commission Co., Inc., Palmyra
*Farmington Auction Market, Farmington
Five County Collection Center, Inc., Mountain Grove
4 Corners Collection Point (NFO), Hunnewell
Fortuna NFO Collection Point, Fortuna
Four State Livestock Auction Center, Inc., Diamond
Four Rivers Collection Point, Labadie
*Four-Square Markets, Inc., Marshall
*Franklin County Livestock Association, Sullivan
Bob Franklin Sale Barn, Buffalo
*Fredericktown Auction Company, Inc., Fredericktown
*Fruitland Livestock Market, Inc., Jackson
*Gallatin Livestock Auction, Gallatin
Gasconade County Livestock Improvement Association, Owensville
*Donald Ghere Marketing Facility, Butler
Grant City Livestock Market, Grant City
*Green City Auction Market, Inc., Green City
Howard County NFO Collection Point, Armstrong
*Interstate Livestock Market, Inc., Bethany
Interstate Producers Livestock Association, Cuba
Interstate Producers Livestock Association, Perryville
Interstate Producers Livestock Association, Silva
*Ireland & Thorne Livestock Market Center, Inc., Trenton
*Johnson County Livestock Market, Warrensburg
*Joplin Stockyards Inc., Joplin
*Kahoka Sale Company, Inc., Kahoka
*Kansas City Stockyards Company, Kansas City
Kennett Sales Company, Inc., Kennett
*Kingsville Livestock Auction, Kingsville
Kingsville NFO Collection Point, Kingsville
*Kirksville Community Sale, Inc., Kirksville
Laclede County Livestock Association, Lebanon
LaMonte NFO Livestock, LaMonte
*Lewis County Auction Company, Lewistown
*Lexington Livestock Auction, Lexington
*Licking Livestock Sales, Inc., Licking
Lindsay Livestock Auction, Inc., Lebanon
*Lockwood Community Sales, Lockwood
*Lolli Sale Pavilion, Macon
*Mansfield Livestock Auction, Inc., Mansfield
Maries County Livestock Producers Association, Vienna
*Marshall Livestock Auction, Marshall
Maysville NFO Collection Point, Amity
Mercer County Producers Association, Princeton
*Mercer County Sale Company, Princeton
Meta Collection Point, Inc., Meta
MFA Livestock Association, Inc., Humansville
Midstates Livestock Market, Inc., Maryville
*Mid-West Livestock Market, Inc., Nevada
*Moberly Auction Company, Moberly
*Montgomery County Livestock Auction Co., Montgomery City
C. H. Moore & Son Livestock Yards, Memphis
*Nevada Livestock Auction Company, Inc., Nevada
*New Cambria Livestock Auction Market, New Cambria
NFO Collection Point, Memphis
*Odessa Community Sale, Odessa
*Olean Livestock Market, Inc., Eldon
Oregon Livestock Sales Company, Oregon
Osage County Livestock Producers Association, Linn
*Palmyra Livestock Auction Market, Inc., Palmyra
*Pasley Auction Company, Osceola
Phelps County Livestock Improvement Association, St. James
Bob Pierce Sale Barn, Buffalo
*Pike County Livestock Market, Bowling Green
*Poplar Bluff Sales Company, Inc., Poplar Bluff
*Potosi Livestock Market, Potosi
Charles Reed Livestock, Mountain Grove
Putman County Livestock Marketing Association, Unionville
Puxico Stockyards & Auction Company, Puxico
Reynolds County Livestock Producers Association, Ellington
*Rich Hill Sales Company, Rich Hill
Richland Livestock, Richland
Ripley County Livestock Producers Association, Inc., Doniphan
Roberts Brothers Auction, Bolivar
Rock Port Sales Pavilion, Inc., Rock Port
*Saint Joseph Stockyards, St. Joseph
*Salem Auction, Salem
Savannah Sales Company, Savannah
*St. Clair Livestock Auction, St. Clair
*Scotland County Livestock Auction, Memphis
*Seaton Auction, Inc., Nixa
*Sedgewickville Auction Market, Inc., Sedgewickville
*Shelbina Auction Company, Shelbina
Sho-Me Feeder Pigs, Inc., Thayer
*Ed Smith's Auction Service, Mountain Grove
*South Central Livestock Market, Inc., Vienna
*Stewart Sale Pavilion, Cameron
St. James Auction Company, St. James
Ste. Genevieve Livestock Producers Assn., Ste. Genevieve
Ste. Genevieve Livestock Collection Point, Ste. Genevieve
*Sullivan County Livestock Auction Market, Milan
*Summersville Livestock Market, Summersville
*Union Stockyards Company, Inc., Springfield
*Unionville Sale Company, Unionville
*Versailles Auction Company, Versailles
Washington County Producers Association, Potosi
Warsaw Auction Company, Warsaw
Wayne County Livestock Producers Association, Greenville
Western Missouri Feeder Calf Association, Appleton City
Wheaton Livestock Auction, Wheaton
*Windsor Auction Company, Windsor

MONTANA

*Beaverhead Livestock Market, Inc., Dillon
*Billings Livestock Commission Company, Inc., Billings
*Bitterroot Livestock Market, Hamilton
*Glendive Livestock Sales Company, Glendive
*Kalispell Livestock Auction, Kalispell
*Livestock Auction, Inc., Baker
*Miles City Livestock Center, Miles City
*Missoula Livestock Auction Company, Missoula
*Montana Livestock Auction, Inc., Butte
*Public Auction Yards, Billings
*Sidney Livestock Market Center, Sidney

NEBRASKA

*Ainsworth Livestock Market, Ainsworth
*Alma Livestock Commission Company, Alma
*Atkinson Livestock Market, Atkinson
*Bassett Livestock Auction, Bassett
*Beatrice 77 Livestock Sales Company, Beatrice
*Beatrice Sales Pavilion, Beatrice
*Blue Hill Livestock, Blue Hill
*Butte Livestock Market, Butte
*Chadron Sales Company, Inc., Chadron
*Chappell Livestock Auction, Chappell
*Columbus Sales Pavilion, Inc., Columbus
*Crawford Livestock Auction Market, Crawford
*Crete Livestock Market, Crete
Curtis Livestock Market, Curtis
*Fairbury Livestock Company, Fairbury

*Falls City Auction Company, Inc., Falls City
*Farmers Livestock Sales Company, Benkelman
*Franklin Livestock Market, Inc., Franklin
*Gordon Livestock Auction Company, Gordon
*Gothenburg Market Center, Gothenburg
*Grand Island Livestock Auction, Inc., Grand Island
*Hebron Livestock Commission Company, Hebron
*Holdrege Livestock Auction Market, Holdrege
*Holdrege Livestock Commission Company, Holdrege
*Humboldt Sale Barn, Humboldt
*Huss Platte Valley Auction, Inc., Kearney
*Imperial Auction Market, Imperial
*Kearney Livestock Commission Company, Inc., Kearney
*Kimball Livestock Auction Company, Kimball
*Laurel Livestock Sales Company, Laurel
*Lexington Livestock Market, Lexington
*Midwest Livestock Commission Company, Inc., McCook
*Nebraska City Sale Barn, Inc., Nebraska City
*Norfolk Livestock Market, Norfolk
*Ogallala Livestock Auction Market, Ogallala
*Omaha Livestock Market, Inc., Omaha
*O'Neill Livestock, Inc., O'Neill
*Oxford Livestock Commission Company, Oxford
*Pawnee Livestock, Inc., Pawnee City
*Pender Livestock, Inc., Pender
Platte Valley Livestock Auction, Inc., Gering
*Red Cloud Livestock Commission Co., Inc., Red Cloud
*Sheridan Livestock Commission Company, Rushville
*Sioux County Livestock Auction, Harrison
*Superior Livestock Commission Company, Inc., Superior
*Sutton Livestock Commission Company, Sutton
Syracuse Sales Pavilion, Inc., Syracuse
*Tecumseh Livestock Market, Inc., Tecumseh
*Tri-State Livestock Commission Company, McCook
*Valentine Livestock Auction Co., Inc., Valentine
*Verdigre Livestock Market, Verdigre
*Wahoo Livestock Auction Company, Wahoo
*West Point Sales Company, West Point
*Wells Commission Company, Fremont
*Western Livestock Auction Company; North Platte
*York Livestock Sales Company, York

NEW JERSEY

*Community Livestock Auction, Woodstown
*Jaeger's Livestock Auction Market, Sussex
*Livestock Cooperative Auction, Market Assn. of North Jersey, Inc., Hackettstown

NEW MEXICO

*Clovis Livestock Market, Clovis
*Five States Livestock Auction, Clayton
Las Vegas Livestock Commission Company, Inc., Las Vegas
*Lea County Livestock Market, Lovington
Portales Livestock Commission Company, Portales
*Ranchers and Farmers Livestock Auction, Clovis
Roswell Livestock Auction Company, Roswell
*Socorro Livestock Market, Inc., Lemitar

NORTH CAROLINA

Ashe Stockyards Company, Inc., Jefferson
Benson Hog and Livestock Market, Benson
Brite & Tatum Livestock Co., Elizabeth City
Carolina Stockyards Company, Siler City
Cattleman's Livestock Yard, Inc., Canton
Carolina-Virginia Stockyard, Windsor
Central Carolina Farmers Livestock Market, Hillsborough
William A. Crofton Livestock, Lumberton
Dedmon's Livestock Yard, Shelby
Farmers Cooperative Livestock Market, Lexington
Farmers Livestock Barn, Kannapolis
Farmers Livestock Exchange, Marshville
D. F. Foust Livestock Auction Market, Greensboro
Franklin Livestock Auction, Franklin
Hickory Livestock and Commission Company, Hickory
Iredell Livestock Company, Turnersburg
Kinston Stockyard, Kinston
Gus Z. Lancaster Stockyards, Inc., Rocky Mount
Lumberton Auction Company, Lumberton
MCM Livestock, Inc., Whiteville
Mountain Livestock Auction, Murphy
Mount Airy Livestock Market, Mount Airy
New River Livestock Market, Boone
Norwood Stockyard at Charlotte, Charlotte
Norwood Stockyard, Inc., Norwood
Oxford Livestock Market, Inc., Oxford
Pates Stockyards, Inc., Pembroke
Powell Livestock Company, Smithfield
Reaves Livestock, Inc., Rowland
Riley's Livestock Market, North Wilkesboro
Shelby Sales Barn, Shelby
Tommie Turner Livestock Market, Pink Hill
Trenton Livestock, Inc., Richlands
Union County Livestock Auction, Inc., Mineral Springs
Western Carolina Livestock Market, Asheville

NORTH DAKOTA

*Ashley Livestock Sales Company, Ashley
*Bowman Livestock Auction Market, Bowman
*Carrington Livestock Sales, Inc., Carrington
*Edgeley Livestock, Inc., Edgeley
*Ellendale Livestock Sales Company, Ellendale
*Harvey livestock Auction, Harvey
*Jamestown Livestock Sales, Jamestown
*Kist Livestock Auction Company, Mandan
*Lake Region Auction and Livestock Market, Inc., Devils Lake
*Linton Livestock Sales, Inc., Linton
*Lorenz Livestock Sales, Hazen
*McQuade Livestock, Wahpeton
*Minot Livestock Auction, Inc., Minot
*Missouri Slope Livestock Auction, Inc., Bismarck
*Napoleon Livestock Auction, Napoleon
*Park River Livestock Exchange, Park River
*Rugby Livestock Auction Market, Inc., Rugby
*Stockmen's Livestock Exchange, Inc., Beulah
*Stockmen's Livestock Exchange, Inc., Dickinson
*Sitting Bull Auction Company, Williston
*Tri-State Auction Market, Inc., Hettinger
*Triple S Cattle Company, Inc., Valley City
*Turtle Lake Livestock Sales, Inc., Turtle Lake
Uecker Livestock Yards, Inc., Hettinger
*Union Stockyards Company of Fargo, West Fargo
*Watford City Livestock Auction, Inc., Watford City
*Western Livestock Company, Dickinson
*Wishek Livestock Market, Inc., Wishek

OHIO

Armstrong Farm's Products, Inc., Seaman
Athens Livestock Sales, Inc., Albany
Barnesville Livestock, Barnesville
Glenn Bircher dba Carrollton Livestock, Carrollton
Earl R. & Diance E. Carpenter dba Bloomfield Livestock Auction, North Bloomfield
Cincinnati Union Stockyard Company, Cincinnati
Creston Livestock Sales, Inc., Creston
Delta Livestock Auction & Commission Co., Delta
Farmers Livestock Auction Co, Inc., Marietta
Farmerstown Sale, Inc., Baltic
Geauga Livestock Commission, Inc., Middlefield
Granville Livestock Sales, Inc./W. Munson, Granville
Richard L. Harshbarger dba Degraff Livestock Sales, Degraff
Kenton Farmers Marketing Co., Kenton
Kidron Auction, Inc., Kidron
Lugbill Bros., Inc., Archbold
Lugbill Bros., Inc., Columbus Grove
Middendorf Inc. dba Western Ohio Livestock, Celina
Mt. Hope Auction, Div. Wayne Door Company, Mt. Hope
Muskingum Livestock Sales Company, Zanesville
William W. Osborne dba Sugarcreek Livestock Auction, Sugarcreek
Producers Livestock Association, Bucyrus
Producers Livestock Association, Circleville
Producers Livestock Association, Coshocton
Producers Livestock Association, Eaton
Producers Livestock Association, Findlay
Producers Livestock Association, Hillsboro
Producers Livestock Association, Lancaster
Producers Livestock Association, Marysville
Producers Livestock Association, Mount Vernon
Producers Livestock Association, Springfield
Producers Livestock Association, Wapakoneta
Producers Livestock Association, Washington Court House
Producers Livestock Association, Wilmington
Scio Auction Market, Scio
Glenn Shreve and Larry C. Shreve dba Damascus Livestock Auction, Damascus
Thomas J. Stewart & C. E. Johnson dba Ohio Valley Livestock Company, Gallipolis
Stockyards, Inc. dba Champign Livestock Sales, Urbana
Tri-State Farms, Inc. dba Interstate Farmers Livestock Company, Oxford
The Union Stock Yards Co., Hillsboro
James H. Wilson & Thomas H. Wilson dba Peoples Livestock Exchange, Greenville
Woodsfield Livestock Sales, Inc., Woodsfield
Zanesville Community Sales Co., Inc., Zanesville

OKLAHOMA

*Ada Livestock, Ada
*Adair County Livestock Auction, Stilwell
*Antlers Livestock, Antlers
*Apache Livestock Sale, Apache
*Ardmore Livestock Auction, Ardmore
*Atoka Livestock, Atoka

*The Beaver Livestock Sale, Beaver
*Blackwell Livestock Auction, Blackwell
*Carnegie Livestock Auction, Carnegie
*Chandler Auction Co, Inc., Chandler
*Cherokee Sales Company, Cherokee
*Clinton Livestock Auction, Clinton
*Collinsville Livestock Exchange, Collinsville
*Covington Commission Sales Co., Covington
*Delaware County Livestock Auction, Inc., Grove
*Dewey Livestock Sale, Inc., Dewey
*Durant Livestock, Durant
*Enid Livestock Market, Inc., Enid
*Fairfax Livestock Auction, Fairfax
*Fairview Sale Barn, Fairview
*Farmers and Ranchers Livestock Auction, Vinita
*Farmers and Ranchers Stockyards, Comanche
*Fort Smith Stockyards, West Fort Smith
*Freeman Livestock Auction, Sulphur
*Geary Livestock Auction, Geary
*Grandfield Stockyards, Grandfield
*Hennessey Sale, Hennessey
*Hobart Stockyards, Hobart
*Holdenville Livestock, Holdenville
*Hollis Livestock Commission Company, Hollis
*Hugo Sales Commission, Inc., Hugo
*Idabel Livestock Auction, Idabel
*Lawton Stockyards, Lawton
*LeFlore County Livestock Auction, Wister
*Mangum Livestock Auction, Inc., Mangum
*Marietta Livestock Auction, Marietta
*Marlow Livestock Auction, Marlow
*McAlester Union Livestock, McAlester
*Meeker Livestock Market, Meeker
*Mid-America Stockyards, Bristow
*Muskogee Stockyard, Muskogee
*New Tulsa Stockyards, Tulsa
*Newkirk Sales Company, Newkirk
*Northeast Oklahoma Feeder Pig and Livestock Auction, Leach
*Oklahoma Auction Center, Chickasha
*Oklahoma Auction Yards, Hominy
*Oklahoma National Stockyards Company, Oklahoma City
*Oklahoma Livestock Auction, Okmulgee
*Panhandle Livestock Commission, Guymon
*Pauls Valley Livestock, Pauls Valley
*Pawnee Livestock Market Center, Inc., Pawnee
*Perkins Y Livestock Auction, Inc., Perkins
*Perry Livestock Center, Inc., Perry
*Poor Boy Livestock Auction, Wister
*Pryor Stockman's Auction, Pryor
*Purcell Livestock, Purcell
*Ringling Livestock Auction, Ringling
*Sallisaw Sale Barn, Sallisaw
*Sayre Livestock Auction, Sayre
*Seiling Sales Association, Inc., Seiling
*Snyder Stockyards, Snyder
*South Coffeyville L/S Market, Inc., South Coffeyville
Stigler Sale Barn, Stigler
*Tahlequah Sale Barn, Tahlequah
*Texhoma Livestock Commission Company, Inc., Texhoma
*Tillman County Stockyards, Inc., Frederick
*Tonkawa Livestock Exchange, Tonkawa
*Triangle Livestock Company, Alva
*Watonga Livestock Commission, Inc., Watonga
*Waurika Livestock Market, Waurika
*Welch Livestock Auction, Welch
*Western Livestock Auction, Elk City
*Woodward Livestock Auction Market, Inc., Woodward

PENNSYLVANIA

Belleville Livestock Market, Inc., Belleville
Belknap Livestock Market, Inc., Dayton
Edgar K. Black, Skippack
K. M. Border, Dover
Carlisle Livestock Market, Inc., Carlisle
Cattle Sales, Inc. dba Scenery Hill Stockyards, Scenery Hill
Chambersburg Livestock Sales, Inc., Chambersburg
Chesley's Sales, Inc., Northeast
Cwoanesque Valley Livestock Auction, Knoxville
Wayne F. Craig & Sons, Shippensburg
Danville Cattle Co., Inc., Danville
Dewart Livestock Market, Dewart
Eighty-Four Auction Sales, Inc., Eighty-Four
Enon Valley Community Sales, Enon Valley
Fayette Stockyard, Inc., Uniontown
G & M Livestock Market, Inc., Duncansville
Greencastle Livestock Market, Inc., Greencastle
Green Dragon Livestock Sales, Ephrata
Hickory Auction and Sales, Inc., Hickory
Indiana Livestock Market, Inc., Indiana
Jersey Shore Livestock, Inc., Jersey Shore
Keister's Middleburg Auction Sales, Inc., Middleburg
Lancaster Stockyards, Inc., Lancaster
Lebanon Valley Livestock Market, Inc., Fredericksburg
Leesport Market & Auction, Inc., Leesport
Meadville Livestock Auction, Saegertown
Mercer Livestock Auction, Mercer
C. Robert Miller, Watsontown
Morrison Cove Livestock Market, Martinsburg
New Holland Sales Stables, Inc., New Holland
New Wilmington Livestock Auction, Inc., New Wilmington
Nicholson Sales Company, Nicholson
Penns Valley Livestock Auction, Inc., Centre Hall
Pennsylvania Livestock Auction, Inc., Waynesburg
Perkiomenville Livestock and Sales, Inc., Perkiomenville
Quakertown Livestock Sale, Quakertown
Sechrist Sales Company, Fawn Grove
W. R. Sellers Livestock, Greencastle
Thomasville Livestock Market, Inc., York
Tri-County Livestock Auction, Inc., Brockway
Troy Sales Co-operative, Troy
Union City Livestock Auction, Union City
Valley Stock Yards, Inc., Athens
Vintage Sales Stables, Inc., Paradise
Wayne County Auction Barn, Inc., Honesdale
Weikert's Livestock, Fairfield
Wyalusing Livestock Market, Wyalusing

SOUTH CAROLINA

P. L. Bruce Livestock Market, Greenville
Central Carolina Livestock Market, Inc., Lugoff
Chesnee Livestock Co., Chesnee
Darlington Auction Market, Darlington
Farmers County Line Stockyard, Andrews
Farmers Livestock Market, Inc., Leesville
Farmers Market, Estill
Greenwood Livestock Market, Inc., Greenwood
Herndon Stockyards, Inc., Ehrhardt
Hutto Stockyards, Inc., Holly Hill
Neeses Stockyards, Neeses
Orangeburg Stockyards, Inc., Orangeburg
Saluda County Stockyards, Inc., Saluda
Spartanburg Livestock Yards, Spartanburg
Springfield Stockyards, Inc., Springfield
John C. Taylor Stockyards, Anderson
Walterboro Stockyards Co, Inc., Walterboro
York County Stockyards Sales, Inc., York

SOUTH DAKOTA

Burke Livestock Auction, Burke
Canton Livestock Sales Company, Canton
Chamberlain Livestock Sales, Inc., Chamberlain
Corsica Livestock Sales Company, Corsica
Greogry Livestock Auction Market, Gregory
Kimball Livestock Exchange, Kimball
Magness-Huron Livestock Exchange, Inc., Huron
Martin Auction Co., Inc., Martin
Mitchell Livestock Auction Company, Mitchell
Mobridge Livestock Auction, Inc., Mobridge
Philip Livestock Auction, Philip
Sioux Falls Stockyards Company, Sioux Falls
Stockman's Livestock Auction Company, Yankton
Winner Livestock Auction Company, Winner
Yankton Livestock Auction Market, Yankton

TENNESSEE

*Algood Stockyard, Algood
*Athens Livestock Auction, Athens
*Botts & Evans Livestock Company, Union City
*Chattanooga Union, Chattanooga
*Clarksville Livestock Company, St. Bethlehem
*Clarksville Livestock Market, Clarksville
*Cleveland Livestock Auction Co., Inc., Cleveland
*C & M Livestock Market, Jamestown
*Coffee County Livestock Market, Manchester
*Collierville Livestock Auction Company, Collierville
*Collins Cattle Company, Obion
*Covington Sale Co., Covington
*Crockett County Sales Co., Maury City
*Cumberland City Stockyard, Cumberland City
*De Kalb County Livestock Co., Alexandria
*Dickson Livestock Center, Dickson
*East Tennessee Livestock Center, Sweetwater
*Farmers Auction, Fayetteville
*Farmers Livestock Exchange, Union City
*Farmers Livestock Market, Inc., Greeneville
*Gamaliel, Kentucky Livestock Auction, Inc., Gamaliel (Kentucky)
*Giles County Stockyard, Pulaski
*Greeneville Livestock Market, Inc., Greeneville
*Hardin County Livestock Company, Savannah
*Hohenwald Livestock Market, Hohenwald
*Jackson County Commission, Gainesboro
*Johnson City Livestock Market, Johnson City
*Jonesboro Livestock Yards, Inc., Telford
*Kingsport Livestock Auction Corp., Kingsport
*Lawrence County Stockyard, Lawrenceburg
*Lexington Sales Company, Lexington
*Logan Livestock Co., Union City
*Macon County Livestock Market, Lafayette
*Middleton Sale Co., Middleton
*McNairy County Stockyards, Selmer
*Mid-South Livestock Commission Co., Columbia
*Mid State Producers, Inc., Woodbury
*Morristown Stockyard, Inc., Morristown

*Murfreesboro Livestock Market, Murfreesboro
*Newbern Sales Barn, Inc., Newbern
*New Tazewell Livestock, New Tazewell
*North Central Livestock Center, Cross Plains
*Oliver Livestock Company, Union City
*Paris Livestock Commission Co., Paris
*Peoples Livestock Market, Cookesville
*Peoples Stockyard, Fayetteville
*Plateau Livestock Exchange, Crossville
*Pulaski Stockyards, Pulaski
*Rogersville Livestock Market, Rogersville
*Sampson & Maxewell Livestock Auction, Lewisburg
*Scotts Hill Auction Company, Scotts Hill
*Sevier County Livestock Auction Market, Seymour
*Shelbyville Livestock Market, Shelbyville
*Smith County Commission Co., Carthage
*Smithville Stockyards, Smithville
*Southern Livestock Auction Co., Columbia
*South Memphis Stock Yards Co., Memphis
*Southwestern Stockyards, Huntingdon
*Sparta Livestock Company, Sparta
*Tennessee Livestock Producers, Thompson Station
*Tennessee Producers, Fayetteville
*Thompson Livestock, Obion
*Trenton Sales Co., Trenton
*Tri-County Stockyards, McKenzie
*Trousdale County Livestock Market, Hartsville
*Unionville Livestock Auction Co., Unionville
*Union Stockyards, Inc., Knoxville
*Warren County Livestock, McMinnville
*West Tennessee Auction Co., Inc., Martin
*Wilson County Livestock Market, Lebanon
*Wilson Livestock Market, Newport

TEXAS

*Abilene Auction, Abilene
*Amarillo Livestock Auction, Amarillo
*Athens Livestock Market, Athens
*Tom Bean Commission Company, Tom Bean
*Belton Livestock Auction, Belton
*Bodes's Livestock Commission, Milano
*Bonham Livestock Market, Bonham
*Bowie Livestock Commission, Inc., Bowie
*Breckenridge Stockyards, Breckenridge
*Brownwood Cattle Auction, Brownwood
*Burleson Dairy Auction, Inc., Burleson
*Caldwell Livestock Commission Company, Caldwell
*Canyon Livestock Commission, Canyon
*Cattleman's, Palestine
*Cattleman's Livestock Commission Company, Paris
*Center Auction Company, Inc., Center
*Central Texas Livestock Market, Brownwood
*Childress Livestock Auction, Childress
*Coleman Livestock Auction, Coleman
*Clarksville Livestock Exchange, Inc., Clarksville
*O. L. Colley Livestock Market, Mt. Pleasant
*Dalhart Auction Company, Dalhart
*Decatur Auction Sale, Decatur
*Denton Livestock Exchange, Inc., Denton
*El Paso Livestock Auction Company, Inc., El Paso
*Ennis Auction, Ennis
*Fort Worth Stockyards Corp., Fort Worth
*Gainesville Livestock Market, Inc., Gainesville
*Graham Livestock Commission Co., Graham
*Greenville Livestock Commission Company, Greenville
*Haskell Livestock Auction, Haskell
*Huntsville Auction Barn, Huntsville
*Jacksonville Livestock Market, Inc., Jacksonville
*J & J Livestock Commission Company, Texarkana
Johnson County Dairy Sale, Cleburne
*Kirbyville Auction Barn, Kirbyville
*Lampasas Auction, Inc., Lampasas
Livingston Livestock Auction Sale, Livingston
*Llano Livestock Auction, Llano
*Longview Livestock Commission Company, Longview
*Lubbock Stockyards, Lubbock
*Lufkin Livestock Exchange, Lufkin
*Madison County Livestock Commission, Madisonville
*Mansfield Dairy Cattle Auction, Mansfield
*Marshall Livestock Commission Company, Marshall
*McDougal Livestock Auction Barn, Comanche
*Meridian Livestock Auction, Meridian
*Mineral Wells Stockyard Company, Mineral Wells
*Moore's Livestock Commission Company, Inc., McKinney
*Morris County Livestock Commission Company, Omaha
*Muenster Livestock Auction Commission Co., Muenster
*Nacogdoches County Livestock Arena, Inc., Nacogdoches
*Olney Livestock Auction, Olney
*Panola Livestock Commission Company, Carthage
*Paris Livestock Commission Company Paris
*Patton Livestock, Inc., Nacogdoches
*Pilot Point Livestock Commission Co., Inc., Pilot Point
*Pittsburg Livestock Commission Co., Pittsburg
*Port City Stockyards Co., Sealy
*Producer's Livestock Auction Company, San Angelo
*Quanah Livestock Commission Company, Quanah
*Rains County Livestock Market, Emory
*Ranchers & Farmers Livestock Market, Abilene
*Southwestern Livestock Market, Midland
*Sulphur Springs Stocker & Dairy Commission, Sulphur Springs
*Terrell Livestock Market, Inc., Terrell
*Texarkana Livestock Commission Co., Inc., Texarkana
*Tulia Livestock Auction, Tulia
*Tyler Livestock Commission Company, Tyler
Vann-Roach Cattle Company, Inc., Forth Worth
*Vernon Stockyards Company, Vernon
*Waxahachie Livestock Commission Co., Inc., Waxahachie
*Wellington Livestock Auction, Wellington
*Wichita Livestock Auction, Wichita Falls
*Wills Point Livestock Market, Wills point
*Winnsboro Livestock Market, Winnsboro
*Wood County Livestock Commission Co., Mineola
*Woodville Livestock Commission Company, Woodville

UTAH

*Producers Livestock Auction, North Salt Lake
*Producers Livestock Marketing Association, North Salt Lake
*Producers Salina Auction, Salina
*Richfield Auction Company, Monroe
*Smithfield Livestock Auction, Smithfield
*Uintah Livestock Commission Company, Roosevelt
*Vernal Livestock Auction, Vernal
*Weber Livestock Auction Company, Ogden

VERMONT

Addison County Commission Sales, E. Middlebury
E. S. Crosby, Inc. dba Vergennes Commission Sales, Vergennes
C. W. Gray and Sons, Inc., dba East Thetford Commission Sale, East Thetford
Westminster Commission Sales, Inc., Westminster

VIRGINIA

*Abingdon Livestock Market, Inc., Abingdon
*Albemarle Livestock Market, Charlottesville
*Amherst County Livestock Market, Inc., Amherst
*Blackstone Livestock Market, Blackstone
*Christiansburg Livestock Market, Inc., Christiansburg
*Ewing Livestock Market, Ewing
*Farmers Livestock Exchange, Winchester
*Farmers Livestock Market, Ewing
*Farmers Livestock Market, Gate City
*Farmers livestock Market, Inc., Tazewell
*Lee Farmers Livestock Market, Inc., Jonesville
*Farmers Livestock Market, Rose Hill
*Farmville Livestock Market, Inc., Farmville
*Fauquier Livestock Exchange, Inc. Marshall
*Fredericksburg Stockyards Company, Fredericksburg
*Front Royal Livestock Sales, Inc., Front Royal
*Galax Livestock Market, Inc., Galax
*Jonesville Livestock Market, Jonesville
Leesburg Livestock Market, Inc., Leesburg
*Lynchburg Livestock Market, Inc., Lynchburg
*Madison Livestock Market, Inc., Madison Mills
*Monterey Livestock Sales, Inc., Monterey
*Narrows Livestock Auction Market, Inc., Narrows
*Nokesville Livestock Auction, Inc., Nokesville
*Orange Livestock Market, Orange
*Petersburg Livestock Market, Petersburg
*Phenix Livestock Market, Phenix
*Pulaski Livestock Market, Dublin
*Richmond Union Stockyards, Richmond
*Roanoke-Hollins Stockyard, Hollins
*Roanoke Livestock Market, Roanoke
*Rockingham Livestock Sales, Harrisonburg
*Shanandoah Valley Livestock Sales, Harrisonburg
*Smithfield Livestock Market, Smithfield
Southampton Livestock Sales, Inc., Courtland
*South Boston Livestock Market, Inc., South Boston
*South Hill Stockyard, South Hill
*Southside Stockyards, Inc., Blackstone
*Southside Stockyards, Inc., Petersburg
*Staunton Union Stockyards, Inc., Staunton
*Staunton Livestock Market, Staunton
Tappahannock Livestock Market, Inc., Tappahannock
*Tri-State Livestock Market, Abingdon
*Victoria Livestock Market, Victoria
*Virginia-Carolina Livestock and Agricultural Market, Inc., Danville
*Woodstock Livestock Market, Inc., Woodstock
*Wytheville Livestock Market, Inc., Wytheville

WASHINGTON

*Chehalis Livestock Market, Chehalis
*Davenport Livestock Marketing Center, Davenport
*Prosser Commission Co., Prosser
*Stockland Livestock Exchange, Inc., Spokane
Twin City Sale, Centralia
*Vancouver Livestock Market, Inc., Camas
Walla Walla Livestock Auction, Walla Walla

WEST VIRGINIA

*Bluegrass Market, Inc., North Caldwell
*Blueridge Livestock Sales, Inc., Charles Town
*Bridgeport Stockyards, Inc., Bridgeport
*Buckhannon Stockyards, Buckhannon
*Jackson County Livestock Market, Inc., Ripley
*Livestock Exchange, Inc., dba Alderson Livestock Market, Alderson
*Mannington Livestock Sales, Inc., Mannington
*Moundsville Livestock Auction Company, Moundsville
*New River Livestock Market, Inc., Beckley
*Ohio County Livestock Auction, Inc., Wheeling
*Pocahontas Producers Cooperative Assn., Marlinton
*Pt. Pleasant Livestock Company, Inc., Point Pleasant
*Randolph County Livestock Marketing Association, Elkins
*South Branch Stockyard, Inc., Moorefield
*Spencer Livestock Exchange Company, Spencer
*Terra Alta Stockyard, Inc., Terra Alta
*United Livestock Sales, Parkersburg
*Weston Livestock Sales Company, Inc., Weston

WISCONSIN

*Belmont Livestock Market, Inc., Belmont
Benoit NFO Livestock Collection Point, Benoit
*Bloomer Livestock Market, Inc., Bloomer
*Bob Carey Cattle Company, Inc., Mineral Point
*Clear Lake NFO Collection Point, Clear Lake
*Ellsworth NFO Collection Point, Ellsworth
*Equity Co-op Livestock Sales Assn., Altoona
*Equity Co-op Livestock Sales Assn., Bonduel
*Equity Co-op Livestock Sales Assn., Johnson Creek
Equity Co-op Livestock Sales Assn., Monroe
*Equity Co-op Livestock Sales Assn., Richland Center
*Equity Co-op Livestock Sales Assn., Ripon
*Equity Co-op Livestock Sales Assn., Sparta
*Iowa County Livestock Market Corp., Dodgeville
*Kuehne Livestock Auction Market, Seymour
*Lewis Geurkink Dairy Cattle, Baldwin
Mattes Livestock Auction Market, Inc., Thorp
*Matthes Farms, Viola
*Midwest Livestock Producers, Ettrich
*Midwest Livestock Producers Co-op, Lomira
*Midwest Livestock Producers Co-op, Marion
Midwest Livestock Producers Co-op, Monticello
*Midwest Livestock Producers Co-op, Shullsburg
*Milwaukee Stockyards, Milwaukee

WYOMING

*Big Horn Livestock Exchange, Sheridan
*Douglas Livestock Exchange, Douglas
*Lander Livestock Auction, Lander
*Lusk Livestock Exchange, Lusk
*Nield Market, Afton
*Powell Auction Market, Powell
*Prosser Livestock Market, Inc., dba Greybull Livestock Commission Co., Greybull
*Riverton Livestock Auction Co., Riverton
*Stockgrowers Livestock Auction Co., Worland
*Stockman's Livestock Auction, Torrington
*Torrington Livestock Commission Co., Torrington

Effective Date: The foregoing notice shall become effective March 23, 1979.

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

[FR Doc. 79-8332 Filed 3-22-79; 8:25 am]

federal register

FRIDAY, MARCH 23, 1979

PART III

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27-M]

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

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 and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 224-70) 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 Government Contract Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Alabama	AL79-1049
Georgia	GA79-1050
	GA79-1051
Tennessee	TN79-1052
	TN79-1053

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.

Delaware:	
DE78-3080	Nov. 3, 1978.
Florida:	
FL79-1019	Feb. 2, 1979.
Georgia:	
GA78-1088; GA78-1089	Oct. 13, 1978.
GA78-1096	Nov. 24, 1978.
GA79-1013; GA79-1014	Jan. 5, 1979.
Illinois:	
IL78-2092; IL78-2093; IL78-2094; IL78-2106; IL78-2109; IL78-2111; IL78-2112; IL78-2120; IL78-2122; IL78-2124; IL78-2125	Oct. 20, 1978.
IL78-2113; IL78-2123; IL78-2127; IL78-2128	Oct. 27, 1978.
IL78-2117	Nov. 13, 1978.
IL78-2142	Nov. 24, 1978.
IL78-2126	Dec. 27, 1978.
Pennsylvania:	
PA78-3012	Apr. 28, 1978.
Rhode Island:	
RI78-3050; RI78-3051; RI78-3052	July 21, 1978.
Texas:	
TX79-4089	Sept. 15, 1978.
Wisconsin:	
WI78-2135; WI78-2136; WI78-2137; WI78-2146	Oct. 27, 1978.
WI78-2149	Nov. 11, 1978.

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.

Michigan:	
MI77-2035(MI79-2009)	Mar. 4, 1977.

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 16th day of March 1979.

DOROTHY P. COME,
Assistant Administrator,
Wage and Hour Division.

[4510-27-C] NEW DECISION

STATE: Alabama COUNTIES: Bibb Choctaw, Fayette, Greene, Hale, Lamar, Marengo, Perry, Pickens, Sumter and Tuscaloosa

DECISION NO.: AL79-1049 DATE: Date of Publication

DESCRIPTION OF WORK: Residential Construction Projects 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.
Air conditioning mechanics	5.00				
Bricklayers	6.00				
Carpenters	7.95				.01½
Cement masons	5.00				
Drywall finishers	6.125				
Electricians	4.50				
Ironworkers, structural and ornamental	5.50				
Insulators	4.05				
Laborers	3.435				
Painters, brush	5.00				
Plumbers and pipefitters	5.50				
Roofers	4.30				
Sheet metal workers	5.50				
Truck drivers	3.70				
Welders - Rate for craft					
POWER EQUIPMENT OPERATORS:					
Asphalt spreader	4.50				
Backhoe	5.20				
Dozer	5.25				
Loader	4.76				

NEW DECISION

STATE: GEORGIA COUNTIES: BRANTLEY, CAMDEN, CHARLTON, GLYNN, MCINTOSH, PIERCE, & WAYNE

DECISION NUMBER: GA79-1050 DATE: DATE OF PUBLICATION

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes 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.
AIR CONDITIONING MECHANICS	$ 5.81				
BRICKLAYERS	7.22				
CARPENTERS	6.00				
CEMENT MASONS	7.27				
DRYWALL FINISHERS	7.50				
DRYWALL HANGERS	7.20				
ELECTRICIANS	6.09				
INSULATOR INSTALLERS	5.00				
IRONWORKERS	4.00				
LABORERS:					
Unskilled	3.00				
Mortar mixers	3.50				
Mason tenders	3.65				
Pipelayers	4.10				
PAINTERS	6.00				
PLASTERERS	5.65				
PLUMBERS & PIPEFITTERS	6.00				
ROOFERS	6.00				
SHEET METAL WORKERS	7.00				
SOFT FLOOR LAYERS	6.00				
TILE SETTERS	5.83				
TRUCK DRIVERS	5.21				
WELDERS - RATE FOR CRAFT.					
POWER EQUIPMENT OPERATORS:					
Asphalt spreader	4.29				
Backhoe	5.58				
Bulldozer	4.51				
Crane, derrick, dragline	5.20				
Front end loader	3.75				
Motor grader	4.74				
Roller	3.98				
Tractor	5.00				

NEW DECISION

STATE: GEORGIA

COUNTIES: ATKINSON, BERRIEN, BROOKS, CLINCH, COLQUITT, COOK, ECHOLS, LANIER, LOWNDES, THOMAS, & WARE

DECISION NUMBER: GA79-1051

DATE: DATE OF PUBLICATION

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes 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.
AIR CONDITIONING & HEATING MECHANICS	$ 5.00				
BRICKLAYERS	6.00				
CARPENTERS	4.56				
CEMENT MASONS	6.00				
DRYWALL FINISHERS	5.00				
DRYWALL HANGERS	5.00				
ELECTRICIANS	5.28				
INSULATORS	3.62				
LABORERS:					
Unskilled	3.00				
Mason tenders	3.25				
Asphalt rakers	3.50				
PAINTERS	4.38				
PLASTERERS	6.00				
PLUMBERS & PIPEFITTERS	4.94				
ROOFERS	4.81				
SHEET METAL WORKERS	4.99				
TILE SETTERS	6.00				
TRUCK DRIVERS	5.00				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Asphalt spreader	5.00				
Backhoe	4.50				
Bulldozer	5.00				
Motor grader	5.00				
Roller	5.00				

NEW DECISION

STATE: TENNESSEE

COUNTIES: DEKALB, OVERTON, PUTNAM, SMITH, VAN BUREN, & WHITE

DECISION NUMBER: TN79-1052

DATE: DATE OF PUBLICATION

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes 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.
AIR CONDITIONING & HEATING MECHANICS	$ 5.00				
BLOCK & BRICK LAYERS	6.00				
CARPENTERS	5.20				
CEMENT MASONS	5.00				
ELECTRICIANS	5.00				
INSULATION INSTALLERS	4.00				
LABORERS	3.62				
PAINTERS & DRYWALL FINISHERS	5.82				
PLUMBERS & PIPEFITTERS	5.00				
ROOFERS	5.17				
SHEET METAL WORKERS	8.00				
TRUCK DRIVERS	4.95				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	5.50				
Bulldozer	5.33				
Fork or High lift	5.50				

NEW DECISION

STATE: TENNESSEE

COUNTIES: CAMPBELL, CLAIBORNE, CUMBERLAND, FENTRESS, HANCOCK, MORGAN, PICKETT, SCOTT, & UNION

DECISION NUMBER: TN79-1053

DATE: DATE OF PUBLICATION

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (includes 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.
AIR CONDITIONING & HEATING MECHANICS	$ 4.46				
BRICKLAYERS	7.75				
CARPENTERS & DRYWALL HANGERS	5.05				
CEMENT MASONS	4.00				
ELECTRICIANS	6.34				
GLAZIERS	5.00				
LABORERS:					
Unskilled	3.00				
Mason tenders	3.63				
PAINTERS	4.78				
PLUMBERS & PIPEFITTERS	6.00				
ROOFERS	5.00				
SHEET METAL WORKERS	4.72				
SOFT FLOOR LAYERS	4.00				
TERRAZZO WORKERS	7.25				
TILE SETTERS	6.50				
TRUCK DRIVERS	4.10				
WELDERS - Rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.50				
Bulldozer	5.25				

MODIFICATIONS P. 1

DECISION NO. DE78-3080 - Mod. #3
(42 FR 51567 - November 3, 1978)
State of Delaware

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters - Building & Heavy:					
Sussex County	10.69		1.00		.01
Electricians	11.90	9%	9%		
Laborers - Building Construction					
New Castle County:					
Group 1	8.50	.90	.60		
Group 2	8.75	.90	.60		
Group 3	9.00	.90	.60		
Group 4	9.75	.90	.60		
Group 5	9.10	.90	.60		
Lathers	10.15	1.25	.15		.01
Line Construction:					
Linemen & Cable Splicers	13.00	.45	3%		3/4%
Winch Truck Operators	9.10	.45	3%		3/4%
Truck Drivers	8.45	.45	3%		3/4%
Groundmen	7.80	.45	3%		3/4%
Millwrights:					
Sussex County	10.79		1.00		.01
Plumbers & Steamfitters:					
Sussex & Kent (remainder of County) Counties	10.80	1.00	1.00	f	.05
Sheet Metal Workers	11.04	1.25	.81		.08

Add:

Classification Definitions for Line Construction (Railroad Only)

"A" Equipment Operators:

1. Hoisting equipment - when erecting complete towers, erecting framed structures, erecting steel transmission poles, erecting railroad pole extensions and crossbeams and when operating personnel lift baskets.

2. Tension pulling equipment under energized conditions - parallel with other energized circuits or above energized circuits on the same structure, not to include crossovers. Bundled conductor stringing, including static conductors on bundled conductor lines.

3. Excavating augurs 36" inches in diameter or larger, 5/8 cubic yard backhoe and larger, trencher over four feet in depth, bulldozer D-6 (caterpillar)or larger, and blade on finish grade work

"B" Equipment Operators:
Operators of all other equipment

~~MODIFICATIONS P. 2~~

DECISION #FL79-1019 - Mod. #2 (44 FR 6852 - February 2, 1979) Duval County, Florida	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
Power Equipment Operators: Piledrivers	$9.68	.55	.40		.05
Add:					
Carpenters: Piledrivers	9.17	.62	.50		.05

DECISION #GA78-1096 - Mod. #1 (43 FR 55142 - November 24, 1978) Chattahoochee County & Columbus, Georgia					
ADD:					
Asbestos workers	$ 6.90				

DECISION #GA78-1088 - Mod. #3 (43 FR 47426 - October 13, 1978) Chatham County, Georgia					
CHANGE:					
Asbestos workers	$10.79	.45	.60		
Elevator constructors:					
Mechanics	9.62	.895	.69	1&6+a+b	.03
Helpers	6.73	.895	.69	1&6+a+b	.03
Sheet metal workers	9.88	.45			.04

DECISION #GA78-1089 - Mod. #3 (43 FR 47427 - October 13, 1978) Richmond County, Georgia					
CHANGE:					
Elevator constructors:					
Mechanics	$ 9.62	.895	.69	1&6+a+b	.03
Helpers	6.73	.895	.69	1&6+a+b	.03

~~MODIFICATIONS P. 3~~

DECISION #GA79-1013 - Mod. #1 (44 FR 1632 - January 5, 1979) Fulton & DeKalb Counties, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Plumbers & Pipefitters	$11.15	.90	.70		.11
Sheet metal workers	11.00	.50	.81		.07
ADD:					
Miners	8.55	.25	.33		.10
Muckers	9.30	.55	.75		.07
Oilers/greasers (Operators)	6.73	.55	.75		.07
Tunnel laborers	7.30	.25	.33		.10
Powdermen	7.62	.25	.33		.10

DECISION #GA79-1014 - Mod. #1 (44 FR 1632 - January 5, 1079) DeKalb & Pulton Counties, Georgia					
CHANGE:					
Asbestos workers	$10.70	.55	.75		.10
Elevator constructors:					
Mechanics	10.03	.895	.69	1&6+a+b	.03
Helpers	7.02	.895	.69	1&6+a+b	.03
Plumbers & Pipefitters	11.15	.90	.70		.11
Sheet metal workers	11.00	.50	.81		.07

~~MODIFICATIONS P. 4~~

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL78-2092 - MOD #1 (43 FR 49154 - October 20, 1978) Adams, Brown & Pike Counties, Illinois					
CHANGE:					
TRUCK DRIVERS:					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		
DECISION NO. IL78-2093 - MOD #3 (43 FR 49157 - October 20, 1978) Champaign and Vermilion Counties Illinois					
CHANGE:					
TRUCK DRIVERS:					
Group I	10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		
DECISION NO. IL78-2094 - MOD #3 (43 FR 49159 - October 20, 1978) DuPage, Grundy, Kane, Kendall, Lake, McHenry and Will Counties, Illinois					
CHANGE:					
PLASTERERS:					
Southern Kane & Kendall Cos.	12.02	.75	.60		
DECISION NO. IL78-2106 - MOD #5 (43 FR 49167 - October 20, 1978) Fulton, Hancock, McDonough and Schuyler Counties, Illinois					
CHANGE:					
TRUCK DRIVERS:					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		
FULTON COUNTY					
Cement Masons	11.31	.80	.90		.05

~~MODIFICATIONS P. 5~~

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL78-2109 - MOD #4 (43 FR 49175 - October 20, 1978) Bureau, LaSalle, Livingston, Marshall, Putnam and Woodford Counties, Illinois					
CHANGE:					
CEMENT MASONS:					
Marshall County and the Rem. of Woodford Co.	$11.31	.80	.90		.05
TRUCK DRIVERS:					
Bureau, LaSalle, Marshall & Putnam Cos., Woodford Co.: (SW Corner)					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		
DECISION NO. IL78-2111 - MOD #3 (43 FR 49179 - October 20, 1978) Logan, Mason and Menard Counties Illinois					
CHANGE:					
CEMENT MASONS:					
Mason County	$11.31	.80	.90		.05
TRUCK DRIVERS:					
Group I	10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		
DECISION NO. IL78-2112 - MOD #3 (43 FR 49182 - October 20, 1978) McLean County, Illinois					
CHANGE:					
TRUCK DRIVERS:					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		
POWER EQUIPMENT OPERATORS:					
Group 4	11.38	.45	.80		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL78-2113 - MOD #4 (43 FR 50303 - October 27, 1978) Christian, DeWitt, Macon, Macoupin, Moultrie, Piatt and Shelby Counties, Illinois					
CHANGE:					
TRUCK DRIVERS:					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		
DECISION NO. IL78-2117 - MOD #4 (43 FR 52638 - November 13, 1978) Madison & St. Clair Counties, Illinois					
CHANGE:					
TRUCK DRIVERS:					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		
DECISION NO. IL78-2120 - MOD #1 (43 FR 49184 - October 20, 1978) Morgan, Scott and Cass Counties, Illinois					
CHANGE:					
TRUCK DRIVERS:					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IL78-2122 - MOD #5 (43 FR 49186 - October 20, 1978) Peoria and Tazewell Counties, Illinois					
CHANGE:					
CEMENT MASONS	$11.31	.80	.90		.05
LABORERS:					
Remainder of Tazewell County					
Unskilled	10.56	.60	.60		.035
Semi-Skilled	10.76	.60	.60		.035
Skilled	10.96	.60	.60		.035
TRUCK DRIVERS:					
Group I	10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		
DECISION NO. IL78-2123 - MOD #3 (43 FR 50308 - October 27, 1978) Henderson, Henry, Knox, Mercer, Rock Island, Stark & Warren Counties, Illinois					
CHANGE:					
TRUCK DRIVERS:					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		
ELECTRICIANS:					
Rock Island and Rem. of Henry & Mercer Cos.	$12.49	.55	7.5%		.03
DECISION NO. IL78-2124 - MOD #1 (43 FR 49190 - October 20, 1978) Sangamon County, Illinois					
CHANGE:					
TRUCK DRIVERS:					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		

~~MODIFICATIONS P. 8~~

DECISION NO. IL78-2125 - MOD #3
(43 FR 49192 - October 20, 1978)
Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, White & Williamson Counties, Illinois

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PLUMBERS and STEAMFITTERS: Franklin, Hamilton, Jefferson, Saline, Williamson & Gallatin Counties	12.90	.55	.75		.08
POWER EQUIPMENT OPERATORS: Remainder of Counties					
CLASS 1	$12.00	.55	.60		.035
CLASS 2	11.00	.55	.60		.035
CLASS 3	10.70	.55	.60		.035
CLASS 4	10.40	.55	.60		.035
CLASS 5	9.65	.55	.60		.035
CLASS 6	11.00	.55	.60		.035
CLASS 7	10.70	.55	.60		.035
CLASS 8	10.20	.55	.60		.035
CLASS 9	10.15	.55	.60		.035
CLASS 10	9.55	.55	.60		.035
RIVER WORK and LEVEE WORK ON MISSISSIPPI and OHIO RIVERS					
CLASS 11	12.10	.55	.60		.035
CLASS 12	10.10	.55	.60		.035
TRUCK DRIVERS:					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		

DECISION NO. IL78-2126 - MOD #2
(43 FR 50414 - December 27, 1978)
Boone, Carroll, DeKalb, JoDaviess, Lee, Ogle, Stephenson, Whiteside and Winnebago Counties, Illinois

CHANGE:					
ELECTRICIANS: JoDaviess (Savanna Ordinance Depot) Co., Carroll (Cities of Chadwick, Mt. Carroll, Savanna & Thompson) Co; & Remainder of JoDaviess County	$12.49	.55	7.5%		.03
PLASTERERS: DeKalb County	12.02	.75	.60		

~~MODIFICATIONS P. 9~~

DECISION NO. IL78-2127 - MOD #2
(43 FR 50319 - October 27, 1978)
Bone, Calhoun, Clinton, Greene, Jersey, Monroe, Montgomery, Randolph & Washington Counties, Illinois

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
TRUCK DRIVERS:					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		

DECISION NO. IL78-2128 - MOD #5
(43 FR 50323 - October 27, 1978)
Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawrence, Richland, Wabash & Wayne Counties, Illinois

CHANGE:					
TRUCK DRIVERS:					
Group I	$10.80	.65	a20.00		
Group II	11.20	.65	a20.00		
Group III	11.40	.65	a20.00		

DECISION NO. IL78-2142 - MOD #1
(43 FR 55153 - November 24, 1978)
Adams, Brown, Cass, Christian, Logan, Mason, Menard, Morgan, Pike, Sangamon, Schuyler Counties, Illinois

CHANGE:					
CEMENT MASONS:					
Adams & Logan Cos.	$12.50				
Remainder of District #6	11.75	.50	.75		.02

MODIFICATIONS P. 10

DECISION #PA78-3012 - Mod. # 11 (43 FR 18476 - April 28, 1978) Clinton, Centre, Huntingdon, Fulton & Mifflin Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians					
Zone I	$12.85	.45	3%+.40	.60	.10
Ironworkers					
Zone 3	11.06	.60	1.00		
Laborers:					
Zone 1					
Unskilled laborers	8.35	10%	8%		
Plasterers tenders	8.40	10%	8%		
Zone 2					
Unskilled laborers	8.20	10%	8%		
Plasterers tenders	8.25	10%	8%		
Cement masons					
Zone I	11.02				

DECISION NO. RI78-3050 - MOD #3 (43 FR 31551 - July 21, 1978) Bristol, Kent, & Providence Counties, Rhode Island	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
Laborers' schedules					
ADD:					
Laborers (Building Construction):					
Laborers, Carpenter tenders, Cement finisher tender, mason tender & wrecking laborers	$8.50	.60	.80		.10
Asphalt rakers, adzemen, pipe trench bracers, demolition burners, chain saw ops., fence and guard rail erectors, Setters of metal forms for roadways, mortar mixers, Pipelayers, riprap, & dry stonewall builders, highway stone spreaders, pneumatic tools ops., wagon drill ops., tree trimmers, barco type jumping tampers, mechanical grinder ops., plasterers' tenders, scaffold builders, & mortar mixers	8.75	.60	.80		.10
Air track ops., block pavers, rammers, and curb setters	9.00	.60	.80		.10
Blasters and Powderman	9.25	.60	.80		.10

MODIFICATIONS P. 11

DECISION NO. RI78-3050 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Heavy & Highway Construction)					
Laborers, carpenter & cement finisher tenders & wrecking laborers	$8.50	.60	.80		.10
Adzeman, asphalt rakers, barco-type jumping tampers, chain saw operators concrete and power buggy operators, concrete saw operators demolition burners fence and guard rail erectors, highway stone spreaders, mechanical grinder operators, mortar mixers, pipe-layers, pipe trench bracers, pneumatic tool operators, rip-rap and dry stonewall builders setters of metal forms for roadways, stumper operators, tree toppers tree trimmers wagon drill ops., wood chipper operators	8.75	.60	.80		.10
Air track drill op., Pavers, rammers, curb setters	9.00	.60	.80		.10
Blasters & Powdermen	9.25	.60	.80		.10
Open air caisson, underpinning and boring crew:					
Bottom man	9.25	.60	.80		.10
Laborer, top man	8.50	.60	.80		.10
Driller	9.37	.60	.80		.10

DECISION NO. RI78-3051 - MOD #4
(43 FR 31555 - July 21, 1978)
Newport County, Rhode Island

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
Laborers' schedules					
ADD:					
Laborers (Building Construction)					
Laborers, Carpenter tenders, Cement finisher tender, mason tender & wrecking laborers	$8.50	.60	.80		.10
Asphalt rakers, adzemen, pipe trench bracers, demolition burners, chain saw ops., fence and guard rail erectors, Setters of metal forms for roadways, mortar mixers, Pipelayers, riprap, & dry stonewall builders, highway stone spreaders, pneumatic tools ops., wagon drill ops., tree trimmers, barco type jumping tampers, mechanical grinder ops., plasterers' tenders, scaffold builders, & mortar mixers	8.75	.60	.80		.10
Air track ops., block pavers, rammers, and curb setters	9.00	.60	.80		.10
Blasters and Powderman	9.25	.60	.80		.10

DECISION NO. RI78-3051 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Heavy & Highway Construction)					
Laborers, carpenter & cement finisher tenders & wrecking laborers	$8.50	.60	.80		.10
Adzeman, asphalt rakers, barco-type jumping tampers, chain saw operators concrete and power buggy operators, concrete saw operators demolition burners fence and guard rail erectors, highway stone spreaders, mechanical grinder operators, mortar mixers, pipelayers, pipe trench bracers, pneumatic tool operators, riprap and dry stonewall builders setters of metal forms for roadways, stumper operators, tree toppers tree trimmers wagon drill ops., wood chipper operators	8.75	.60	.80		.10
Air track drill op., Pavers, rammers, curb setters	9.00	.60	.80		.10
Blasters & Powdermen	9.25	.60	.80		.10
Open air caisson, underpinning and boring crew:					
Bottom man	9.25	.60	.80		.10
Laborer, top man	8.50	.60	.80		.10
Driller	9.37	.60	.80		.10

DECISION NO. RI78-3052 - MOD #3
(43 FR 31559 - July 21, 1978)
Washington County, Rhode Island

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
Laborers' schedules					
ADD:					
Laborers (Building Construction)					
Laborers, Carpenter tenders, Cement finisher tender, mason tender & wrecking laborers	$8.50	.60	.80		.10
Asphalt rakers, adzemen, pipe trench bracers, demolition burners, chain saw ops., fence and guard rail erectors, Setters of metal forms for roadways, mortar mixers, Pipelayers, riprap, & dry stonewall builders, highway stone spreaders, pneumatic tools ops., wagon drill ops., tree trimmers, barco type jumping tampers, mechanical grinder ops., plasterers' tenders, scaffold builders, & mortar mixers	8.75	.60	.80		.10
Air track ops., block pavers, rammers, and curb setters	9.00	.60	.80		.10
Blasters and Powderman	9.25	.60	.80		.10

DECISION NO. RI78-3052 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Heavy & Highway Construction)					
Laborers, carpenter & cement finisher tenders & wrecking laborers	$8.50	.60	.80		.10
Adzeman, asphalt rakers, barco-type jumping tampers, chain saw operators concrete and power buggy operators, concrete saw operators demolition burners fence and guard rail erectors, highway stone spreaders, mechanical grinder operators, mortar mixers, pipe layers, pipe trench bracers, pneumatic tool operators, riprap and dry stonewall builders setters of metal forms for roadways, stumper operators, tree toppers tree trimmers wagon drill ops., wood chipper operators	8.75	.60	.80		.10
Air track drill op., Pavers, rammers, curb setters	9.00	.60	.80		.10
Blasters & Powdermen	9.25	.60	.80		.10
Open air caisson, underpinning and boring crew:					
Bottom man	9.25	.60	.80		.10
Laborer, top man	8.50	.60	.80		.10
Driller	9.37	.60	.80		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX78-4089 - Mod. #2 (43 FR 41363 - September 15, 1978) Bee, Kleberg, Nueces & San Patricio Cos., Texas					
Change:					
Electricians	$11.30	.60	3%		3/4%
DECISION NO. WI78-2135 - MOD #1 (43 FR 50368 - October 27, 1978) Kenosha County, Wisconsin					
CHANGE:					
ASBESTOS WORKERS	$11.90	.85	.90	1.00	.09
CEMENT MASONS	9.91	.60	.85	.50	
ELEVATOR CONSTRUCTORS	12.295	.895+	.56+	a+b	.025
ELEVATOR CONSTRUCTORS HELPER	8.61	.895+	.56+	a+b	.025
ELEVATOR CONSTRUCTORS HELPERS (PROB.)	50%JR				
LABORERS:					
Mason Tenders	8.30	.70	.70	1.00	
Plaster Tenders	8.45	.70	.70	1.00	
Air, Electric & Gas Tool Operator	8.60	.70	.70	1.00	
Jackhammer, Fork lift, Buggies	9.00	.70	.70	1.00	
PLASTERERS	10.40	.60	.85		
TERRAZZO WORKER	11.11	1.12	1.10	.50	.09
TILE SETTER	9.38	.70	.80	.60	.07
POWER EQUIPMENT OPERATORS - See Attached Schedule					

DECISION NO. WI78-2135 - MOD #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$11.57	.85	1.00		.10
Group II	11.32	.85	1.00		.10
Group III	11.02	.85	1.00		.10
Group IV	10.92	.85	1.00		.10
Group V	10.61	.85	1.00		.10
Group VI	10.32	.85	1.00		.10

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributor.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 tons or under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 tons); Rotary Drill and Blaster; Trencher (Wheel Type of Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breaker; Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Boiler Operators (Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oiler and Greaser; Rotary Drill Helper, Conveyor.

DECISION NO. WI78-2136 - MOD #1
(43 FR 50370 - October 27, 1978)
LaCrosse, Monroe and Vernon Counties, Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	$11.90	.85	.90	1.00	.09
CEMENT MASONS	9.48	.75	.40		
ELECTRICIANS	11.38	.65	3%		
ELEVATOR CONSTRUCTORS:					
Constructors	11.31	.895+	.565+	a+b	.025
Helper	7.92	.895+	.563+	a+b	.025
Helper (Prob.)	50%JR				
GLAZIERS	9.85	.55	.50	.45	
LABORERS:					
General, Mason Tenders and Plasterer Laborer	8.33	.45	.35		.02
Air Hammer, Jackhammer Operator and other Air Tool Operators	8.48	.45	.35		.02
TILE SETTERS	9.38	.70	.80	.60	.07
POWER EQUIPMENT OPERATORS - See Attached Schedule					

DECISION NO. WI78-2136 - MOD #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$11.37	.85	.80		.10
Group II	11.12	.85	.80		.10
Group III	10.82	.85	.80		.10
Group IV	10.72	.85	.80		.10
Group V	10.41	.85	.80		.10
Group VI	10.12	.85	.80		.10

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributor.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 tons or under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 tons); Rotary Drill and Blaster; Trencher (Wheel Type of Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breaker; Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Boiler Operators (Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oiler and Greaser; Rotary Drill Helper, Conveyor.

DECISION NO. WI78-2137 - MOD #1
(43 FR 50372 - October 27, 1978)
Langlade, Lincoln and Marathon Counties, Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ASBESTOS WORKERS	$11.36	.85	.50	1.00	.10
ELEVATOR CONSTRUCTORS:					
Constructors	11.45	.895+	.56+	a+b	.025
Helpers	8.015	.895+	.56+	a+b	.025
Helpers (Prob.)	50%JR				
PLUMBERS	11.26	.65	.55	1.00	
ROOFERS	9.45				
POWER EQUIPMENT OPERATORS - See Attached Schedule					

DECISION NO. WI78-2137 - MOD #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$11.37	.85	.80		.10
Group II	11.12	.85	.80		.10
Group III	10.82	.85	.80		.10
Group IV	10.72	.85	.80		.10
Group V	10.41	.85	.80		.10
Group VI	10.12	.85	.80		.10

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributor.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 tons or under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 tons); Rotary Drill and Blaster; Trencher (Wheel Type of Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breaker; Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Boiler Operators (Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oiler and Greaser; Rotary Drill Helper, Conveyor.

MODIFICATIONS P. 22

DECISION NO. WI78-2146 - MOD #1
(43 FR - 50360 - October 27, 1978)
Milwaukee, Ozaukee, Waukesha, and Washington Counties, Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELEVATOR CONSTRUCTORS:					
Constructors	$12.295	.895+	.56+	a+b	.025
Helpers	8.61	.895+	.56+	a+b	.025
Helpers (Prob.)	50%JR				
PLASTERERS	10.18	1.15	.90	.86	
POWER EQUIPMENT OPERATORS - See Attached Schedule					

DECISION NO. WI78-2146 - MOD #1 (Cont'd)

MODIFICATIONS P. 23

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$11.57	.85	1.00		.10
Group II	11.32	.85	1.00		.10
Group III	11.02	.85	1.00		.10
Group IV	10.92	.85	1.00		.10
Group V	10.61	.85	1.00		.10
Group VI	10.32	.85	1.00		.10

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributor.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 tons or under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 tons); Rotary Drill and Blaster; Trencher (Wheel Type of Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breaker; Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Boiler Operators (Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oiler and Greaser; Rotary Drill Helper, Conveyor.

MODIFICATIONS P. 24

DECISION NO. WI78-2149 - MOD #1
(43 FR 52672 - November 11, 1978)
Racine County, Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELEVATOR CONSTRUCTORS:					
Constructors	$12.295	.895+	.56+	a+b	.025
Helpers	8.61	.895+	.56+	a+b	.025
Helpers (Prob.)	50%JR				
POWER EQUIPMENT OPERATORS:					
Group I	$11.57	.85	1.00		.10
Group II	11.32	.85	1.00		.10
Group III	11.02	.85	1.00		.10
Group IV	10.92	.85	1.00		.10
Group V	10.61	.85	1.00		.10
Group VI	10.32	.85	1.00		.10

GROUP I - Cranes; Shovels; Draglines; Backhoes; Clamshells; Derricks; Caisson Rigs; Dredge Operator and Traveling Crane (Bridge Type); Concrete Paver (Over 27E); Concrete Spreader and Distributor.

GROUP II - Material Hoists; Stack Hoists; Tractor or Truck Mounted Hydraulic Backhoe; Tractor or Truck Mounted Hydraulic Crane (5 tons or under); Manhoist; Tractor, Bulldozer, Endloader (Over 40 H.P.); Forklift (25' and Over); Motor Patrol; Scraper Operator; Sideboom; Straddle Carrier; Mechanic and Welder; Bituminous Plant and Paver; Roller (Over 5 tons); Rotary Drill and Blaster; Trencher (Wheel Type of Chain Type Having Over 8-Inch Bucket); Elevator.

GROUP III - Concrete and Grout Pumps; Backfiller; Concrete Auto Breaker (Large); Concrete Finishing Machines (Road Type); Roller (Rubber Tire); Concrete Batch Hopper; Concrete Conveyor Systems; Concrete Mixers (14S or Over); Screw Type and Gypsum Pumps; Tractor, Bulldozer, Endloader (Under 40 H.P.); Pumps (Well Points); Trencher (Chain Type Having Bucket 8-Inch and Under); Industrial Locomotives; Roller (Under 5 tons) and Firemen (Pile Drivers and Derricks).

GROUP IV - Hoists (Automatic); Forklift (12' to 25'); Tampers-Compactors (Riding Type); Assistant Engineer; "A" Frames and Winch Trucks; Concrete Auto Breaker; Hydrohammers (Small); Brooms and Sweepers; Hoists (Tuggers); Stump Chipper (Large); Boats (Tug, Safety, Work Barges and Launch).

GROUP V - Shouldering Machine Operator; Screed Operator; Farm or Industrial Tractor Mounted Equipment; Post Hole Digger; Stone Crushers and Screening Plants; Fireman (Asphalt Plants); Air Compressor (300 CFM or Over); Augers (Vertical and Horizontal); Air, Electric, Hydraulic Jacks (Slip Form); Prestress Machines; Bobcats; Boiler Operators (Temporary Heat); Forklift (12' and Under).

GROUP VI - Generators Over 150 KW; Pumps Over 3"; Combination Small Equipment Operator; Compressors (Under 300 CFM); Welding Machines; Heaters (Mechanical); Generators (Under 150 KW); Pumps (3" and Under); Winches (Small Electric); Oiler and Greaser; Rotary Drill Helper, Conveyor.

SUPERSEDEAS DECISION

STATE: Michigan
DECISION NO: MI79-2009
COUNTIES: INGHAM, EATON & CLINTON
DATE: Date of Publication
Supersedes Decision No. MI77-2035, dated March 4, 1977 in 42 FR 12614
DESCRIPTION OF WORK: Residential Construction Projects 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/BLOCKLAYERS	$ 8.64				
CARPENTERS	7.53				
CEMENT MASONS/FINISHERS	8.78				
DRYWALL WORKERS:					
Hangers	8.00				
Tapers/Finishers	10.00				
ELECTRICIANS	8.47				
LABORERS:					
Common	5.79				
Landscape	3.00				
PAINTERS	6.27				
PLUMBERS/PIPEFITTERS	8.49				
ROOFERS	8.00				
SOFT FLOOR LAYERS/CARPET LAYERS	7.39				
SHEET METAL WORKERS	6.10				
TRUCK DRIVERS	7.36				
POWER EQUIPMENT OPERATORS:					
Bulldozer Operators	9.94				
Backhoe Operators	9.55				
Crane Operators	9.82				
Grader	9.82	.90	1.25	11%	.05
Paver	9.82	.90	1.25	11%	.05
Roller Operators	9.82	.90	1.25	11%	.05

[FR Doc. 79-8497 Filed 3-22-79; 8:45 am]

federal register

FRIDAY, MARCH 23, 1979

PART IV

DEPARTMENT OF HEALTH EDUCATION, AND WELFARE

Office of Education

■

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

Family Contribution Schedules

[4110-02-M]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Family Contribution Schedules

AGENCY: Office of Education, HEW.

ACTION: Final Regulations.

SUMMARY: The Family Contribution Schedules are the formulas used in determining student eligibility on the basis of financial need for the Basic Educational Opportunity Grant Program. These final regulations establish the Family Contribution Schedules for the Basic Educational Opportunity Grant Program for the 1979-80 award period. They include a number of revisions to the 1978-79 Family Contribution Schedules. These revisions are intended to increase program equity and to respond to public and Congressional interest in easing the burden of educational costs for middle income families while still maintaining the statutory mandate of a formula-based program. Several of these changes, in addition to being included in the August 14, 1978 notice of proposed rulemaking for the 1979-80 Family Contribution Schedules, were later enacted into law as provisions of the Middle Income Student Assistance Act.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the FEDERAL REGISTER. The effective date is changed by statute if the Congress disapproves the regulations or takes certain adjournments. It should be noted, however, that these regulations apply only to Basic Educational Opportunity Grants made for the period of July 1, 1979 through June 30, 1980. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT:

William Moran, Chief, Basic Grants Policy Section, Division of Policy and Program Development, ROB-3, Room 4318, 400 Maryland Avenue, S.W., Washington, D.C. 20202. (202) 472-4300.

SUPPLEMENTARY INFORMATION:

GENERAL BACKGROUND

The proposed Family Contribution Schedules for 1979-80 were published in the FEDERAL REGISTER as a notice of proposed rulemaking (NPRM) on August 14, 1978. Copies of the NPRM were mailed to participating postsecondary institutions and to various education organizations, and public comment was solicited. Additionally, Congressional hearings were held on the proposed regulations. Subsequent to the publication of the NPRM, Congress enacted the Middle Income Student Assistance Act Public Law 95-566.

This law specified a 10½% rate for assessing parental discretionary income and made two changes in the treatment of independent students. One of these changes required that the family size offset for the single independent student would be computed in the same way that all other family size offsets are computed. The other provided that the assets of independent students with dependents would be assessed in the same manner as those of the parents of dependent students.

However, it was decided to postpone implementation of these two changes in the treatment of independent students until the 1980-81 award period, because of the need for fiscal constraint with respect to FY 1980 outlays. Accordingly, these two changes are not included in the 1979-80 Family Contribution Schedules.

The public comments that were received on the NPRM and the Office of Education responses to those comments are summarized in the appendix of these regulations.

SUMMARY OF MAJOR ISSUES

1. *Adjustment of family size offsets.* The family size offsets included in the Family Contributon Schedules are intended to provide for basic family expenses that must be met before any contribution toward a student's educational costs can be expected. The family size offsets have been updated annually since the beginning of the Basic Grant Program to reflect the increase in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. To derive the offsets for the 1978 base year which will be used in computing awards for the 1979-80 award period, the offsets for 1977 have been increased by 8.8 percent to reflect the rise in the Consumer Price Index.

2. *Change in the rate of assessing parental discretionary income for dependent students.* One of the objectives of the Middle Income Student Assistance Act was to make the Basic Grant Program available to more students from middle income families. To achieve that objective, that Act provided that parental discretionary income would be assessed at a rate of 10.5%. The August 14 NPRM had included optional rates for assessing discretionary income contingent upon Congressional action concerning tuition tax credit proposals that were pending at the time the NPRM was prepared. The first option was to change the assessment rate to 12% if tax credit legislation was not enacted. The second option, intended to be used if a tax credit bill became law, was to make no change in the assessment rate, leaving it at 20% for the first $5,000 of discretionry income and 30% for all discretionary income above the first $5,000. Now, however, in accordance with the provisions of the Middle Income Student Assistance Act, the final regulation includes a 10.5% assessment rate for discretionary income.

NOTE.—Section 411(a)(3)(A)(i) of the Higher Education Act of 1965 provides that Family Contribution Schedules will be effective for a twelve-month period beginning each July 1. However, the language of the Middle Income Student Assistance Act specifies August 1, 1979 as the effective date for the change in the rate of assessing discretionary income, mentioned in item 2 above. To provide consistency with all other aspects of the program, the Commissioner has made all changes in the 1979-80 Family Contribution Schedules effective as of July 1, 1979—the beginning of the 1979-80 award period. Additionally, the Commissioner has requested a technical amendment to change the effective date of these provisions in the Middle Income Student Assistance Act from August 1, 1979 to July 1, 1979.

3. *Increase in the personal asset reserve to $25,000.* The August 14 NPRM included a proposal to raise the asset reserve for non-farm and non-business assets from $17,000 to $25,000. The change to a $25,000 asset reserve has been included in the final regulation.

4. *Change in the definitions of a parent.* In an effort to achieve greater program equity and also to eliminate a continuing source of confusion in the application process, the August 14 NPRM included a proposed change in the definition of a "parent," limiting that term to the applicant's mother or father. That change has been adopted in the final regulation.

5. *Changes in the definition of an "independent student."* The August 14 NPRM also included two changes in the definition of an independent student, both of which liberalized the criteria for determining independent student status. These changes have been adopted in the final regulation. Both of these criteria apply for the year prior to the award period and for the two calendar years in which the award period occurs. These changes are:

(a) An increase from $600 to $750 in the amount of financial assistance an independent student may receive per year from his or her parents, and

(b) An increase from two consecutive weeks to six weeks in the amount of time an independent student may live in the home of his or her parents per year.

As was noted in the August 14 NPRM, these changes in the defini-

tion of an independent student apply not only to the Basic Grant Program, but also to the three campus-based programs (National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grants) for periods of study occurring after July 1, 1979. Changes in the definition for the regulations of each of these three programs are included at the back of these final regulations for the 1979-80 Family Contribution Schedules.

(Catalog of Federal Domestic Assistance No. 13.539 Basic Educational Opportunity Grant Program.)

Dated: March 14, 1979

ERNEST L. BOYER,
U.S. Commissioner of Education.

Dated: March 16, 1979.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

1. Subparts C and D of Part 190 of Title 45 of the Code of Federal Regulations are revised to read as follows:

Subpart C—Expected Family Contribution for Dependent Students

Sec.

190.31 Indicators of financial strength.
190.32 Special definitions.
190.33 Annual adjusted family income.
190.34 Computation of the expected family contribution for a dependent student from effective family income.
190.35 Computation of the expected contribution from parental assets.
190.36 Computation of the expected contribution from parental income and assets, adjusted for number of family members attending programs of postsecondary education.
190.37 Computation of the expected contribution from student's assets.
190.38 Computation of the total expected family contribution.
190.39 Extraordinary circumstances affecting the expected family contribution determination for dependent students.

Subpart D—Expected Family Contribution for Independent Students

190.41 Indicators of financial strength.
190.42 Special definitions.
190.43 Annual adjusted family income.
190.44 Computation of the expected family contribution for an independent student from effective family income.
190.45 Computation of the expected contribution from the assets of the independent student and spouse.
190.46 Computation of the total expected contribution from the student's and spouse's income and assets adjusted for number of family members attending programs of postsecondary education.
190.47 (Reserved)
190.48 Extraordinary circumstances affecting the expected family contribution determination for the independent student.

Subpart C—Expected Family Contribution for Dependent Students

§ 190.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for dependent students:

(a) The effective income of the student's parent(s).

(b) The number of dependents of the student's parent(s).

(c) The number of dependents of the student's parent(s) who are attending, on at least a half-time basis, a program of postsecondary education.

(d) The assets of the student.

(e) The assets of the student's parent(s).

(f) The unusual expenses of the student's parent(s). These unusual expenses are limited to medical and dental expenses and expenses arising from a catastrophe.

(g) The additional expenses incurred when two parents are employed or when a family is headed by a single parent who is employed.

(h) The unreimbursed expenses incurred for tuition by the student's parents for other dependent children enrolled in an elementary or secondary school.

(20 U.S.C. 1070a(a)(3)(B)(ii).

§ 190.32 Special definitions.

For purposes of this subpart:

The definition of "annual adjusted family income" is set forth in § 190.33.

"Assets" means cash on hand including amounts in checking and savings accounts, trusts, stocks, bonds, other securities, real estate, home (if owned), income producing property, business equipment, and business inventory.

However, for Native American students, the following shall not be considered as an asset of the student or his or her family in determining the expected family contribution:

(a) Any property received under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.),

(b) Any property that may not be sold or encumbered without the consent of the Secretary of Interior, or

(c) Any other property held in trust for the student or his family by the United States Government.

"Business assets" means property that is used in the operation of a trade or business, including real estate inventories, buildings, machinery and other equipment inventories, patents, franchise rights, and copyrights.

"Dependents of the student's parents" means the student and any of the following persons for whom the parents provide or will provide more than one-half support during 1979:

(a) Other children of the student's parents, or

(b) Persons living with the parents.

"Dependent student" means any student who does not qualify as an independent student as defined in § 190.42(a).

"Effective family income" of a student's parents means their annual adjusted family income minus the Federal income tax paid or payable with respect to the year for which adjusted gross income, as defined in § 190.33, is reported.

(20 U.S.C. 1070a(a)(3)(B)(iii).)

"Employment expense offset" means an allowance to meet expenses relating to employment when both parents are employed or when one parent qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Expenses arising from catastrophe" means unreimbursed casualty losses incurred by the parents of the student that may be deducted under section 165(c)(3) of the Internal Revenue Code. The expenses which may be reported are those which were incurred during 1978, unless the student files under the provisions of § 190.39. In that case the expenses reported will be those incurred in 1979.

(20 U.S.C. 1070a(a)(3)(B)(ii)(V).)

"Family size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. The "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration, is used as a basis to determine the family size offset.

"Farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"Federal income tax" means (a) the tax on income paid to the U.S. Government under chapter 2 of the Internal Revenue Code, or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions.

(20 U.S.C 1070a(a)(3) (B) (iii).)

"Medical expenses" means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code paid in 1978 by the parents of the student unless the student files under the provisions of § 190.39. In that case the expenses reported are those paid in 1979.

"Net assets" means the current market value at the time of application of the assets included in the definition of "assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother or father. An adoptive parent is considered the student's mother or father.

(20 U.S.C 1070a(a)(3)(B) unless otherwise noted.)

§ 190.33 Annual adjusted family income.

(a) "Annual adjusted family income" means, except as provided in paragraph (b), (c), and (d) of this section and § 190.39—

(1) The sum received in 1978 by the student's parents from—

(i) Adjusted gross income as defined by section 62 of the Internal Revenue Code, regardless of whether the parent filed an income tax return;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on State and municipal bonds; and

(iii) Other income upon which no Federal income tax need be paid. Examples of such income include child support payment, income from income maintenance programs such as welfare benefits, and Social Security benefits;

(2) Any Social Security benefits paid to or on account of the student in 1978; and

(3) One-half of any veteran's benefits to be paid to the student under chapters 34 and 35 of the United States Code for the award period for which aid is requested.

(b) For a Native American student, the annual adjusted family income will not include the income received by the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(c) For a student whose parents are divorced or separated, the following procedures apply for reporting parent's income to determine the annual adjusted family income—

(1) Report only the income as described in paragraph (a) of this section of the parent who has or had custody of the student.

(2) If custody was not awarded, or if the parents have or had equal custody, report only the income of the parent with whom the student resided for the greater portion of the 12 month period preceding the date of the application.

(3) If none of the preceding criteria apply, report only the income of the parent who is providing or who has provided the greater portion of the student's support.

(d) The following rule applies if either a parent whose income is taken into account under paragraph (c), or a parent who is a widow or widower and whose income is taken into account under paragraph (a) has remarried. The income of such a parent's spouse shall be included in determining the student's annual adjusted family income if, in either 1978, 1979, or 1980, the student—

(1) Has received or will receive financial assistance of more than $750 in any one of those years from that spouse, or

(2) Has lived or will live for more than six weeks in any one of those years in the home of that spouse.

(20 U.S.C 1070a(a)(3)(B).)

§ 190.34 Computation of the expected family contribution for a dependent student from effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the effective family income of the student's parents.

(b) Determine discretionary income by deducting the following offsets from the amount calculated in paragraph (a):

(1) A family size offset in the amount specified in the following table.

Family size offsets

Family members	Amount
2	$4,450
3	5,400
4	6,850
5	8,050
6	9,150
7	10,100
8	11,200
9	12,250
10 [1]	13,250

[1] Plus $1,000 for each additional family member over 10.

In determining the family size, the following rules apply—

(i) If the parents are not divorced or separated, family members include the student's parents, and the dependents of the student's parents.

(ii) If the parents are divorced or separated and not remarried, family members include any parent whose income is included in computing the annual adjusted family income and that parent's dependents.

(iii) If the parents are divorced and the parent whose income is included in computing the annual adjusted family income has remarried, or if that parent was a widow or widower who has remarried, family members also include any dependents of the new spouse if that spouse's income is included in determining the annual adjusted family income.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses and unreimbursed losses resulting from a castastrophe exceeds 20 percent of effective family income. The expenses that may be reported are those expenses paid by the student's parents during 1978, unless the student files under the provisions of § 190.39. In that case, the expenses reported will be those paid in 1979. The expenses of both parents are included only if the incomes of both are subject to inclusion in determining the effective family income. Similarly, a stepparent's expenses are included only if his or her income was subject to inclusion.

(3) An employment expense offset in the amount specified as follows—

(i) If both parents were employed in the year for which parent's adjusted gross income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the adjusted gross income earned by the parent with the lesser income.

(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her adjusted gross income.

The adjusted gross income figure to be used in all cases is that figure for 1978 unless the student files under the provisions of § 190.39. In that case the figure to be used is the one for 1979.

(4) An educational expense offset equal to the unreimbursed tuition paid by the student's parents for other dependent children enrolled in elementary or secondary school. The expenses which may be reported are those expenses paid in 1978 unless the student files under the provisions of § 190.39. In that case, the expenses reported will be those paid in 1979.

(c) If the discretionary income is a positive amount, multiply it by 10.5 percent. If it is negative, there is no expected family contribution from effective family income.

(20 U.S.C. 1070a(a)(3)(B).)

§ 190.35 Computation of the expected contribution from parental assets.

Except as provided for in paragraph (d), the expected contribution from parental assets is determined in the following manner:

(a) If the net assets do not include farm or business assets, deduct an asset reserve of $25,000 from the net assets.

(b) If the net assets include farm or business assets as defined in § 190.32, deduct an asset reserve from the net assets as follows—

(1) If farm or business assets are less than farm or business debts, deduct an asset reserve of $25,000 from the net value of all assets.

(2) If farm or business assets exceed farm or business debts, and the net value of non-farm and non-business assets is *$25,000 or more,* deduct an asset reserve of,

(i) $25,000 from non-farm and non-business assets, and

(ii) $25,000 from farm and business assets.

(3) If farm or business assets exceed farm or business debts and the net value of non-farm and non-business assets is *less than $25,000,* deduct an asset reserve of $50,000 from the net value of all assets.

(4) If the result obtained in paragraphs (b)(1), (2)(ii), or (3) of this section is a negative amount, it shall be changed to zero.

(c) The expected contribution from parental assets equals five percent of the remainder obtained in paragraph (a) or (b) of this section.

(d) If the calculation of discretionary income required by § 190.34(b) produces a negative number, the expected contribution from parents' assets, calculated under paragraphs (a) or (b) of this section shall be reduced by the amount of that negative discretionary income.

(e)(1) If the student's parents are separated, or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) However, if that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income is also included under § 190.33, the assets of that parent's spouse shall also be included.

(20 U.S.C. 1070a(a)(3)(B).)

§ 190.36 Computation of the expected contribution from parental income and assets adjusted for number of family members attending programs of postsecondary education.

(a) For each grant the amount expected from parental income as determined in § 190.34 is added to the amount expected from parental assets as determined in § 190.35.

(b)(1) For each grant the combined expectation determined in paragraph (a) is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of post-secondary education during the award period for which Basic Grant assistance requested:

Number of family members attending programs of postsecondary education:	Expected contribution per student from combined contribution:
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4 or more	40 percent of the contribution determined in paragraph (a).

(2) Family members are those persons referenced in § 190.34(b)(1).

(20 U.S.C. 1070a(a)(3)(B).)

§ 190.37 Computation of the expected contribution from student's assets.

For each grant the contribution from the student's assets equals 33 percent of his or her net assets.

(20 U.S.C. 1070a(a)(3)(B).)

§ 190.38 Computation of the total expected family contribution.

For each grant the total expected family contribution is the sum of—

(a) The expected contribution from the parents' income and assets as determined in § 190.36, and

(b) The expected contribution from the student's assets as determined in § 190.37.

(20 U.S.C. 1070a(a)(3)(B).)

§ 190.39 Extraordinary circumstances affecting the expected family contribution determination for dependent students.

(a) An applicant may submit an application to the Commissioner for determination of his or her expected family contribution using income data from 1979 instead of 1978 if—

(1) A parent whose income was or would have been included in the computation of the expected family contribution has died in 1978 or 1979,

(2) A parent whose income was or would have been included in the computation of the expected family contribution has lost his or her job for at least 10 weeks during 1979,

(3) A parent whose income was or would have been included in the computation of the expected family contribution has been unable to pursue normal income-producing activities for at least 10 weeks during 1979 because of (i) disability, or (ii) loss or damage to income-producing property as a result of a natural disaster,

(4) The parents of the applicant have become separated or divorced after the applicant submitted his or her application, or

(5) A parent whose income was or would have been included in the computation of the expected family contribution had his or her unemployment benefits expire in 1978 or 1979.

(b) An application submitted under paragraph (a) shall include the annual adjusted family income already received for 1979 and an estimate of the annual adjusted family income to be received for the remainder of that year.

(c) An applicant may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the applicant or the applicant's family has suffered a loss of or damage to assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1070a(a)(3)(B)(i)(V).)

Subpart D—Expected Family Contribution for Independent Students

§ 190.41 Indicators of financial strength.

"Expected Family Contribution" for an independent student means the amount that the student and his or her spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for independent students:

(a) The annual adjusted family income of the independent student and spouse.

(b) The number of persons whom the independent student and spouse can claim as exemptions.

(c) The number of dependents of the independent student and spouse who are attending, on at least a half-time basis, a program of postsecondary education.

(d) The assets of the independent student and spouse.

(e) The unusual expenses of the independent student and spouse. These unusual expenses are limited to medical and dental expenses and expenses arising from a catastrophe.

(f) The additional expenses incurred when both the independent student and spouse are employed or when the employed independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

(g) The unreimbursed expenses incurred for tuition by the student or spouse for dependent children enrolled in an elementary or secondary school.

(20 U.S.C. 1070a(a)(3)(C).)

§ 190.42 Special definitions.

The definition of "Annual Adjusted Family Income" is set forth in § 190.43.

"Assets" means cash on hand including amounts in checking and savings accounts, trusts, stocks, bonds, other securities, real estate, home (if owned), income producing property, business equipment and business inventory.

However, for Native American students, the following shall not be considered as an asset of the student or his or her spouse in determining the expected family contribution—

(a) Any property received pursuant to an award under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.),

(b) Any property that may not be sold or encumbered without the consent of the Secretary of Interior, or

(c) Any other property held in trust for the student or spouse by the United States Government.

"Dependent" means the independent student's spouse and any of the following persons for whom the student or spouse provides or will provide more than one-half support during 1979: (a) children of the student or spouse; or (b) persons living with the student and spouse.

"Effective family income" means the annual adjusted family income received minus the Federal income tax paid or payable with respect to the year for which adjusted gross income, as defined in § 190.43, is reported.

"Employment expense offset" means an allowance to meet expenses relating to employment when both the independent student and his or her spouse are employed or when the independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Expenses arising from catastrophe" means unreimbursed casualty losses incurred by the independent student and spouse that may be deducted under section 165(c)(3) of the Internal Revenue Code. The expenses which may be reported are those which were incurred during 1978, unless the student files under the provisions of § 190.48. In that case the expenses reported will be those incurred in 1979.

"Family size offset" means an allowance to meet the subsistence expenses of the independent student and his or her dependents, including food, shelter, clothing, and other basic needs. The "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration, is used as a basis to determine the family size offset, except in the case of a single independent student. In that case an amount estimated to be equal to living expenses during the normal period of non-enrollment is used.

"Federal income tax" means (a) the tax on income paid to the U.S. Government under Chapter 2 of the Internal Revenue Code, or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions.

"Independent student" means:

(a) A student who for 1978, 1979, or 1980—

(1) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes by his or her parent(s) for any one of these years;

(2) Has not received and will not receive financial assistance of more than $750 from his or her parent(s) in any one of these years; and

(3) Has not lived and will not live for more than six weeks in the home of his or her parent(s) in any one of these years; or

(b) A student whose last surviving parent for whom financial information would have been reported on the application under the provisions of Subpart C has died in 1978, 1979, or 1980.

(20 U.S.C. 1070a(a)(3)(B)(iii).)

"Medical expenses" means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code for 1978, by the independent student and spouse unless the student files under the provisions of § 190.48. In that case the expenses reported are those for 1979.

"Net assets" means, at the time of application, the current market value of the assets included in the definition of assets minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother or father. An adoptive parent is considered the student's mother or father.

(20 U.S.C. 1070a(a)(3)(C).)

§ 190.43 Annual adjusted family income.

(a) "Annual adjusted family income" means, except as provided in paragraphs (b) and (c) of this section and § 190.48—

(1) The sum received in 1978 by the student and spouse from—

(i) Adjusted gross income as defined by section 62 of the Internal Revenue Code, regardless of whether the student or spouse filed an income tax return;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on State and municipal bonds; and

(iii) Other income upon which no Federal income tax need be paid. Examples of such income include child support payments, income from income maintenance programs such as welfare benefits and Social Security benefits.

(2) One-half of any veteran's benefits to be paid to a student under Chapters 34 and 35 of the United States Code for the award period for which aid is requested.

(b) For a Native American student, the annual adjusted family income will not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, et seq.) or the Alaska Native Claims Settlement Act (43 U.S.C. 1601, et seq.).

(c) In the case of the student who is divorced or separated, only the student's own income shall be considered in determining the annual adjusted family income.

(20 U.S.C. 1070a(a)(3)(B).)

§ 190.44 Computation of the expected family contribution for an independent student from effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine effective family income of the student and spouse.

(b) Determine discretionary income by deducting the following offsets from the amount calculated in paragraph (a):

(1) A family size offset in the amount specified in the following table.

Family size offsets

Family members	Amount
1.	$1,200
2.	4,450
3.	5,400
4.	6,850
5.	8,050
6.	9,150
7.	10,100
8.	11,200
9.	12,250
10[1]	13,250

[1] Plus $1,000 for each additional family member over 10.

In determining the family size, the following rules apply—

(i) Family members normally include the student and spouse and their dependents.

(ii) However, if the student is divorced or separated, the spouse (ex-spouse) and his or her dependents are not counted in the family size.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental ex-

penses and unreimbursed losses resulting from a catastrophe exceeds 20 percent of effective family income. The expenses that may be reported are those expenses paid by the student and spouse in 1978, unless the student files under the provisions of § 190.48. In that case the expenses reported will be those paid in 1979. The expenses of both the students and spouse are included only if the incomes of both are subject to inclusion in determining the effective family income.

(3) An employment expense offset in the amount specified as follows—

(i) If both the student and spouse were employed in the year for which adjusted gross income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the adjusted gross income earned by the person with the lesser income.

(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her income.

The adjusted gross income figure to be used in all cases is that figure for 1978, unless the student files under the provisions of § 190.48. In that case the figure to be used in the one for 1979.

(4) An educational expense offset equal to the unreimbursed tuition paid by the student and spouse for other dependent children enrolled in elementary or secondary school. The expenses that may be reported are those expenses paid in 1978, unless the student files under the provisions of § 190.48. In that case the expenses reported will be those paid in 1979.

(20 U.S.C. 1070a(a)(3)(B).)

(c) If the discretionary income is a positive amount, multiply it by:

(1) 75 percent for the single independent student with no dependents;

(2) 50 percent for the married independent student with no dependents other than a spouse; or

(3) 40 percent for the independent student who has dependents other than a spouse.

If the discretionary income is negative, there is no expected family contribution from effective family income.

(20 U.S.C. 1070a(a)(3)(C).)

§ 190.45 Computation of the expected contribution from the assets of the independent student and spouse.

(a) Except as provided for in paragraph (b), the expected contribution from the assets of the independent student and spouse is determined in the following manner:

(1) Determine the net assets owned by the student and spouse.

(2) The expected contribution from assets equals 33 percent of the amount determined in paragraph (a)(1) of this section.

(b) If the calculation of discretionary income required by § 190.44(b) produces a negative number, the expected contribution from the student's assets calculated under paragraph (a) shall be reduced by the amount of that negative discretionary income.

(20 U.S.C. 1070a(a)(3)(B).)

§ 190.46 Computation of the total expected contribution from the student's and spouse's income and assets, adjusted for number of family members attending programs of postsecondary education.

(a) For each grant, the amount expected from family income as determined in § 190.44 is added to the amount expected from assets as determined in § 190.45.

(b) For each grant, the combined expectation determined in paragraph (a) is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Basic Grant assistance is requested.

Number of family members attending institutions of postsecondary education:	Expected contribution per student from combined contribution:
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4 or more	40 percent of the contribution determined in paragraph (a).

Family members are those persons referenced in § 190.44(b)(1).

(20 U.S.C. 1070a)

§ 190.47 [Reserved]

§ 190.48 Extraordinary circumstances affecting the expected family contribution determination for the independent student.

(a) An applicant may submit an application to the Commissioner for determination of his or her expected family contribution using income data from 1979 instead of 1978 if—

(1) A spouse whose income was or would have been included in the computation of the expected family contribution has died in 1978 or 1979,

(2) A spouse whose income was or would have been included in the computation of the expected family contribution has lost his or her job for at least 10 weeks during 1979,

(3) An applicant or spouse whose income was or would have been included in the computation of the expected family contribution has been unable to pursue normal income-producing activities for at least 10 weeks during 1979 because of (i) Disability or (ii) loss or damage to income-producing property as a result of natural disaster,

(4) The applicant has become separated or divorced after he or she submitted his or her application,

(5) The applicant was employed full-time in 1978 (at least 35 hours per week for a minimum of 30 weeks during 1978) and is no longer employed full-time,

(6) An applicant or spouse whose income was or would have been included in the computation of the expected family contribution has had his or her unemployment benefits expire in 1978 or 1979, or

(7) An applicant's last surviving parent for whom financial information was reported on an earlier application for the award period has died.

(b) An application submitted under paragraph (a) of this section shall include the annual adjusted family income already received for 1979 and an estimate of the annual adjusted family income to be received for the remainder of that year.

(c) An applicant may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the applicant or the applicant's spouse has suffered a loss of or damage to assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1070a(a)(3)(B)(i)(V).)

PART 144—NATIONAL DIRECT STUDENT LOAN PROGRAM

2. Section 144.2 of part 144 of Title 45 of the Code of Federal Regulations is amended by adding the definition of "independent student (effective July 1, 1979)," to read as follows:

§ 144.2 Definitions:

* * * * *

"Independent student (effective July 1, 1979):"

(a) This term means a student—

(1) Who is a veteran; or

(2) Who for the calendar year(s) of the award period for which aid is requested or the calendar year before the first calendar year of that award period—

(i) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes by his or her parent(s) for any one of these years;

(ii) Has not received and will not receive financial assistance of more than $750 from his or her parent(s) in any one of these years; and

(iii) Has not lived and will not live for more than six weeks in the home of his or her parent(s) in any one of these years.

(b) However, the Commissioner considers that a student will not have been claimed as an exemption by a parent, will not have received more than $750 from a parent, and will not have lived in the parent's home for more than six weeks if that parent dies before the student submitted his or her loan application.

(20 U.S.C. 1087aa-ff; 20 U.S.C. 1087dd(e).)

PART 175—COLLEGE WORK-STUDY PROGRAM

3. Section 175.2 of Part 175 of Title 45 of the Code of Federal Regulations is amended by adding the definition of "independent student (effective July 1, 1979)," to read as follows:

§ 175.2 Definitions:

* * * * *

"Independent student (effective July 1, 1979):"

(a) This term means a student who for the calendar year(s) of the award period for which aid is requested or the calendar year before the first calendar year of that award period—

(1) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes, by his or her parent(s) for any one of these years;

(2) Has not received and will not receive financial assistance of more than $750 from his or her parent(s) in any one of these years; and

(3) Has not lived and will not live for more than six weeks in the home of his or her parent(s) in any one of these years.

(b) However, the Commissioner considers that a student will not have been claimed as an exemption by a parent, will not have received more than $750 from a parent, and will not have lived in the parent's home for more than six weeks if that parent dies before the student submitted his or her College Work-Study application.

(42 U.S.C 2751-2756.)

PART 176—SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAM

4. Section 176.2 of part 176 of Title 45 of the Code of Federal Regulations is amended by adding the definition of "independent student (effectively July 1, 1979)," to read as follows:

§ 176.2 Definitions:

* * * * *

"Independent student (effective July 1, 1979):"

(a) This term means a student who for the calendar year(s) of the award period for which aid is requested or the calendar year before the first calendar year of that award period—

(1) Has not been claimed and will not be claimed as an exemption for Federal income tax purposes, by his or her parent(s) for any one of these years;

(2) Has not received and will not receive financial assistance of more than $750 from his or her parent(s) in any one of these years; and

(3) Has not lived and will not live for more than six weeks in the home of his or her parent(s) in any one of these years.

(b) However, the Commissioner considers that a student will not have been claimed as an exemption by a parent, will not have received more than $750 from a parent, and will not have lived in the parent's home for more than six weeks if that parent dies before the student submitted his or her grant application.

(20 U.S.C. 1070b.)

Appendix—Summary of Comments and Responses

Set forth below is a summary of the public comments received on the proposed Family Contribution Schedules and the Office of Education responses to those comments. Generally, the comments and responses appear in the numerical sequence of the regulations and are identified with the section number and title of the section to which they refer.

§ 190.32 Special Definitions. "Parent".

Comment. A number of people commented on the proposed change in the definition of the term, "parent." The majority of these commenters (approximately 70%) favored the new concept, stating that it was more realistic and equitable to consider only the natural or adoptive parents as parents for Basic Grant purposes. On the other hand, those who opposed such a definition generally felt that some parents are already abdicating their responsibilities as far as the postsecondary education of their children is concerned, and this will only make it easier for them to do so.

In addition to these 30% who were opposed to the change, several commenters favored the change with reservations. For example, two commenters thought that there should be a revised concept of "spouse" to complement the new definition of parent. This would, according to the commenters, identify those situations in which a student was living with and, thus, receiving support from, someone to whom the student was not legally married.

Along similar lines, one commenter suggested that the Basic Grant Program should consider, at a minimum, the value of the room and board that a student receives when he or she lives with a person other than his or her parent. Finally, one commenter was concerned that the new definition of parent would automatically make a student independent of a step-parent who might be providing considerable financial help.

Response. As was indicated in the preamble to the proposed rules, the Basic Grant Program has always operated under the assumption that parents have the first responsibility for the education of their dependent children. While the Commissioner definitely agrees with that concept, it has become apparent that people, other than the parents, from whom the applicant might receive some support do not necessarily have a similar responsibility. Thus, the suggestion to retain the old concept of "other parent" for such people and, thus, to view the affected students as dependent upon them for their postsecondary education has not been reflected in the final regulation.

The Commmissioner has also decided not to adopt a new, more encompassing definition of spouse, believing that such a definition is not necessary. If a student qualifies as an independent student, the legal definition of spouse will continue to be used in determining whose income must be reported for purposes of establishing Basic Grant eligibility.

Regarding the reporting of the value of room and board that an independent student might receive by living with someone other than a parent or spouse, the Commissioner does not feel that it would be practical to attempt to determine if such benefits exist or to determine the value of those benefits. Thus, the recommendation has not been adopted.

Finally, the Commissioner does agree that, under certain conditions, a step-parent's, as well as a parent's, income and assets should be reported in determining the eligibility of a dependent student. These conditions are addressed in § 190.33(d) of the final regulations. It should be noted, however, that the step-parent's income and assets are only considered because, first, the student has already been determined to be dependent on his or her natural or adoptive parent and, second, there exists a familial finan-

cial relationship between the student and the step-parent. Thus, the new definition of parent does not automatically remove a step-parent from consideration for Basic Grant purposes. Rather, the same concept that existed in the past continues to exist.

Comment. In noting the language of the 1978-79 Family Contribution Schedules, one commenter asked whether the unusual expenses (casualty losses and medical expenses) of the entire family should be considered for a dependent student since the income that is reported is only the income of the parents.

Response. The Commissioner agrees that, for a dependent applicant, the "expenses arising from catastrophe" and "medical expenses" should be only those expenses incurred by the parents whose income is included. Expenses which are incurred by the applicant himself or herself or by other members of the family other than the parents should not be considered as offsets against the effective family income of the parents. Therefore, the language in § 190.2 defining those expenses has been clarified.

§ 190.33 Annual adjusted family income.

Comment. Several comments were received related to the annual adjusted family income. One commenter thought that special consideration should be given to farm families. Specifically, this person thought that since farm income fluctuates considerably from year to year, we should use income averaging for farm incomes over the past three years. As an alternative, he suggested allowing a larger amount of discretionary income for an eligible applicant's family to offset not only the effects of inflation on the farm family's income, but, also, the special financial problems that farmers often encounter.

The second comment related to the fact that the claiming of the applicant as an income tax exemption jointly by the parent and step-parent is not a criterion for requiring part or all of the step-parent's income and assets to be reported. This commenter felt that many students who do live in such a home do not report that fact. But, if the income tax exemption criterion were stated, it would be easy to document where the applicant lives or has lived.

The third comment was also related to when the step-parent's financial resources should be considered. This commenter, however, felt that the step-parent's income should sometimes be included even if neither of the stated conditions in § 190.33 exists since the step-parent's and the parent's funds are often used jointly.

Response. None of these suggestions were implemented in the final regulations. The family size offsets have, of course, been increased by amounts which reflect the increase in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor. This, the Commissioner feels, provides an adequate offset from the family's effective income for Basic Grant applicants. If special consideration were given to members of one occupation, but not to others, the concept of consistent treatment for all applicants applying for Basic Grant assistance would be jeopardized. Several occupations in addition to farming are characterized by yearly fluctuating incomes. The Basic Grant Program treats all of these situations in an identical fashion, i.e., by using the base year income as the best available indicator of the current year income. While the base year income may in some cases exceed the current year income, it is just as likely that the opposite will be true. And in the majority of cases, the difference is likely to be minimal. The use of an average of the past three years' incomes would substantially complicate both the application and the validation processes and would probably not be as accurate a reflection of an applicant's current financial situation as is the use of the base year.

Concerning the reporting of the step-parent's income and assets, the tax exemption criterion is not used since it does not always indicate that a familial or financial relationship exists or existed between the applicant and the step-parent. For example, when one parent is allowed to claim the applicant as a tax exemption as a result of a divorce settlement, and that parent files a joint return with his or her new spouse, it does not necessarily indicate that the new spouse (the step-parent) provided any financial assistance to the applicant. Neither does it indicate whether the applicant lived with the step-parent for any length of time.

In short, the claiming of a student by the step-parent does not establish that a relationship "equivalent" to that of parent and child exists for the step-parent and step-child as is called for in the Basic Grant legislation. Thus, the Basic Grant Program would not want to require that the step-parent's financial information be used to determine such an applicant's eligibility in the absence of one of the stated criteria, i.e., if no familial or financial link existed between the step-parent and the applicant. In such a case, of course, the applicant would still be dependent by virtue of the fact that he or she had been claimed by his or her parent on the parent's joint tax return. However, only that parent's financial information would be reported. The "fact" that both the step-parent's and the parent's funds are often used jointly is an imprecise determination at best. It is not considered by itself to be an adequate criterion by which a relationship equivalent to that between a parent and a child can be said to exist between a step-parent and a step-child.

Comment. Another commenter suggested that in cases of self employment, taxable income should be used instead of adjusted gross income when determining the effective family income of an applicant's parents.

Response. Since the Basic Grant Program is formula-based, it is imperative that all applicants receive equal and consistent treatment in the determination of their need. The various deductions to which a taxpayer is entitled by law will vary from one individual to another regardless of whether he or she is self-employed or not. By mandating that the adjusted gross income line be used, the Commissioner believes that a more consistent treatment of applicants is achieved. It is also the Commissioner's belief that such a figure will provide a more realistic figure of effective family income than would be achieved by allowing a family to report only that portion of its income that is subject to taxes after various deductions have been subtracted from that income.

§ 190.34 Computation of the expected family contribution for a dependent student from effective family income.

Comment. As part of § 190.33 of the proposed rules the Office of Education suggested that one of two alternative approaches to assessing parental income be incorporated into the final regulations. The two alternatives were proposed to accommodate whatever action Congress might take concerning tuition tax credits. Alternative A provided for a 12% assessment of discretionary income and would result in both a greater number of students qualifying for Basic Grants and in generally larger grants than would result from Alternative B. Alternative B provided for keeping the old assessment rate of 20% of the first $5,000 and 30% of everything else. The vast majority of commenters favored Alternative A.

Response. Subsequent to the publishing of the proposed regulations for the Family Contribution Schedules, the Congress passed the Middle Income Student Assistance Act. This legislation was signed by the President on November 1, 1978. One of its provisions is: "In determining the expected family contribution (for Basic Grants) for any academic year after academic year 1978-79, an assessment rate of 10.5 per centum shall be applied to pa-

rental discretionary income." Thus, the final regulations reflect this new provision of the law.

Comment. One commenter suggested that the same assessment rate that is applied to the discretionary income of parents of dependent students be used for independent students with dependents. He felt that to do otherwise represents a value judgment that it is more important to educate an 18-year-old student than a 30-year-old student.

Response. The assessment rate on the income of parents of dependent students will be 10.5% for the 1979–80 academic year. This is based on the applicable provision of the Middle Income Student Assistance Act. However, the assessment rate on the income of an independent student can be either 40%, 50%, or 75% depending on whether that independent student has dependents other than a spouse, has a spouse only, or is a single independent student.

No judgment about the relative importance of educating any segment of the population is intended to be made by this difference. Rather, the difference between the rates applied to the independent student's income and the rate applied to a dependent student's parent's income is a reflection of the philosophy that the independent student is the direct beneficiary of his or her education. Therefore, the independent student is expected to contribute a greater share of his or her income towards those educational expenses than is the parent of a dependent student, since the parent is not the direct beneficiary of the education.

Comment. While there was general support for the increases in the Family Size Offsets, several commenters suggested that larger increases were in order. One specific recommendation was that the "Uniform Method Standard Maintenance Allowances" be used for the offsets. The Basic Grant Program currently uses figures which result from yearly adjustments (to reflect inflation) to the "Weighted Average Thresholds at Low Income Level" developed by the Social Security Administration and published by the Bureau of the Census which were used initially.

Response. The suggestions to provide additional increases in the Family Size Offsets were not adopted. The figures in the final regulation reflect an 8.8% increase (rounded to the nearest $50) over last year's figures to account for the increase in the Consumer Price Index. The Commissioner believes that these figures adequately reflect the costs of basic family expenses that must be met prior to educational expenses.

Comment. One commenter questioned the fairness of allowing a stepfather of a dependent applicant to claim in his family size other dependents for whom he pays child support if that support is less than the increase in the Family Size Offset resulting from those additional family members for whom the support is paid. Further, this commenter wondered whether the children for whom child support is provided can be claimed as part of the family size by the family with whom those children reside.

Response. The step-father is allowed to claim a dependent child who does not live with him but for whom he provides support payments only if he provides more than half of that child's support. Whether this amounts to more or less than the increase in the offset is irrelevant since the offset is a standard figure used for everyone regardless of whether the actual amount of the offset is expended or not. If parents spend less on their children than what is allowed by the offset, they are still entitled to the full amount of that offset.

The family with whom the children actually reside would report them in its family size but would also report as income any child support payments received for those children. Thus, in certain situations a child could be considered a dependent of two families.

Comment. One commenter suggested that, for disabled students, the Family Contribution Schedules should be adjusted to reflect the exceptional expenses of those students.

Response. Since the Basic Grant Program is formula-based, it is imperative that all applicants receive fair and consistent treatment in the determination of their eligibility for assistance. The formula used by the Program takes into account the basic subsistence expenses that must be met by the family before any contribution from its income is expected. Thus, in attempting to provide all applicants an equal opportunity for assistance, the Commissioner believes that standard treatment is necessary. This standard and equitable treatment is applied to both the family income to determine eligibility for assistance and to the allowable costs of attendance for enrollment in a postsecondary institution which help to determine the amount of that assistance.

It should be noted that the Basic Grant is not intended to provide for all of a student's educational expenses, whether that student is disabled or not. Rather, it is intended to provide a foundation of financial aid. Other aid, in addition to the Basic Grant, can be awarded when additional need exists.

Comment. One commenter pointed out that the increases in the Family Size Offsets for additional family members are not equal, but rather fluctuate between $900 and $1,450. Further, the fluctuations appear to be somewhat random. He suggested that if there were to be different increases for additional family members, the first addition (the first child) should produce the largest increase in the amount offset and later children should produce lesser increases.

Response. The family size offsets that the Basic Grant Program used in its first year of operation were based on the "Weighted Average Thresholds at Low Income Level" developed by the Social Security Administration and published by the Bureau of the Census. The expenses in that table were based on the food costs of families of given sizes, as well as on certain assumptions about additional expenses for shelter and other family needs. The figures have been updated annually to reflect increases in the Consumer Price Index. The fluctuations in the increases that result from different family sizes, thus, result from differences measured initially by the Social Security Administration.

§ 190.35 Computation of the expected contribution from parental assets.

Comment. Several people commented on the increase in the asset reserve for non-farm and non-business assets from the current $17,000 to $25,000. The vast majority of the commenters favored the increase. Two commenters, however, suggested that the increase should be slightly higher, while one thought that it was much too high and should only be increased to reflect the effects of inflation.

In addition, two other commenters suggested that home equity should not be considered at all when assets are reported, since the home usually represents a non-liquid asset. Another commenter suggested that, in addition to an asset reserve, $20,000 to $30,000 of home equity should be exempt from assessment. However, for anyone who owns a home worth more than $75,000 or perhaps $100,000, that commenter thought that the Basic Grant Program should reduce the amount of home equity that would be exempt from assessment.

Response. The basic tenet behind the assessment of assets is simply that families with assets are in a stronger financial position than families with similar incomes but without assets. Thus, for a need based program, some form of asset assessment is required. And, although equity in a home generally is considered to be a non-liquid asset, it, nevertheless, is part of a family's financial strength. As such, that asset is treated in the same manner as other assets.

The Commissioner agrees that there should be some protection of a family's assets since those assets are normally intended for a variety of uses in addition to the postsecondary educa-

tion of the family members. The raise in the non-farm and non-business asset reserve to $25,000, thus, reflects not only that philosophy but, also, the Commissioner's belief that that figure results in an adequate and fair treatment of the assets that a family might have.

§ 190.42 Special definitions "Independent student."

Comment. In addition to the comments of simple approval or disapproval on this section (which were about evenly divided), several commenters suggested specific changes. One commenter, for example, suggested that the definition of the base year for purposes of establishing independent status be changed for those students who attend school only during the second calendar year of any academic year, i.e., only during 1980 for the 1979–80 award period. The base year for such a student, according to this commenter, should be 1979 instead of 1978.

A second commenter recommended that veterans have a six month grace period immediately after their discharge during which they could live with their parents without being classified as dependent students. The purpose of this exemption would be to allow veterans time to establish their own residence after leaving the military.

Response. Neither of these suggestions was adopted. Since the program operates on the basis of yearly award periods, any student who attends any portion of a particular award period must face the same requirements of independent status as all other students attending school during that award period. Similarly, in regard to the suggested six-month grace period for veterans, the Commissioner does not wish to deviate from the concept that all independent students are required to meet the same conditions in order to be considered independent.

Comment. One commenter suggested that additional criteria, such as the age, the marital status, and the employment history of the applicant, be considered in determining his or her independent status.

Response. The age and marital status of an applicant are arbitrary criteria and would not necessarily indicate that an applicant is or is not financially independent of his or her parents. And, while the applicant's employment history would provide some indication of independence, the Commissioner believes that the existing criteria of (1) being claimed as a tax exemption, (2) living with the parents, and (3) receiving financial support from them adequately establish independence or dependence.

Comment. One commenter suggested that instead of establishing $750 as the set figure for allowable parental support for an independent applicant, the figure to be used should always reflect the figure that the Internal Revenue Service sets for the personal exemption.

Response. This suggestion was not adopted. This figure may or may not be the same as the Internal Revenue Service personal exemption figure. The Commissioner believes that, for the purposes of determining independent status, the $750 figure is adequate at this time.

Comment. Regarding the determination of independent status, several commenters urged that the Basic Grant Program adopt the proposal from the July 12, 1977 notice of proposed rulemaking, which called for an extension of the Federal tax exemption criterion to two years prior to the year for which aid is requested. Others suggested that such a rule not be adopted, thinking that the Commissioner was again proposing it.

Response. As indicated in the preamble to the August 14, 1978 notice of proposed rulemaking for these Family Contribution Schedules, the idea of extending the income tax exemption criterion back an additional year was considered at one time but never implemented. Such a rule would make an otherwise independent student who was enrolling in school in January of 1980 dependent solely because he or she was claimed by his or her parents for 1977. The Commissioner does not believe at this time that such an extension is necessary to determine the student's independent status.

Comment. One commenter suggested that since the Basic Grant Program's definition of an independent student will be used as the standard for the campus-based programs, § 190.42 should include a definition of an independent, graduate student. Further, this commenter suggested that the standards for graduate students be more liberal than those for undergraduate students.

Response. This suggestion was not adopted. The definition in this final Basic Grant regulation is repeated, for the campus-based programs with appropriate modifications. The criteria for independent student status will be the same for both graduate and undergraduate students.

§ 190.43 Annual adjusted family income.

Comment. One commenter wondered whether a separation, as mentioned in § 190.42a(c) of the proposed regulations would have to be a legal one.

Response. The final regulation, as was the case with the previous regulation, does not specifically require a legal separation. Thus, if the independent student is separated (legally or otherwise) or divorced as of the date of application, only the student's own income will be considered in determining the annual adjusted family income.

Comment. One commenter suggested that the regulation specifically state whether a student who pays room and board to his or her parents while living in their home is classified as an independent student.

Response. This suggestion has not been adopted. Such a student would be dependent since the pertinent section of the regulation, § 190.42(a)(iii), states that, to be classified as independent, the student must not have lived or will not live for more than six weeks in the home of his or her parents during any of the pertinent years. No exception is noted for any extenuating circumstances, such as the payment of room and board.

If such a provision were enacted, it would provide an opportunity for significant abuse of the independent student definition, since substantial benefits of room and board could be available to an applicant at a nominal cost. Consequently, a student paying room and board while living in his or her parent's home is classified as a dependent student under the final regulation.

§ 190.44 Computation of the expected contribution for an independent student from effective family income.

Comment. Although one commenter suggested that the increased family size offset for a single, independent student should become effective only if the old, more rigorous definition of an independent student is kept, there was virtually unanimous acceptance of that proposed increase by all commenters.

Response. The proposed change in the method of computing the family size offset for the single independent student to provide consistency with the method of computing the offsets for all other students has not been adopted. The proposal was put forth in the notice of proposed rulemaking published on August 14, 1978. Additionally, the President, on November 1, 1978, signed the Middle Income Student Assistance Act (MISAA), which in addition to its other provisions, also called for the proposed increase in the family size offset for the single independent student. However, the Office of Education has decided to postpone implementation of this change until 1980–81 because of budgetary considerations.

Comment. One commenter suggested that the Basic Grant Program family size offsets take into consideration not only the number of family members

but, also, the grade level of those family members who are in school and the amount of income that is actually available for their education.

Response. Since the Basic Grant Program is formula-based, the family size offset for a given family size must be same for all families with that family size. While the program does consider both family size and unreimbursed primary and secondary school tuition and fees of other family members in determining the amount of money that should be available for the postsecondary educational expenses of an applicant, the grade level of the other dependent children is not *per se* a factor. Also, the Program does not attempt to determine if any money is actually given to the applicant but rather how much money should be expected to be available based on the need analysis formula used.

Comment. Several other comments were received which addressed § 190.33 as well as this section. These comments concerned unusual expenses for disabled students, the Uniform Method Standard Maintenance Allowance, and the amounts of the offsets.

Response. These comments were addressed in this appendix in the responses to recommendations regarding § 190.33.

§ 190.45 Computations of the expected contribution from the assets of the independent student and spouse.

Comment. Several commenters suggested that either the same asset reserve that is offered to the family of a dependent applicant and that was, under the proposed regulations, offered to the independent applicant with a family size greater than one, or some modified version of that concept be offered to a single independent applicant with no dependents. Others suggested that special consideration be given to non-liquid assets, especially equity in a house. And, on commenter suggested that asset protection should be graduated with age is done under the Uniform Methodology.

Response. These suggestions were not adopted. The Commissioner's position is that, generally, the independent student is expected to contribute a greater portion of his or her resources towards postsecondary educational expenses than is the family of a dependent student. This is because the independent student is the direct beneficiary of his or her education.

In recognition of the fact that an independent student with a family size greater than one has some of the same responsibilities that the family of a dependent student has, the same assessment of assets was proposed for both types of applicants. However, because of budgetary considerations as was noted in the responese to comments on § 190.44, the Office of Education has decided to postpone the implementation of this proposed change until 1980-81 period. Thus, the proposed creation of an asset reserve for indpendent students with dependents has not been incorporated into these final regulations. And, the assessment rate for those assets remains the same as it was last year (33%).

§ 190.48 Extraordinary circumstances affecting the expected family contribution determination for the independent student.

Comment. Two comments were received suggesting that two additional reasons should be added to § 190.48 (with, presumably, comparable additions to § 190.39) to allow a student to file a Supplemental Form when applying for a Basic Grant. The first of these suggestions was that a student should be able to file a Supplemental Form based on a divorce that occurs prior to the date of the original Basic Grant application for that award period. The second was that students whose Social Security benefits have expired or students who have lost part-time jobs that they held in the year which they are reporting income should also be able to file Supplemental Forms.

Response. Neither of these suggestions was adopted. In developing the regulations for the Basic Grant Program, the Commissioner determined that the tax year prior to the year of application is the best indicator of family financial strength. For 1979-80 therefore, an independent applicant will report his or her 1979 income information.

It was recognized, however, that circumstances may occur which would dramatically affect the financial strength of the family after the base year of 1978. In order to accommodate these circumstances certain conditions have been established under which an applciant may submit an application that uses the current tax year (1979) as the base year and estimates the family income for that year. The Supplemental Form is the vehicle used in determining eligibility to file a Basic Grant application using estimated 1979 income.

One of these conditions is the divorce of separation of the applicant. However, if the divorce or separation occurs prior to the filing of the original Basic Grant application, there is no need to estimate income. Rather, the base year income of only the applicant is reported. The spouse's financial information is not considered since he or she is no longer part of the applicant's family.

The Commisisoner had decided not be include expired Social Security benefits or lost part-time jobs as additional conditions permitting an applicant to use the Supplemental Form for 1979-80. However, the Commissioner will study the possibility of adding these conditions in future award periods.

[FR Doc.80-8766 Filed 3-22-79; 8:45 am]

federal register

FRIDAY, MARCH 23, 1979

PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES
1934

COUNCIL ON WAGE AND PRICE STABILITY

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NONINFLATIONARY PAY AND PRICE BEHAVIOR; SPECIAL PROCEDURAL RULES

[3175-01-M]

Title 6—Economic Stabilization

CHAPTER VII—COUNCIL ON WAGE AND PRICE STABILITY

PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

PART 706—SPECIAL PROCEDURAL RULES

Nine-Month Standard for Price Increases

AGENCY: Council on Wage and Price Stability.

ACTION: Adoption of Nine-month Standard for Price Increases

SUMMARY: The Council is adopting a nine-month standard for price increases similar to the six-month standard. Under this new standard, a company's average rate of price change during the first nine months of the program year would not exceed 75 percent of the allowable program-year rate of price change.

DATES:

Effective Date: March 23, 1979.

Comments will be accepted through April 27, 1979.

ADDRESS: Send comments to: Sandra Sherman, Office of General Counsel, Council on Wage and Price Stability 726 Jackson Place, N.W., Washington, D.C. 20506 (202) 456-6286.

FOR FURTHER INFORMATION CONTACT:

Sandra Sherman.

SUPPLEMENTARY INFORMATION: The Council is amending section 705A-4 to request that a company's average rate of price change during the first nine months of the program year not exceed 75 percent of the allowable program-year rate of price change. This is the same in principle as the Six-month Standard for Price Increases, which limits the average rate of price change for the first six months to not more than 50 percent of the allowable rate for the program year. By adopting this standard, the Council is attempting to prevent a spurt in inflation during the second half of the program year, which could result if companies took all of their allowable price increases immediately after the first six months of the program year. As in the six-month standard, however, a company need not comply with the nine-month standard if price increases in excess of the standard are justified by seasonal variations in business operations, historical business practices, or unusual business conditions, and if the company demonstrates that it will comply with the profit-margin limitation and, by the end of the year, with the price deceleration standard.

The Council is also amending §§ 706.32 and 706.34 to allow companies to apply for exceptions from the nine-month standard if they believe there is a business justification for not complying. Any request for an exception may apply to *both* the six- and the nine-month standards.

While these changes are effective immediately, the Council will accept comments on them through April 27, 1979. Such comments should be sent to Ms. Sandra Sherman at the address given above.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note); E.O. 12092.)

In consideration of the foregoing, Section 705A-4 in the Appendix to Part 705, and §§ 706.32 and 706.34 in Part 706, of Chapter VII, Title 6 of the Code of Federal Regulations, are amended to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,
Director, Council on Wage and Price Stability.

1. Section 705A-4 in the Appendix to Part 705 is amended to read as follows:

Sec. 705A-4 *Six-month and nine-month standards for price increases.*

During the first six and nine months of the program year, the average rate of price change for a company should not exceed, respectively, 50 percent and 75 percent of the allowable program-year rate of price change, as defined in Section 705A-2. However, a company need not comply with the six- and nine-month limits if it can demonstrate that the increases in excess of 50 and 75 percent of the allowable program-year change can be justified on grounds of seasonal variations in business operations, historical business practices, or unusual business conditions, and will not prevent compliance with the general price deceleration standard by the end of the program year. However, if a company exceeds the six- and nine-month price standards, a company must also be able to show that its pricing actions are consistent with adherence to the profit margin limitation (for the program year) defined in Section 705A-6(a).

2. Section 706.32 is amended in subparagraph (1) of paragraph (b) to read as follows:

§ 706.32 Grounds for approval for defined exceptions.

* * * * *

(b) * * *

(1) Compliance with the six-month and nine-month limit for price increases under Section 705A-4 (Six-month and Nine-month Standards for Price Increases) is not required by the section; or

* * * * *

3. Section 706.34 is amended by adding paragraph (a)(5)(iv)(B) to read as follows:

§ 706.34 Contents of the request.

(a) * * *

(5) * * *

(iv) Six-month and/or nine-month standard(s) for price increases:

(A) * * *

(B) A description of the unusual business conditions that are alleged to be responsible for not complying with the six-month and/or nine-month standard(s).

[FR Doc. 79-8759 Filed 3-21-79; 8:45 am]

[3175-01-M]

PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

Interim Final Price Standard for Federal, State and Local Government Enterprises and Government-Subsidized Private Companies

AGENCY: Council on Wage and Price Stability.

ACTION: Interim Final standard for Federal, State, and local government enterprises and government-subsidized private companies and amendment to Implementation Guide.

SUMMARY: The Council is amending the price standard for Federal, State, and local government enterprises. The criteria for coverage are being changed for the purpose of clarification and to make the application of the standard uniform for all enterprises of a particular type. The standard is also being amended to include, in the calculation of rates of price change, adjustments for changes in operating subsidies to government enterprises and private companies.

DATES:

Effective Date: March 23, 1979.

Comments will be accepted through April 27, 1979.

ADDRESS: Send comments to: Sandra Sherman, Office of General Counsel, Council on Wage and Price Stability, 726 Jackson Place, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Sandra Sherman, Office of General Counsel, (202) 456-6286; or Stuart McMenamin, Office of Policy, Planning & Evaluation. (202) 456-6466.

SUPPLEMENTARY INFORMATION: On January 19, 1979, the Council augmented the Modified Price Standards for Selected Industries, 705C, by adopting 704C-4, which provides a special price standard for Federal, State,

and local government enterprises (44 FR 5336, January 25, 1979). The Council is now amending this standard in several respects.

As originally adopted, the standard provided that a government entity would be subject to the price standard in 705A only if it was a "government enterprise". The intention was to apply the price standard only to those government activities that are similar to private business activities. A government enterprise was defined as a government entity that could be separated from a Federal, State, or local government in a manner that is consistent with the criteria listed in the definition of "company" in Section 705D, and for which operating revenue equalled at least 50 percent of current operating expenses. Operating revenue was not defined, but certain types of subsidies were considered to be included in operating revenue. The 50-percent test caused two major difficulties for entities attempting to comply with the standard: (1) such entities were not sure whether certain sources of income should be considered "operating revenue" for the purposes of the test, and (2) there was inconsistent treatment of different enterprises within major sectors (e.g., transportation), which is come instances caused conflicts with formulas used to allocate public assistance. In order to eliminate these difficulties, the definition of "government enterprise" is being amended.

Certain categories of government business—e.g., the Postal Service; public universities; government-operated toll facilities, alcoholic-beverage stores, parking services, ports, and airports; and public transportation services—will automatically be considered "government enterprises", irrespective of the ratio of revenue to expenses, provided that they are independent entities or that accounting records allow them to be separated from the Federal, State, or local government in a manner that is consistant with the definition of "company." Since the specified categories include most government enterprises that the original standard intended to reach—i.e., those whose activities most nearly resemble private businesses—the Council's intent will be accomplished without the need for characterizing sources of income.

Since it is not possible, however, to list every type of entity that shoud be considered a "government enterprise" for purposes of applying the price standard, the Council is including a second category in the definition of such enterprises. This category includes all other government entities that are independent or for which a separate accounting record can be established and whose operating revenues equal at least 50 percent of operating expenses. It will be much easier for entities in this category to determine whether they are subject to the price standard, since operating revenue is now defined as sales from goods and services, and the subsidy provision is dropped.

The standard has also been changed to eliminate its application to hospitals, since hospital costs are covered under the Administration's hospital-cost-containment program.

Finally, the standard has been modified to provide a means of adjusting the measure of price increases to reflect changes in operating subsidies to government enterprises and private companies. This change is being made because the Council does not want the price standard to conflict with the objective of meeting more of the operating expenses of some government enterprises and government-subsidized private enterprises through sales of goods and services, and less through government subsidies.

However, at a time when inflation is viewed as the number one economic problem, governments are asked to consider the inflationary impact of subsidy reductions. In many cases, the substitution of price increases for subsidies, while desirable in the long run on grounds of equity and/or efficiency, might be postponed until the inflation problem has abated.

To provide guidance, the Council is also publishing an addition to the *Implementation Guide* that illustrates the method of calculating a subsidy-adjusted rate of the price change.

While the price standard is intended to apply to all "government enterprises", any statute mandating a particular pricing policy will, of course, take precedence.

Since this is an interim standard, it is effective immediately, but the Council will accept comments through April 27. Comments should be sent to Sandra Sherman at the address given above.

Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904, note) E.O. 12092.

In consideration of the foregoing, 705C-4, in the appendix to Part 705 of Chapter VII, Title 6 of the Code of Federal Regulations, and the Implementation Guide, are amended to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY P. BOSWORTH,
Director, Council on Wage and Price Stability.

1. Section 705C-4 in the appendix to Part 705 is revised to read as follows:

705C—MODIFIED PRICE STANDARDS FOR SELECTED INDUSTRIES

* * * * *

Sec. 705C-4 *Federal, State, and Local Government Enterprises and Government-Subsidized Private Companies.*

(a) (1) Subject to paragraph (b), government enterprises are expected to comply with the price standard in 705A or the appropriate alternative standard in 705C.

(2) The Postal Service is a government enterprise. Any other independent government entity or nonindependent government entitiy that can be separated from a Federal, State, or local government in accordance with the criteria set forth in the definition of company in 705D is also classified as a government enterprise if it satisfies either of the following two conditions:

(i) It is a college or university; a toll facility; an alcoholic-beverage store; a commissary (retail outlet); a parking system; a port authority; an airport; an electric, gas, sewer, water, or other utility; a transportation service; a housing authority; or a health facility other than a hospital.

(ii) Its base-year operating revenue—i.e., revenue from sales of goods and services—equals at least 50 percent of base-year operating expenses.

(b) Government enterprises and private companies that receive government operating subsidies should use a subsidy-adjusted rate of price change for both the base period and the program year. The subsidy-adjusted rate of price change is the revenue-weighted rate of price change plus the rate of change in the operating subsidy per unit of output.

2. The Implementation Guide for the voluntary pay and price standards in 6 CFR Part 705 published on January 25, 1979 at 44 FR 5338 is amended by adding Section 5 to Part I.B (Price Deceleration Standard) to read as follows:

5. *Price Deceleration Standard For Subsidized Companies*

In determining compliance with the price deceleration standard, government enterprises and private companies that receive government subsidies will need to adjust their measures of price change for changes in the contribution to revenues provided by government subsidies. The subsidy-adjusted rate of price change is the rate of price change plus the rate of change in the operating subsidy per unit of output. For example, if the rate of price increase was held down in the base period by increased subsidies, the enterprise can adjust its base-period rate of price change upward to reflect this fact. Similarly, subsidy increases during the program year would result in an increase in the subsidy adjusted rate of price change which must be offset by a commensurately lower rate of increase in the price actually charged to customers if the price standard is to be met. The reverse is true for subsidy reductions.

In the following example, it is assumed that:

- The base-period rate of price change (BPRC) is 5.40%,
- The program-year rate of price change (PRPC) is 9.37%, and

● The deceleration percentage is 0.5

For a subsidized operation, it is necessary to compute the rate of change in the subsidy per unit of output over the base period and the program year. In this example, the following data are used.

SUBSIDY DATA

Quarter ending	(1) Subsidy received	(2) Units sold	(3) Subsidy per unit (1)÷(2)
Dec. 31, 1975	$7,000,000	3,500,000	$2.00
Dec. 31, 1977	7,500,000	3,625,500	2.07
Sept. 30, 1978	7,904,000	3,800,000	2.08
Sept. 30, 1979	7,575,000	3,750,000	2.02

The base-period rate of change in the subsidy per unit of output (BPRCS) is computed as the annual rate of change in the subsidy per unit from the end of 1975 to the end of 1977, giving:

$$BPRCS = \left[\sqrt{\frac{\text{Subsidy per unit in quarter ending 12-31-77}}{\text{Subsidy per unit in quarter ending 12-31-75}}} - 1.0 \right] \times 100$$

$$= \left[\sqrt{\frac{\$2.07}{\$2.00}} - 1.0 \right] \times 100 = \boxed{1.73\%}$$

Similarly, the program-year rate of change in the subsidy per unit of output (PYRCS) is computed as the percentage change in the subsidy per unit from the base quarter to the final quarter of the program year, giving:

$$PYRCS = \left[\frac{\text{Subsidy per unit in quarter ending 9-30-79}}{\text{Subsidy per unit in quarter ending 9-30-78}} - 1.0 \right] \times 100$$

$$= \left[\frac{\$2.02}{\$2.08} - 1.0 \right] \times 100 = \boxed{-2.88\%}$$

These values are used to compute the subsidy-adjusted base-period rate of price change (SABPRC) and the subsidy-adjusted program-year rate of price change (SAPRPC) as follows:

Base Period	Program Year
SABPRC = BPRC + BPRCS	SAPRPC = PRPC + PYRCS
= 5.40% + 1.73%	= 9.37% - 2.88%
= 7.13%	= 6.49%

Under the price deceleration standard (assuming the deceleration percentage of 0.5) the subsidy-adjusted price may rise by 6.63% during the program year (6.63%=7.13%−0.5%). Since the actual increase was 6.49%, this is a complying situation.

[FR Doc. 79-8760 Filed 3-21-79; 8:45 am]

[3175-01-M]

PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

Amendment to the Modified Price Standard for Providers of Insurance Other than Medical and Dental Insurance

AGENCY: Council on Wage and Price Stability.

ACTION: Final Standard for Insurance Providers.

SUMMARY: The Council is amending the modified price standard for providers of insurance other than medical and dental insurance, so that such providers will not automatically be exempted from both the price deceleration standard and the profit-margin limitation, or shifted from the price deceleration standard to the profit-margin limitation because of insufficient product coverage.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Zachary Dyckman, Office of Price Monitoring (202/456-6475), or Sandra Sherman (202/456-6286), Office of General Counsel, Council on Wage and Price Stability, 726 Jackson Place NW., Washington, D.C. 20506.

SUPPLEMENTARY INFORMATION: On February 8, 1979, the Council adopted 705C-6, which contains a modified price standard for providers of insurance other than medical and dental insurance (44 FR 9582, February 13, 1979). Under this modified standard, such insurance providers are expected to comply with the price deceleration standard in 705A-2 (except for life insurance), but may comply with the profit-margin limitation in 705A-6 if they are experiencing uncontrollable cost increases. In addition, the preamble to the standard provides that:

> Several lines of insurance fall under the exclusions [from the calculation of a company's average price change, for purposes of the price deceleration standard] listed in 705A-3. Negotiated commercial insurance coverages with annual premiums per contract of $100,000 or more, reinsurance, ocean marine insurance and inland insurance are each custom products, often competitively bid as part of international markets.

The exclusion of these lines of business under 705A-3 has potential consequences under 705A-5 (Insufficient Product Coverage), which provides that if certain categories of products account for 75 percent or more of a company's "net revenues," or one-third or more of a company's "adjusted net revenues," the company is, respectively, exempted from the price deceleration standard and the profit-margin limitation, or shifted from the price deceleration standard to the profit-margin limitation. In adopting 705C-6, the Council did not intend that insufficient product coverage result in an exemption from the program or a shift to the profit-margin limitation. Rather, it intended that the profit-margin limitation apply only where a company was experiencing uncontrollable cost increases. Accordingly, in order that its intent be given effect, the Council is amending 705C-6 to provide that lines of insurance excluded from compliance with the price deceleration standard should be excluded from "net revenues" and "adjusted net revenues" for purposes of 705A-5.

Under the standard as changed, companies should not include those lines of insurance excluded under 705A-3, or life insurance, when calculating their average price change, but should apply the price deceleration standard to the remaining lines of insurance irrespective of the proportion of excluded lines of business to a company's "net revenues" or "adjusted net revenues." The profit-margin limitation would still be available to companies experiencing uncontrollable cost increases. As specified in 705C-6, if any firm providing insurance (other than medical and dental insurance) applies the profit-margin limitation, and is affiliated with other firms providing such insurance, then all the affiliated firms should comply with the profit-margin limitation (for lines other than medical and dental but including lines excluded from the price deceleration standard).

(Council on Wage and Price Stability Act, Pub. L. 93-837, as amended (12 U.S.C. 1094, note); E.O. 12092.)

In consideration of the foregoing, section 705C-6 in the appendix to Part 705 of Chapter VII, Title 6, of the Code of Federal Regulations, is amended by adding a new subparagraph (3) to paragraph (a) to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,
Director, Council on Wage and Price Stability.

Section 705C-6 is amended by adding a new subparagraph (3) to paragraph (a) to read as follows:

Sec. 705C-6. *Price Standard for Providers of Insurance Other Than Medical and Dental Insurance*

(a) * * *

(3) All lines of insurance excluded from calculations of average price change under 705C-6, or under 705A-3, should be excluded from net revenues and adjusted net revenues for purposes of 705A-5 (Insufficient Product Coverage).

* * * * *

[FR Doc. 79-8762 Filed 3-21-79; 8:45 am]

[3175-01-M]

PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

Alternative Price Standard for Electric and Gas Utilities

AGENCY: Council on Wage and Price Stability.

ACTION: Interim Final Alternative Price Standard for Electric and Gas Utilities.

SUMMARY: The Council is adding a new Section 705C-8 to its voluntary standards for noninflationary price behavior that permits electric and gas utilties, for purposes of compliance, to apply a gross margin standard as an alternative to the price deceleration standard.

DATES:

Effective date: March 23, 1979.

Comments will be considered until April 23, 1979.

ADDRESS: Send comments to: Roy A. Nierenberg, Acting General Counsel, Council on Wage and Price Stability, 726 Jackson Place, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:

Reginald Brown, Office of Price Monitoring (202) 456-6475.

Roy A. Nierenberg, Acting General Counsel (202) 456-6286.

SUPPLEMENTARY INFORMATION: The Council recognizes that the prices of most public utilities are already subject to regulation by the Federal Energy Regulatory Commission or by Public Utility Commissions (Commissions), and in issuing this price standard, the Council does not intend to supplant their statutory functions and responsibilities. The Council's standards are intended to provide guidance to Commissions on anti-inflationary price changes, in order that anti-inflationary objectives can be given appropriate weight in regulatory proceedings. The standard should be viewed by Commissions as a minimum objective to be achieved whenever possible, consistent with their statutory responsibilities, and to be exceeded only under exceptional circumstances.

The general price deceleration standard, as applied to most other industries, is of limited applicability to electric and gas utilities. First, sharp rises in fuel and purchased gas costs during 1979 will make it impossible for many firms to achieve price deceleration. There are also sharp regional variations in the rate of increase in fuel costs. Furthermore, the construction of new facilities which use fuels other than oil, in accordance with Federal policies, has caused many utilities to undertake new construction programs at significantly higher costs.

The Council is, therefore, offering an alternative to the price deceleration standard. An electric or gas utility may achieve compliance by satisfying either the gross margin or the price deceleration standard. The gross margin standard is similar to that made available to food manufacturers and petroleum refiners.

Under the gross margin standard, a utility may pass through increases in costs of fuel and purchased gas and power on a dollar-for-dollar basis, if that accords with Commission policy. The nonfuel costs allowed by the Commission should not be increased in excess of 6.5 percent during the program year, plus any percentage growth in physical volume. The electric and gas utilities that cannot comply with the price deceleration or gross margin standard are expected to adhere to the profit-margin limitation exception (Section 705A-6).

The Commissions should also administer exceptions to these standards for extreme hardships and gross inequities. In particular, the Council recognizes that it may become necessary for Commissions to grant exceptions in order to enable utilities to raise capital to finance construction that is needed either to serve customers or to meet Federal policies that seek to reduce dependence on oil. Circumstances under which the standards could impose a hardship for utilities committed to such investments include:

(A) Pro-forma interest coverage ratios are inadequate to assure the legal minimum of the bond indentures.

(B) The Market to Book ratio of outstanding common stock in below minimum levels judged by the Commission to be acceptable, a level which in our judgment would not under present circumstances exceed 0.9 for purposes of granting a hardship exception but not for other purposes.

(C) Cash flows are judged by the Commission to be inadequate.

In the cases in which increases under these exceptions exceed 9.5 percent, Commissions are urged to adopt phasing schedules that limit the initial rate increase when such action is permitted by law, is in the long-run inter-

est of consumers, and would be reasonable in light of seasonal rate patterns and other relevant factors.

Although the initial responsibility for demonstrating compliance will rest with the individual utility, Commissions are asked to report to the Council on a quarterly basis their progress in implementing the standards. If a Commission grants an increase in a major rate case that yields an increase in the gross margin exceeding 6.5 percent plus a positive percentage growth in physical volume, it is asked to explain the justification in its final decision.

Utilities that provide service in more than one jurisdiction maintain separate accounting records for each jurisdiction. The Council is asking that each individual Commission evaluate compliance within its own jurisdiction, and these standards are intended to apply separately to each utility's operations in each jurisdiction. In such cases, the non-utility portion of a utility's business should be treated separately under the price standards in accordance with the definition of company under 705D. These standards should be interpreted by the Commission in the context of its standard accounting practice and applied in a consistent fashion.

These standards, as applicable, cover municipal and publicly-owned utilities, which are asked to comply with them and to report and explain to the Council any instances in which it becomes necessary to raise rates by more than the amount allowed under the standards. To the extent that such utilities receive operating subsidies, the subsidy provision of the Modified Price Standard for Federal, State and Local Government Enterprises Section 705C-4(b) should be applied.

Since Commissions will be reporting to the Council on compliance of electric and gas utilities, utilities are asked to submit only portions of the data requested by Subpart B of Part 706 of the Council's regulations. Utilities are requested to submit the data specified in § 706.21 (Company Organization for Purposes of Compliance) and § 706.24 (Method of Pay Calculation), as these apply to utility and nonutility operations of such firms. Utilities are also requested to submit data specified in § 706.22 (Price or Margin Data) and § 706.23 (Profit Margin Data) but only for nonutility operations. For purposes of such reporting, total revenues of utility and nonutility operations should be included in determining whether a firm meets threshold revenue requirements for filing any of the requested reports. In addition, in light of the changes in the price standards for electric and gas utilities, the reporting date for any such utilities that have not already submitted reports is extended to March 26, 1979.

This is an interim final standard. The Council will consider comments on it until April 23, 1979.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904, note); E.O. 12092.)

In consideration of the foregoing, Section 705C-8 is added to the appendix of Part 705 of Chapter VII, Title 6 of the Code of Federal Regulations, to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,
Director, Council on Wage and Price Stability.

Sec. 705C-8 Alternative Price Standard for Electric and Gas Utilities

(a) *General.* A gross margin standard is available for electric and gas utilities as an alternative to the price deceleration standard.

(b) *Definitions.* (1) An electric utility is a company that sells electric power at retail or wholesale.

(2) A gas utility is a company or the portions of company operations involving the sale of natural gas at retail or wholesale, but not at the wellhead.

(3) For the operations of electric and gas utilities, the gross margin is equal to revenues or sales less the cost of fuels, purchased gas, and purchased power.

(c) *The Gross Margin Standard.* An electric or gas utility satisfies the gross margin standard if the rate of increase in its gross margin between the base quarter (the last complete calendar or fiscal quarter ending prior to October 2, 1978), and the corresponding quarter of 1979 does not exceed 6.5 percent, plus any positive percentage growth in physical volume over the same period.

(d) The Council is asking that Commissions determine compliance with these standards and rule on the applicability of exceptions. The Commissions may administer the profit-margin limitation exception (Section 705A-6) and exceptions for extreme hardships and gross inequities. Commissions may find it necessary to grant exceptions in order to enable utilities to raise capital in order to finance construction that is needed to serve customers or to meet Federal policies that seek to reduce dependence on oil. Circumstances under which the standard could impose a hardship for those utilities committed to such investments include:

(i) Pro-forma interest coverage ratios are inadequate to assure the legal minimum of bond indenture.

(ii) The Market to Book ratio of outstanding common stock is below minimum levels judged by the Commission to be acceptable, a level which in our judgment would not exceed 0.9 under present circumstances for purposes of granting a hardship exemption but not for other purposes.

(iii) Cash flows are judged by the Commission to be inadequate.

(e) In instances where the Commissions grant exceptions resulting in rate increases higher than would be permissible under the price deceleration or gross margin standard or under the profit margin limitation exception, the Council asks the Commissions to explain its action in the final decision. Commissions are asked to report on a quarterly basis the extent to which they have succeeded in implementing the anti-inflation standards.

(f) The Council asks the Commissions to phase in rate increases, to the greatest extent possible, to ease their inflationary impact, where increases of greater than 9.5 percent in the gross margin are anticipated.

[FR Doc. 79-8761 Filed 3-21-79; 8:45 am]

[3175-01-M]

PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

Profit Standard for Financial Institutions

AGENCY: Council on Wage and Price Stability.

ACTION: Final Standard for Financial Institutions.

SUMMARY: The Council is amending the voluntary standard for noninflationary price behavior by adopting a specialized standard for financial institutions. Under this standard, such institutions would not be requested to comply with the generally applicable price standard (6 CFR 705A), but, during 1979, would be expected to limit either their rate of return on assets *or* the rate of return on equity to a rate not to exceed the average rate for the best three out of the five calendar years preceding 1979. If regulations make compliance with this standard impractical, the financial institution is asked to limit the increase in dividends per share to 7 percent and to avoid any increase in (coincident) service charges.

DATES:

Effective Date: March 23, 1979.

Comments will be accepted through April 27, 1979.

ADDRESS: Send comments to: Zachary Dyckman, Office of Price Monitoring, Council on Wage and Price Stability, 726 Jackson Place N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION, CONTACT:

Zachary Dyckman (202) 456-6475, Alice Weicher (202) 456-6475, Office of Price Monitoring or

Sandra Sherman (202) 456-6286, Office of General Counsel.

SUPPLEMENTARY INFORMATION: After consultation with the Federal Reserve Board, the Federal Home Loan Bank Board, the American Bankers Association, other organizations with interests in the financial community, individual bankers, and members of the public, the Council has determined that application of the general price standard to financial institutions would be impractical. Insofar as com-

pliance with the general price standard required reduction of interest rates on loans, application of the standard could work at cross-purposes with monetary policy, and could lead to discriminatory rationing of credit. In addition, commercial banks, savings and loan associations, and similar financial institutions are regulated by several government agencies. Regulation of these institutions, limiting the deposit rates they may pay and the mix of assets in which they may invest, greatly constrains the responses that they could make to any price standard or profit-margin limitation that the Council can suggest. Accordingly, the Council is amending Part 705C of the standards, which contains modified price standards for selected industries, in order to provide a standard for financial institutions that is consistent with the aims of the anti-inflation program, but tailored to the specific characteristics of financial institutions.

The modified standard, asks each institution to limit the rate of return on assets *or* the rate of return on equity in 1979 to a rate not to exceed the average rate for the best three out of the last five calendar years preceding 1979. The rate-of-return comparison is based on the best three of the last five years, rather than the best two of the last three (as in the general profit-margin standard) because of the highly cyclical nature of financial-institution profits (the five-year period covers the last complete cycle of interest rates). The adoption of 1979 as the program year, instead of the program year in the general standard, reflects the fact that financial institutions are regulated by Federal and State agencies, which generally require reporting on a calendar year basis.

Financial institutions that cannot comply with the limitation on either rate of return are requested to limit increases in dividends per share of stock during the twelve-month period beginning March 15, 1979, to no more than 107 percent of the dividends per share paid during the previous twelve-month period, and not to increase service charges (other than interest charges) between March 15, 1979 and March 15, 1980.

While this standard is final, the Council will accept comments through April 27, 1979. All comments should be sent to Zachary Dyckman at the address given above.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904 note); E.O. 12092.)

In consideration of the foregoing, Chapter VII of Title 6 of the Code of Federal Regulations is amended by adding Section 705C-9 to Part 705 at 43 FR 60772 (December 28, 1978), to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,
Director,
Council on Wage and Price Stability.

1. Section 705C-9 is added to the Appendix to Part 705 to read as follows:

705C- MODIFIED PRICE STANDARDS FOR SELECTED INDUSTRIES

* * * * *

Sec. 705C-9. Standard for Financial Institutions.

(a)(1) *Profit Standard.* A financial institution complies with the profit standard if *either* its rate of return on assets *or* its rate of return on equity for the program year does not exceed the average rate of return for the best three out of the preceding five calendar years. For the purpose of this standard, the program year is calendar-year 1979.

(2) *Alternative Standard.* If the financial institution cannot comply with the standard in subparagraph (1), it should satisfy *both* of the following conditions: (i) it should limit dividends per share of stock during the 12-month period beginning March 15, 1979, to no more than 107 percent of the dividends per share during the preceding 12 month period, and (ii) it should not increase average prices for services (other than interest charges) between March 15, 1979, and March 15, 1980. If dividends that are to be paid out on or after March 15, 1979, were publicly announced, prior to March 15, then the 107-percent limitation can be applied, alternatively, to the 12 months following the issuance of those dividends.

(b) For purposes of this standard, the term "financial institution" means a bank holding company, commercial bank, savings and loan holding company, savings and loan association, mutual savings bank, credit union, or substantially similar institution.

(c) For purposes of this standard, the term "dividends" does not apply to interest dividends to shareholders/depositors of mutually owned financial associations.

(d) Holding companies whose total revenues are at least 75-percent financial institution related are subject to the standard in paragraph (a) on a fully consolidated basis, including foreign operations. Holding companies whose total revenues are less than 75-percent financial institution related should apply the profit standard to the consolidation of their financial subsidiaries. The nonfinancial subsidiaries should comply with the Price Standard in 705A or with the appropriate alternative standard in section 705C.

(e) In calculating rates of return, commercial banks and bank holding companies should use the following definitions:

(1) *Numerator.* The numerator is operating income before provision for income taxes and security gains and losses with the following adjustments:

(i) Unrealized gains and losses resulting from the translation of assets and liabilities denominated in foreign currencies into their dollar equivalents, net of related hedging transactions, are excluded;

(ii) The provision for loan losses is added back to income;

(iii) Interest lost on nonperforming and renegotiated loans is added back to income; and

(iv) The difference between tax-exempt income and its pre-tax equivalent is added back to income.

(2) *Denominator.* At the option of the bank or bank holding company, the denominator may be either the daily average of (i) equity or net worth, including preferred stock, common stock, surplus, and undivided profits, or (ii) total assets, minus the lesser of (A) or (B), where (A) is the sum of the daily averages of due from banks (including balances at Federal Reserve banks and total balances at other banks), Federal funds sold and securities purchased under agreements to resell, and where (B) is the sum of the daily averages of due to banks (including interest bearing balances due to other banks) Federal funds purchased and securities sold under agreements to repurchase .

If the daily averages are not available, averages may be based on month-end balances or balances taken from the four quarterly Reports of Condition for the year in question and the previous year-end Report of Condition.

(f) In calculating rates of return, savings and loan associations, savings and loan holding companies, and equivalent institutions should use the following definitions:

(1) *Numerator.* The numerator is income before provision for income taxes with the following adjustments:

(i) the provision for losses and losses on sale of investment securities, loans, and other assets is added back to income; and

(ii) the profit on sale of investment securities is eliminated from income.

(2) *Denominator.* At the option of the institution, the denominator may be either the daily average of total assets or net worth. If daily averages are not available, averages may be based on month-end balances, or balances taken from the two Semi-annual Financial Reports for the year in question and the previous year-end report.

(g) In calculating rates of return, mutual savings banks should use the following definitions:

(1) *Numerator.* The numerator is operating income before provision for income taxes and security gains and losses with the following adjustments:

(i) The provision for loan losses is added back to income;

(ii) Interest loss on nonperforming and renegotiated loans is added back to income; and

(iii) The difference between tax-exempt income and its pre-tax equivalent is added back to income.

(2) *Denominator.* At the option of the bank, the denominator may be either the daily average of total assets or other surplus accounts. If daily averages are not available, averages may be based on month-end balances or balances taken from the four quarterly Reports of Condition for the year in question and the previous year-end Report of Condition.

(h) In calculating rates of return, credit unions should use the following definitions:

(1) *Numerator.* The numerator is total operating income minus operating expenses and dividends plus the provision for loan losses.

(2) *Denominator.* At the option of the credit union, the denominator may be either the daily average of total assets or the sum of total reserves and retained earnings. If

daily averages are not available, the averages may be based on month-end balances.

[FR Doc. 79-8763 Filed 3-21-79; 8:45 am]

[3175-01-M]

PART 705—NONINFLATIONARY PAY AND PRICE BEHAVIOR

Definition of Base Year

AGENCY: Council on Wage and Price Stability.

ACTION: Final rule.

SUMMARY: The Council is amending the voluntary price standard by adopting a definition of "base year."

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Sandra Sherman, Office of General Counsel, Council on Wage and Price Stability, 726 Jackson Place, N.W., Washington, D.C. 20506 (202) 456-6286.

SUPPLEMENTARY INFORMATION: The price standard in 705A uses the concept of "base year" in the profit-margin limitation and in certain modified price standards, but Part 705 contains no general definition of the term. In order to provide a definition, the Council is amending 705D so that the base year will be the four calendar or fiscal quarters ending prior to October 2, 1978 (except as otherwise specified in a modified price standard). This is consistent with the definitions of "base quarter" and "program year" already in 705D.

(Council on Wage and Price Stability Act, Pub. L. 93—837, as amended (12 U.S.C 1904, note; E.O. 12092)

In consideration of the foregoing, 705D, in the appendix to Part 705 of Chapter VII, Title 6 of the Code of Federal Regulations, is amended to read as follows:

705D in the appendix to Part 705 is amended by adding a definition of "base year" after the definition of "base quarter" to read as follows:

Base year. The base year is the four calendar or fiscal quarters ending prior to October 2, 1978, except as otherwise specified in a modified price standard.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,
Director, Council on Wage and Price Stability.

[FR Doc. 79-8758 Filed 3-21-79; 8:45 am]

[3175-01-M]

PART 706—SPECIAL PROCEDURAL RULES

Amendments and Questions and Answers

AGENCY: Council on Wage and Price Stability.

ACTION: Amendment of Interim Final Procedural Rules, and issuance and correction of related Questions and Answers.

SUMMARY: The Council is revising its procedural rules, and issuing related questions and answers, in order to correct errors, clarify ambiguities, eliminate certain unnecessary technicalities, and promote efficient disposition of Notices of Probable Noncompliance.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Sandra Sherman, Office of General Counsel, Council on Wage and Price Stability, 726 Jackson Place, N.W., Washington, D.C. 20506, (202) 456-6286.

SUPPLEMENTARY INFORMATION: On December 30, 1978, the Council adopted Interim Final Procedural Rules at Part 706 (44 FR 1346, January 4, 1979), which were amended on January 19, 1979, by the adoption of a procedure relating to Federal, State, and local entities (44 FR 5337, January 25, 1979). In response to comments on these rules, the Council is issuing appropriate revisions, as well as certain clarifying Questions and Answers. The Council is correcting errors, and revising §§ 706.34 and 706.73 to eliminate unnecessary notification by the Council if a request for an exception is complete, or if reconsideration is granted. The Council is also revising § 706.22(b), relating to the filing of 10-K reports, to incorporate guidance already given in a Question and Answer. That is, if a company has filed a 10-K report with the Securities and Exchange Commission (SEC), it need not file a duplicate with the Council, if it would burden the company, since the report would be available to the Council directly from the SEC or other sources. The Council however requests, and would appreciate receiving, a copy if it is convenient for a company to provide it. The Council is also revising § 706.05, to request one copy of filings instead of three (consistent with a previous Question and Answer), and to request that if filings contain confidential information, a second copy, suitable for public disclosure, also be submitted. In addition, the Council is revising § 706.25, relating to Federal, State, and local entities, to make clear that only if such entities are "government enterprises," as defined in § 706C-4, are they (1) requested to file price data, and (2) *not* provided the option of filing a letter of intent to comply with the pay standard.

In order to promote a timely disposition of Notices of Probable Noncompliance, the Council is amending §§ 706.54 and 706.76. These sections previously provided that a company found not to be in compliance would be listed as noncompliant eleven days after the Council's decision, except that listing would be stayed if the company sought reconsideration within ten days of the Council's decision. As amended, the lapse between decision and listing is now six days, subject to stay if reconsideration is sought within five days.

In addition, the Council is amending § 706.72 to provide that requests for reconsideration of Notices of Probable Noncompliance include the value of any Federal Government contracts which the company has or may reasonably expect to have. This data will help the Council to determine whether a hearing is appropriate. It will be the Council's policy to provide hearings where there are disputed issues of fact, and in general, whenever a person faces termination of, or anticipates bidding on, a Federal Government contract exceeding $5,000,000.

Some comments by labor unions suggested that the rules be amended to require the Council to provide employees with Notices of Probable Noncompliance, issued to companies for whom the employees work. The Council did not adopt this suggestion, since the rules already require companies to serve copies of such notices of affected employee units, and to notify the Council of which units have been served. Unions also suggested that employee units be notified of the organizational structure adopted by companies for purposes of compliance. While the Council is sympathetic to this request, it believes that making such data public could, in some instances, lead to the disclosure of confidential information. Accordingly, the Council did not adopt this suggestion. It should be noted, however, that if a company and its employees become involved in a proceeding before the Council, these data would be available to employees on a need-to-know basis, after the company has deleted whatever may be confidential.

Some companies commented that they should not be requested to apply for exceptions if they have $500 million in revenues or 1,000 or more employees, and suggested that in light of the voluntary nature of the program, exceptions should be entirely self-administered. The Council did not accept

this suggestion, since it believes that consistent practices among the larger companies are necessary for the success of the program. The Council also rejected suggestions for a procedure to allow a company's informal review of a Notice of Probable Noncompliance before the notice is formally issued. The Council will, however, contact a company prior to the issuance of any notice if, in its judgment, this is necessary to verify relevant information.

Since these rules are procedural only, they are effective immediately, without the customary 30-day notice.

(Council on Wage and Price Stability Act, Pub. L. 93-387, as amended (12 U.S.C. 1904, note); E.O. 12092.)

In consideration of the foregoing, Chapter VII, Title 6 of the Code of Federal Regulations is amended in Part 706, and the Council's cumulative Questions and Answers are amended, to read as follows.

Issued in Washington, D.C., March 19, 1979.

BARRY BOSWORTH,
Director, Council on Wage and Price Stability.

1. § 706.05 is amended in paragraph (a) by deleting the words "three (3) copies" from the first sentence and by substituting the words "one copy", and by adding paragraph (c) to read as follows:

§ 706.05 Filing of documents.

* * * * *

(c) The Council requests that where filings under this Part contain confidential information, the firm submit a second copy suitable for public disclosure, from which all such information is deleted.

2. § 706.22 is amended in paragraph (c) by deleting the term "Section 705C-2" and by substituting "Section 705C", and paragraph (b) is revised to read as follows:

§ 706.22 Price or margin data.

* * * * *

(b) Each company that is, or is part of a consolidated company that is, required to file Form 10-K reports with the Securites and Exchange Commission, is requested to send the Council a copy of the reports for each of the last three fiscal years completed prior to October 2, 1978, if already available. Companies are also requested to file with the Council a copy of the Form 10-K report filed with the SEC for the fiscal year ending during the program year. Since these reports must be filed with the SEC, if a company does not submit copies to the Council, the Council will obtain them directly from the SEC or from other sources.

* * * * *

§ 706.23 [Amended]

3. § 706.23 is amended by deleting the term "705A-6(2)" and by substituting "705A-6(a)(2)."

4. § 706.25 is amended by revising the heading, the introductory text of paragraph (a) and paragraph (b) to read as follows:

§ 706.25 Reporting Procedures for Federal, State, and local entities which are not Government enterprises.

(a) When complying with the pay standard in 705B, Federal, State, and local entities which are not Government enterprises as defined in 705C-4, and which have 5000 or more employees, should either:

* * * * *

(b) No other provision of this Subpart applies to any Federal, State, or local entity which is not a government enterprise as defined in 705C-4.

5. § 706.34 is amended by revising paragraph (c) to read as follows:

§ 706.34 Contents of the request.

* * * * *

(c) In the event that the information provided by the applicant is insufficient, the Council shall request from the applicant the additional information. If such information is not furnished within 10 days, the request for an exception shall be denied. The Council will acknowledge receipt of all requests, and notify the applicant when the request has been denied for lack of information.

* * * * *

§ 706.41 [Amended]

6. § 706.41 is amended in paragraph (b) by deleting the words "Wholesale Price Index" and by substituting "Producer Price Index."

7. Section 706.54 is revised to read as follows:

§ 706.54 Listing of noncomplying companies.

If the Council finds a company to be out of compliance, it shall, six days after its decision, place the company's name on a list of noncomplying companies. This list will be made public.

8. Section 706.72 is revised in the title and in paragraph (a) to read as follows:

§ 706.72 Contents of request.

* * * * *

(a) Contain a concise statement of the requested relief, the grounds for reconsideration, and (where the request relates to a Notice of Probable Noncompliance) the value of any Federal Government contracts which the company has or may reasonably expect to have within the program year;

* * * * *

9. Section 706.76 is revised to read as follows:

§ 706.76 Stays pending reconsideration.

A request for reconsideration within five days of the Council's initial finding of noncompliance will stay the placing of a company's name on a list of noncomplying companies pending the disposition of the request.

10. The following corrections and additions are made to Part IV, "Procedures," of the Council's cumulative Questions and Answers.

REPORTS AND NOTIFICATIONS

1. The answer to Question 3 is amended by deleting the term "§ 706.22(d)(i)," and by substituting § 706.22(d)(1)."

2. The answer to Question 15 is amended by deleting the term "§ 706.22(d)(1) or (3)" and by substituting "§ 706.22(d)(2) or (3)."

C. EXCEPTIONS

* * * * *

Q.3. Does failure to request an exception for which a company is eligible preclude a company from asserting the same grounds as a defense to a Notice of Probable Noncompliance?

A. No.

Q.4. Where the Council has issued a Notice of Probable Non-compliance to a company, will it entertain an exception request regarding the same matter?

A. No. A company may, at any time up to the issuance of a Notice, file an exception request. Once a Notice has been issued, however, a company seeking to exceed the pay or price standard must assert its reasons for doing so in the form of a defense to the Notice.

E. DETERMINATION OF NONCOMPLIANCE

* * * * *

Q.2. Is it a defense to a Notice of Probable Noncompliance that a company made a good-faith effort to comply with the standards?

A. Yes. However, companies failing to comply because of a good-faith error will be expected to bring their behavior into compliance within a reasonable period.

Q.3. How should companies notify non-union personnel of exception requests and Notices of Probable Noncompliance?

A. Companies can use bulletin boards, company newspapers, pay envelopes, special distributions, and other appropriate means.

[FR Doc. 79-8757 Filed 3-21-79; 8:45 am]

federal register

FRIDAY, MARCH 23, 1979

PART VI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

NATIONAL ALCOHOL RESEARCH CENTERS

Grants Provisions

[4110-88-M]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER D—GRANTS

PART 54a—GRANTS FOR ALCOHOL ABUSE AND ALCOHOLISM PREVENTION, TREATMENT, AND REHABILITATION SERVICES, AND NATIONAL ALCOHOL RESEARCH CENTERS

Subpart E—Grants for National Alcohol Research Centers

AGENCY: Public Health Service, HEW.

ACTION: Final regulations.

SUMMARY: These final regulations add new rules concerning grants for National Alcohol Research Centers in order to implement section 504 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 as amended. Section 504 authorizes the Secretary to designate National Alcohol Research Centers for long-term interdisciplinary research on alcoholism and other alcohol problems and to make grants to such Centers. The regulations set forth requirements for applying for, receiving, and administering Alcohol Research Center grants.

EFFECTIVE DATE: These final regulations are effective March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Dr. Albert Pawlowski, Chief, National Research Centers Branch, Division of Extramural Research, National Institute on Alcohol Abuse and Alcoholism, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, Room 16-C-26, 5600 Fishers Lane, Rockville, Maryland 20856, Phone: 301/443-4223.

SUPPLEMENTARY INFORMATION: Section 504 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 as amended (42 U.S.C. 4588) authorizes the Secretary to designate National Alcohol Research Centers for long-term interdisciplinary research on alcoholism and other alcohol problems and to make grants to such Centers (not to exceed $1,000,000 to any one Center in a year).

Interim final regulations setting forth the requirements for applying for, receiving, and administering Alcohol Research Center grants were published on April 4, 1978 (43 FR 14276).

Interested persons were invited to submit written comments, suggestions, or objections. The final regulations set forth below reflect consideration of public comments received on the interim final regulations.

Discussion of Comments

PROGRAM REQUIREMENTS

Comment: One commenter suggested that § 54.505(f) of the interim final regulations, which requires that applicants for Alcohol Research Center grants have the capacity to conduct courses and research on alcohol problems for undergraduate students, graduate students, medical and osteopathic students, and physicians, be amended to require that "courses conducted * * * also include members of the behavioral disciplines such as social workers and * * * psychologists."

Response: § 54a.505(f) of the interim final regulations simply sets forth the requirements of section 504(a)(1)(E) of the Act. The Secretary has no authority to modify this requirement. It should be noted, however, that the term "undergraduate and graduate students" is very broad and clearly includes students of behavioral disciplines such as social work and psychology. In addition, § 54a.505(d), which requires that applicants have the facilities and personnel to provide training in the prevention and treatment of alcoholism and other alcohol problems, is also sufficiently broad to encompass training in the behavioral disciplines.

Comment: Another commenter recommended that § 54a.505 and § 54a.506 be revised to require that applicants for Alcohol Research Center grants have (1) the capacity to disseminate research findings and promote research utilization, and (2) plans for doing so.

Response: The Secretary shares the commenter's concern that findings by Alcohol Research Centers be appropriately and effectively disseminated. The National Institute on Alcohol Abuse and Alcoholism (NIAAA), which administers the Alcohol Research Centers program, is currently exploring improved methods and systems for the dissemination of alcohol research findings both to professionals in the research, treatment, and prevention fields and to the general public. In the past, such findings have been made available through published proceedings of NIAAA-sponsored workshops and conferences, publications of NIAAA's National Clearinghouse for Alcohol Information ("Information and Feature Service" and "Alcohol and Research World"), and special triennial reports from the Secretary to the Congress (as required by section 102(2) of the Act).

Comment: One commenter recommended deletion of § 54a.505(b), which requires that an applicant have available to it staff, facilities, and other resources with which to carry out the objectives of the program it proposes. The commenter stated that if an institution already has such resources, it has no reason to apply for a grant and § 54a.505(b) is, therefore, "useless".

Response: § 54a.504(c)(1) requires that each application for a Center grant set forth in detail the personnel, facilities, and other resources currently available to the applicant with which to initiate and maintain the proposed Center program. The purpose of § 54a.505(b) is to ensure that each grant award is conditioned on (among other factors) a determination that the resources available to the applicant at the time the application is submitted, together with Alcohol Research Center grant funds if awarded, will in fact be sufficient to carry out the program the applicant proposes. No change is made in the regulations.

APPLICATION CONTENT

Comment: One commenter recommended that § 54a.504(c)(1), which requires that applications for Alcohol Research Center grants set forth in detail the personnel, facilities, and other resources with which to initiate and maintain the proposed Center program, be revised to require that anticipated increases or expansion in these resources over the five-year project period also be set forth in the application.

Response. § 54a.504(c)(9) requires that applications also include a list of "other anticipated sources of support for all research activities at the applicant institution, both planned and ongoing, relevant to alcoholism and other alcohol problems". The Secretary believes this requirement sufficient to obtain a picture of potential increases in resources by applicant institutions. Therefore, no change is made in the regulations.

GRANT AWARD CRITERIA

Comment: One commenter noted that § 54a.506(a)(2) requires the Secretary (in awarding grants) to take into account the significance of the proposed program to the goals of the National Alcohol Research Centers program and asked if there has been a statement of the goals of the program which can guide the Secretary in making this judgment.

Response: The goal of the Alcohol Research Centers program is long-term interdisciplinary research on alcoholism and other alcohol problems. This goal is specified by statute and elaborated in program guidelines issued in April 1977. However, on review, the Secretary believes the

intent of § 54a.506(a)(2) of the interim final regulations is accomplished by § 54a.506(a) itself, which states that grants may be awarded to applicants with proposed programs which will, in the judgment of the Secretary, best promote the purposes of section 504 of the Act, taking into consideration factors subsequently listed. Therefore, § 54a.506(a)(2) as it appeared in the interim final regulations is deleted from subpart E set forth below and the subsections of § 54a.506(a) renumbered accordingly.

OTHER

Comment: One commenter noted that the interim final regulations fail to "give direction" to the role of applied research and the interrelationship between applied and basic research.

Response: The role of applied research and the interrelationship between applied and basic research are issues beyond the scope of these regulations.

Comment: One commenter expressed disappointment that the interim final regulations "placed such undue emphasis on the physiological and biomedical aspects of alcohol * * * abuse" and urged study of "the whole person including his social, cultural, and interpersonal characteristics."

Response: The clear statutory purpose of the Alcohol Research Centers program is long-term, interdisciplinary research into alcoholism and other alcohol problems. The interim final regulations conveyed this intent at every pertinent point. Specifically, § 54a.502 defined "National Alcohol Research Center" as an institution engaged in interdisciplinary research; § 54a.504(a) required applicants to have the experience or capability to conduct such research through "biomedical, behavioral, social, and related disciplines"; and § 54a.506(a)(4) conditioned grant awards on the extent to which the various components of the proposed research program would be coordinated into an interdisciplinary effort within the Center. No emphasis on the biomedical and physiological aspects of alcohol abuse is apparent in these sections, nor was any intended.

Comment: One commenter noted that the interim final regulations do not indicate the existence of an "appeal procedure" (presumably for grant applicants whose applications are not approved) and urged that if such a procedure does not exist at present it be established.

Response: This request for the establishment of an appeals process for grant applicants whose applications are not approved is beyond the scope of these regulations. It is noted that grantees receiving grants under these regulations may, under 42 CFR § 50.401-50.504 and 45 CFR Part 16, appeal certain adverse determinations made by the grantor agency.

TECHNICAL REVISIONS

Subparts A, B, and D of part 54a were promulgated September 11, 1978 (43 FR 40386). Subpart A, which applies to most grants authorized by the Act (including Alcohol Research Center grants), defines many terms used in part 54a and calls attention to the requirements of Federal nondiscrimination and confidentiality laws. Therefore, those provisions of the interim final regulations on Alcohol Research Center grants which covered these same points are no longer necessary and have been deleted from subpart E as set forth below.

Specifically, definitions of "Act," "Council," "Secretary," "nonprofit," "project period," and "budget period" have been deleted from § 54a.502. They now appear at § 54a.102. In addition, § 54a.509 (Nondiscrimination) and § 54a.510 (Confidentiality of patient records) have been deleted. These requirements now appear at § 54a.103 and § 54a.104.

On August 2, 1978 (43 FR 34076), the Secretary promulgated regulations establishing uniform requirements for the administration of all Department grants (45 CFR Part 74). A number of provisions set forth in the interim final regulations on Alcohol Research Center grants are, therefore, unnecessary and have been deleted from subpart E set forth below. Specifically, § 54a.507 (Payments), § 54a.513 (Applicability of 45 CFR Part 74), § 54a.514 (Progress and fiscal records and reports), § 54a.515 (Grantee accountability), and § 54a.516 (Publications and copyrights) have been deleted.

The subsections of subpart E have been renumbered as necessary to accommodate these deletions.

§ 54a.503(b) has been revised to refer to the Northern Mariana Islands. This revision makes the regulations consistent with Pub. L. 94-241 (48 U.S.C. 1681) which approves the covenant to establish a Commonwealth of the Northern Mariana Islands and makes the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act as amended applicable to the Northern Mariana Islands as it is applicable to Guam.

Accordingly, the interim regulation amending part 54a of Title 42 CFR to add a new subpart E is finalized as set forth below.

Dated: January 26, 1979.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

Approved: March 15, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

Accordingly, 42 CFR Part 54a is amended by adding the new Subpart E set forth below:

Subpart E—Grants for National Alcohol Research Centers

54a.501 Applicability.
54a.502 Definitions.
54a.503 Eligibility.
54a.504 Application.
54a.505 Program requirements.
54a.506 Grant awards.
54a.507 Expenditure of grant funds.
54a.508 Human subjects.
54a.509 Animal welfare.
54a.510 Additional conditions.

AUTHORITY: Sec. 504, 90 Stat. 1035 (42 U.S.C. 4588).

§ 54a.501 Applicability.

The regulations in this subpart apply to grants to develop, establish, and support centers for interdisciplinary research relating to alcoholism and other alcohol problems, as authorized by section 504 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act (42 U.S.C. 4588).

§ 54a.502 Definitions.

Terms not defined in this section shall have the same meaning as given them in § 54a.102.

As used in this subpart:

"National Alcohol Research Center" or "Center" means an institution engaged in long-term interdisciplinary research focused on a central theme relating to alcoholism and other alcohol problems.

§ 54a.503 Eligibility.

To be eligible for a grant under this subpart, an applicant must be:

(a) A public (except Federal) or nonprofit private institution which is or is affiliated with an institution (such as a university, medical center or research center) with the resources to sustain a long-term research program; and

(b) Located in a State, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Northern Mariana Islands.

§ 54a.504 Application.

(a) Each institution desiring a grant under this subpart shall submit an application in the form and manner and on or before such dates as the Secretary may from time to time require.[1] The application shall be executed by an individual authorized to act for the applicant and to assume on behalf of

[1] Grant applications, instructions, and program guidelines may be obtained from the Director of the National Institute on Alcohol Abuse and Alcoholism, 5600 Fishers Lane, Rockville, Md. 20857.

the applicant the obligations imposed by the terms and conditions of the award, including the regulations of this part.

(b) Each private institution which does not already have on file with the National Institute on Alcohol Abuse and Alcoholism evidence of nonprofit status must submit with its application acceptable proof of its status.

(c) In addition to any other pertinent information that the Secretary may require, each application shall set forth in detail:

(1) The personnel facilities, and other resources currently available to the applicant with which to initiate and maintain the proposed Center program;

(2) Any biomedical, behavioral, or social science research related to alcohol problems in which the applicant is currently engaged; the sources of funding for those activities; and the relationship of these activities to the proposed Center program;

(3) The central theme of the proposed interdisciplinary research program;

(4) A detailed 5-year plan for the proposed Center program which identifies the principal areas of proposed research, the relationship of each area of proposed research to the central theme of the proposed Center program, the disciplines to be involved, and plans for coordination among them;

(5) A detailed description of each separate research project for which funds are requested;

(6) The names and qualifications of the Center director and key staff members who would be responsible for conducting proposed activities of the Center;

(7) The opportunities that would be available for training;

(8) The organizational structure of the proposed Center and its relationship to the organizational structure of the applicant;

(9) The proposed project period (not to exceed 5 years); a detailed budget and justification of funds requested for core support as well as for each separate research project (not exceeding $1,000,000 in total in any year); and a list of other anticipated sources of support for all research activities at the applicant institution, both planned and ongoing, relevant to alcoholism and other alcohol problems (both those to be incorporated into the proposed Center program and those outside the Center);

(10) Proposed methods for monitoring and evaluating individual research activities and the overall Center program;

(11) To the extent not covered in the information submitted under the preceding subparagraphs, the manner in which the requirements in § 54a.505 will be satisfied.

§ 54a.505 Program requirements.

In order to receive support under this subpart, an applicant must:

(a) Have the experience or capability to conduct, through biomedical, behavioral, social, and related disciplines, long-term research on alcoholism and other alcohol problems and to coordinate that research among such disciplines;

(b) Have available to its staff, facilities, and other resources with which to carry out the objectives of the proposed program;

(c) Have available to it sufficient laboratory facilities and reference services (including reference services that will afford access to scientific alcohol literature);

(d) Have facilities and personnel to provide training in the prevention and treatment of alcoholism and other alcohol problems;

(e) Have the capacity to train predoctoral and postdoctoral students for careers in research on alcoholism and other alcohol problems;

(f) Have the capacity to conduct courses on alcohol problems and research on alcohol problems for undergraduate and graduate students and for medical and osteopathic students and physicians;

(g) Provide assurances that the Center will be an identifable organizational unit of the applicant headed by a Center director resonsible for the Center program;

(h) Provide assurances that any significant changes in the Center's scientific activities or other activities will be made only with the prior approval of the Secretary; and

(i) Establish a Program Advisory Committee, chaired by the Center director, to review and make recommendations to the Center director on the conduct of all activities of the Center. The Committee shall be composed of persons who are not associated with the Center (apart from their membership on the Committee).

§ 54a.506 Grant awards.

(a) Within the limits of funds available, the Secretary, after taking into account the comments of an appropriate peer review group, may award grants to applicants with proposed programs which have been recommended for approval by the council and will in his judgment best promote the purposes of section 504 of the Act, taking into consideration among other pertinent factors:

(1) The scientific and technical merit of the proposed program and its individual components;

(2) The qualifications and experience of the Center director and other key personnel;

(3) The extent to which the various components of the proposed research program would be coordinated into an interdisciplinary effort within the Center;

(4) The administrative and managerial capability of the applicant;

(5) The reasonableness of the proposed budget in relation to the proposed program;

(6) The adequacy of proposed methods for monitoring and evaluating the overall Center program and its components including proposed mechanisms for review of the Center's program by its Program Advisory Committee;

(7) The potential of the proposed Center to become a significant regional and national research resource; and

(8) The degree to which the application adequately provides for the requirements of § 54a.505.

(b) All grant awards shall be in writing and shall specify the project period (not to exceed 5 years), the total recommended amount of funds for the project period, the approved budget for the budget period, and the amount awarded (not in excess of $1,000,000 in any year) for the budget period.

(c) Neither the approval of any application nor any grant award shall commit or obligate the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion thereof.

(d) The amount of any grant award shall be determined by the Secretary on the basis of his estimate of the sum necessary to pay all or part of the allowable costs for the budget period covered by the award.

(e) An initial 5-year project period may be extended by the Secretary for additional periods not in excess of 5 years each, after review of the operations of the grantee by an appropriate peer review group and with the Council's recommendation for approval, except that if an additional period of support involves only the expenditure of funds previously awarded, peer review and consultation with the Council are not required.

§ 54a.507 Expenditure of grant funds.

(a) Any funds granted under this part shall be expended solely for the purpose for which the funds were granted in accordance with the approved application and budget, the regulations on this part, the terms and conditions of the award, and the applicable cost principles prescribed by subpart Q of 45 CFR part 74, except that those funds may not be expended for trainee stipends, fees, or other expenses directly relating to training or

for the purchase or rental of any land or the rental, purchase, construction, preservation, or repair of any building. For purposes of this paragraph, construction means the construction of new buildings, and the expansion, remodeling, and alteration of existing buildings, including architects' fees, but not including the cost of acquisition of land or off-site improvements, and equipping new buildings and existing buildings, whether or not expanded, remodeled, or altered.[3]

(b) Any unobligated grant funds remaining in the grant account at the close of a budget period may, with the prior approval of the Secretary, be carried forward and remain available for obligation during the remainder of the project period and any extensions thereof (approved in accordance with § 54a.506(e) of this part), subject to any limitations prescribed by the Secretary. The amount of any subsequent award will take into consideration unobligated grant funds remaining in the grant account. At the end of the final project period any unobligated grant funds remaining in the grant account must be refunded to the Federal Government.

§ 54a.508 Human subjects.

Attention is called to the requirements of 45 CFR part 46 pertaining to the protection of human subjects.

§ 54a.509 Animal welfare.

Attention is called to the requirements of chapter PHS 1-43 of the Department of Health, Education, and Welfare Grants Administration Manual pertaining to animal welfare.

§ 54a.510 Additional conditions.

The Secretary may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment those conditions are necessary to assure or protect advancement of the approved program, the interest of public health or the conservation of grant funds.

[FR Doc. 79-8885 Filed 3-22-79; 8:15 am]

[3]Section 504(b) of the Act provides that for the purposes of that paragraph the term "construction" shall have the meaning given to it by section 702(2) of the Public Health Service Act (42 U.S.C. 292a). The above definition incorporates the language of section 702(2) in effect on July 26, 1976, the date of the enactment of section 504 by Pub. L. 94-371.

federal register

FRIDAY, MARCH 23, 1979

PART VII

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Office of Family Assistance

■

MEDICAID PROGRAM

[4110-35-M]

Title 42—Public Health

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—MEDICAL ASSISTANCE PROGRAM

MEDICAID PROGRAM

Redesignation and Rewrite

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rules with comment period.

SUMMARY: These regulations redesignate and clarify, without substantive change, policies contained in 45 CFR Parts 205, 206, and 208 as they apply to the Medicaid program under title XIX of the Social Security Act. Those policies deal with: 1. Application, eligibility determination, and furnishing of assistance; 2. Hearings for applicants and recipients; 3. Safeguarding information; 4. Certain other administrative and fiscal requirements imposed on State agencies; and 5. Assistance to individuals age 65 and over in institutions for mental diseases.

The redesignation is being made because, effective October 1, 1977, the vast majority of HCFA regulations were transferred to a new 42 CFR Chapter IV. The redesignation of these regulations will help complete the transfer and will preclude any confusion that might arise from having a few Medicaid regulations in a different chapter and title.

EFFECTIVE: March 23, 1979. Although these regulations are final, comments may be submitted as described in the "Supplementary Information" below.

ADDRESSES: Send comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, Post Office Box 2366, Washington, D.C. 20013.

In commenting, please refer to PCO-184-R. Comments will be available for public inspection beginning approximately 2 weeks from today in room 5231 of the Department's offices at 330 C Street S.W., Washington, D.C., Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-0950).

FOR FURTHER INFORMATION CONTACT:

Luisa V. Iglesias (202) 245-0950.

SUPPLEMENTARY INFORMATION:

Reason for Redesignation

This redesignation is one in a series initiated last year to separate the provisions of 45 CFR Chapter II that are applicable to Medicaid and consolidate them in 42 CFR Chapter IV with the other regulations pertaining to HCFA. 45 CFR Chapter II was previously promulgated by the Social and Rehabilitation Service (SRS) and applied to a variety of State grant programs of public assistance (including titles I, IV-A, VI, X, XIV, XVI and XIX of the Social Security Act). On March 9, 1977, HEW was reorganized: SRS ceased to exist; HCFA was created and assigned responsibility for the Medicaid program; and the other programs administered by SRS were transferred to other HEW components. Since then, HCFA has been recodifying regulations applicable to its programs in Title 42 of the Code of Federal Regulations. A major reorganization and recodification of the Medicaid regulations was published on September 29, 1978 (43 FR 45176). A revision and recodification of 45 CFR Parts 201 and 213 and portions of 204 and 205 was published as an NPRM on August 25, 1978 (43 FR 38345).

Conforming Amendments

Conforming amendments to 45 CFR Parts 205, 206, and 208, making them inapplicable to Medicaid, are published in today's Federal Register (see table of contents). Those regulations remain in effect for the other programs previously administered by SRS.

Revocation of Provision

We are not recodifying the provisions under 45 CFR 205.170 on State standards for office space, equipment, and facilities. We believe it is not necessary that we impose these requirements in order to achieve proper State administration of the Medicaid program. Therefore, to conform with our Operation Common Sense efforts to remove unnecessary requirements on States, we are deleting these requirements as they apply to Medicaid. They remain applicable to the other programs specified in § 205.170.

Technical Corrections

We have also made some technical changes to correct cross references to the redesignated sections already published in other Medicaid regulations in the Code of Federal Regulations.

Effect of Redesignation on Current Practices

This redesignation is not intended to change policies affecting Medicaid or the other programs. Therefore, we do not intend for the States and HEW Regional Offices to interpret and apply them differently than they did before the redesignation.

Maintaining Uniform Policies

We are reviewing all of the regulations previously codified in 45 CFR Chapter II, to determine whether policy changes are desirable, as well as to improve organization and clarity. Any further changes in these regulations will be published as Notices of Proposed Rulemaking. We expect these to be issued within the next few months. To the extent possible under our statutory authorities, we will maintain uniform policies and wording for all programs administered by HEW.

Notice and Opportunity for Public Comment

We find that there is good cause to waive notice of proposed rulemaking and a delayed effective date because no substantive change has been made, other than the deletion discussed above. However, we will consider comments or objections received by May 22, 1979, from anyone who believes that existing policy is changed by these regulations. We will promptly make any corrections necessary because of inadvertent changes.

Derivation Table

This list includes only new sections based on regulations existing before redesignation. Sections containing new material that is introductory or explanatory have not been included.

New Section in 42 CFR	Old Section in 45 CFR
431.10	205.100.
431.11	205.101.
431.15	205.30.
431.16	205.60(a)(2).
431.17	205.60(a)(1) and (b).
431.18	205.70.
431.50	205.120.
431.202	205.10(a) (Introductory paragraph).
431.205	205.10(a)(1).
431.206	205.10(a)(2) and (3).
431.210	205.10(a)(4)(i)(B).
431.211	205.10(a)(4)(i)(A).
431.213	205.10(a)(4)(ii).
431.214	205.10(a)(4)(iv).
431.220	205.10(a)(5).
431.221	205.10(a)(5)(i)-(iii).
431.222	205.10(a)(5)(iv).
431.223	205.10(a)(5)(v).
431.230	205.10(a)(6).

New Section in 42 CFR	Old Section in 45 CFR
431.231	205.10(a)(7).
431.232	205.10(a)(6)(iii) (1st Sentence).
431.233	205.10(a)(6)(iii) (2nd Sentence).
431.240	205.10(a) (8)–(10).
431.241	205.10(a)(12) (i) and (ii)(B).
431.242	205.10(a)(13).
431.243	205.10(a)(11) (1st Sentence).
431.244	205.10(a) (14), (15) and (16).
431.245	205.10(a)(17).
431.246	205.10(a)(18).
431.250	205.10(b).
431.301	205.50(a)(1)(i)(A) (1st Sentence) and 205.50 (b) and (c).
431.302	205.50(a)(1)(i)(A) (2nd Sentence).
431.303	205.50(a)(1)(ii).
431.304	205.50(a)(3).
431.305	205.50(a)(2)(i).
431.306	205.50(a)(2) (ii)–(v).
431.307	205.50(a)(4).
431.620	208.1(a)(1).
433.32	205.145.
433.33	205.130.
433.34	205.150.
433.35	205.160.
435.902	206.10(a)(10).
435.903	206.10(a)(11).
435.904	206.10(a)(12).
435.905	206.10(a)(2)(i).
435.906	206.10(a)(1) (Introductory paragraph).
435.907	206.10(a)(1)(ii) (words before "from the applicant").
435.908	206.10(a)(1)(ii) (words after "State agency") and (iii).
435.909	206.10(a)(1)(iv) (A) and (B).
435.910	206.10(a)(1)(v) (A) and (C).
435.911	206.10(a)(3).
435.912	206.10(a)(4).
435.913	206.10(a)(8).
435.914	206.10(a)(6).
435.916	206.10(a)(2)(ii) and 206.10(a)(9) (i)–(iii).
435.919	206.10(a)(7).
435.920	206.10(a)(9)(iii) (A) and (B).
435.930	206.10(a)(5).
436.901	206.10.
436.909	206.10(a)(1)(iv) (A) and (B).
441.101	208.1(a) (words before "(1) Having in effect * * *").
441.102	208.1(a)(2).
441.103	208.1(a) (3) and (4).
441.105	208.1(a) (5) and (6).
441.106	208.1(a)(7).

Redesignation Table

This redesignation table has been developed as a reference tool only. The redesignations of specific sections and paragraphs from 45 CFR Parts 205, 206, and 208 apply only to the Medicaid program. The regulatory provisions under Parts 205, 206, and 208 that apply to the financial assistance programs (Title I, IV-A, X, XIV, and XVI of the Social Security Act) and the social services programs (title XX of the Act) remain in these parts.

Old Section in 45 CFR	New Section in 42 CFR
205.10(a) to words before "where a State agency adopts."	431.205.
205.10(a)(1)(ii) words after "right of appeal to a State agency hearing".	431.206.
205.10(a)(1)(ii) words after "* * * 397 U.S. 254 (1970)	431.202.
205.10(a) (2)–(3)	431.206.
205.10(a)(4)(i)(A)	431.211.
205.10(a)(4)(i)(B)	431.210.
205.10(a)(4)(ii) words before "or of the AFDC * * *"	431.213.
205.10(a)(4)(ii) words after "* * * death of a recipient * * *" to words before "(B) the agency * * *".	Deleted—unnecessary.
205.10(a)(4)(ii) (B), (C), (E), (F), (H)	431.213.
205.10(a)(4)(ii) (D), (G), (I)	Deleted—unnecessary.
205.10(a)(4)(iii)	431.206; 431.210.
205.10(a)(4)(iv)	431.214.
205.10(a)(5) to words before "* * * unless the reason for * * *"	431.220.
205.10(a)(5) words after "* * * classes of recipients * * *" to words before "* * * (i) A request * * *".	Deleted—unnecessary.
205.10(a)(5) (i), (ii), and (iii)	431.221.
205.10(a)(5)(iv)	431.222.
205.10(a)(5)(v) to words before "* * * where the sole issue is one * * *" Also words after "* * * action for such refusal.".	431.223.
205.10(a)(5)(v) words after "* * * by the claimant in writing," to words before "* * * or where it is abandoned".	Deleted—unnecessary.
205.10(a)(6)(i)(A) to words before "* * * and not one of incorrect grant * * *".	431.230 (a)(1) and (b).

Old Section in 45 CFR	New Section in 42 CFR
205.10(a)(6)(i)(A) words after "* * * change in State or Federal Law <* * * to words before "(ii) The agency shall * * *".	Deleted—unnecessary.
205.10(a)(6)(ii)	431.230(a)(2).
205.10(a)(6)(iii) to words before "Unless a de novo * * *" and words after "* * * substantial evidence in the record".	431.232.
205.10(a)(6)(iii) words after "right to request a de novo hearing * * *" to words before "assistance shall not be * * *".	431.233.
205.10(a)(7)	431.231.
205.10(a) (8)–(10)	431.240.
205.10(a)(11) to words before "In respect to title IV–C."	431.243.
205.10(a)(11) words after "* * * in the conduct of the hearing"	Not applicable to Medicaid.
205.10(a)(12) to words before "* * * or in making a payment,"	431.241.
205.10(a)(12) words after "* * * decision on eligibility * * *" to words before "(ii) Agency * * *".	Deleted—unnecessary.
205.10(a)(12)(ii), introductory paragraph, (A), and (B) first word and words after "* * * of financial or * * *" and before "or change".	431.241.
205.10(a)(12)(ii)(B) words after "Amount" and before "* * * medical assistance * * *" and words after "* * * medical assistance".	Not applicable to Medicaid.
205.10(a)(12)(ii)(C)	Not applicable to Medicaid.
205.10(a)(13) to words before "(ii) At his * * *"	431.242.
205.10(a)(13)(i)	431.242(a).
205.10(a)(13)(ii)	Deleted—redundant.
205.10(a)(13)(iii)	431.242(b).
205.10(a)(13)(iv)	431.242(c).
205.10(a)(13)(v)	431.242(d).
205.10(a)(13)(vi)	431.242(e).
205.10(a) (14)–(16)	431.244.
205.10(a)(17)	431.245.
205.10(a)(18)	431.246.
205.10(a)(19)	431.244.
205.10(b) (1)–(2)	431.250.
205.10(b)(3)	Deleted—unnecessary.
205.10(b)(4)	431.250.
205.30	431.15.
205.50(a) words before "(A) The administration * * *"	431.301.
205.50(a)(1)(i)(A) after words "such purposes include"	431.302 (a)–(c).
205.50(a)(1)(i)(B)	431.302(d).
205.50(a)(1)(i)(C)	Not applicable to Medicaid.
205.50(a)(1)(ii)	431.303.
205.50(a)(1)(iii)	431.306(c).
205.50(a)(2)	431.305(a).
205.50(a)(2)(i)	431.305(b).
205.50(a)(2)(ii)	431.306(b).
205.50(a)(2)(iii)	431.306(d).
205.50(a)(2)(iv)	431.306(f).
205.50(a)(2)(v)	431.306(e).
205.50(a)(3)	431.304.
205.50(a)(4)	431.307.
205.50(b)	431.301.
205.50(c)	Not applicable to Medicaid.
205.50(d)	Not applicable to Medicaid.
205.60(a)(1)	431.17 (b)–(c).
205.60(a)(2)	431.16.
205.60(b)	431.17(d).
205.70(a)	431.18(c).
205.70(b) (1)–(2)	431.18(d).
205.70(c) words before "* * * and will establish * * *"	431.18 (e) and (g).
205.70(c) words after "* * * or to prepare for a fair hearing; * * *"	431.18(f).
205.100(a)(1) (i)–(ii)	431.10(b).
205.100(a)(2)(i)	431.10(c).
205.100(a)(2)(ii)	431.10(d).
205.100(b)	431.10(e).
205.101(c)(1)	431.11(b).
205.101(c) (2)–(3)	431.11(c).
205.101(c)(4)	431.11(d).
205.120(a)	431.50(b).
205.120(b)	431.50(c).
205.130(a)(1)	433.33(a).
205.130(a)(2)	433.33(c)(1).
205.145 to words before "Under this requirement * * *"	433.32(a).
205.145 words after "* * * in accord with applicable Federal requirements." and (a).	433.32(b).
205.145(b)	433.32(c).
205.145(c)	433.32(d).
205.150(a)(1)	433.34(b) through (d)(1).
205.150(a)(1)(i) words before "(The estimated costs are included * * *)".	433.34(d) (2)–(4).
205.150(a)(1)(i) words after "* * * activities with justification for each; * * *," to words before "(ii)".	433.34(e)(3).
205.150(a)(1)(ii)	433.34(d)(5).
205.150(a)(1)(iii)	433.34(d)(6).
205.150(a)(2)	433.34(e)(1).
205.150(b)(1)	433.34(f)(1).
205.150(b)(2)	433.34(f)(2).
205.150(b)(3)	433.34(f)(3).
205.150(b)(4)	433.34(f)(4).
205.150(b)(5)	433.34(e)(2).
205.150(b)(6)	433.34(f)(5).
205.160(a)	433.35(c).
205.160(a) (1) through (3)	433.35(d).

Old Section in 45 CFR	New Section in 42 CFR
205.160(b) (1) and (2), first sentence	433.35(b).
205.160(b)(2), second and third sentences	433.35(f)(1).
205.160(b)(3)	433.35(f)(2).
205.160(c)(1)	433.35(e).
205.160(c)(2)	433.35(f)(3).
205.160(c)(3)	433.35(f)(3).
205.170	Deleted—unnecessary
206.10(a)(1)(i)	435.906 and 436.901.
206.10(a)(1)(ii)	435.907 and 436.901.
206.10(a)(1)(iii)	435.908 and 436.901.
206.10(a)(1)(iv) (A) and (B)	435.909 and 436.909.
206.10(a)(1)(iv)(C)	435.907 and 436.901.
206.10(a)(1)(v) (A) and (C)	435.910 and 436.901.
206.10(a)(1)(v)(B)	Not applicable to Medicaid.
206.10(a)(2)(i)	435.905 and 436.901.
206.10(a)(2)(ii)	435.916(b) and 436.901.
206.10(a)(3)	435.911 and 436.901.
206.10(a)(4)	435.912 and 436.901.
206.10(a)(5)	435.930 and 436.901.
206.10(a)(6)(i)	Not applicable to Medicaid.
206.10(a)(6)(ii)	435.914 and 436.901.
206.10(a)(7)	435.919 and 436.901.
206.10(a)(8)	435.913 and 436.901.
206.10(a)(9) (i) and (ii)	435.916(c) and 436.901.
206.10(a)(9)(iii) words before "* * * and every 12 months * * *"	Not applicable to Medicaid.
206.10(a)(9)(iii) words after "* * * than every 6 months in AFDC * * *"	435.916(a) and 436.901.
206.10(a)(9)(iii) (A) and (B)	435.920 and 436.901.
206.10(a)(10)	435.902 and 436.901.
206.10(a)(11)	435.903 and 436.901.
206.10(a)(12)	435.904 and 436.901.
206.10(b)(1)	Redundant—430.1.
206.10(b)(2)	Redundant—435.907.
208.1(a)	441.101.
208.1(a)(1)	431.620.
208.1(a)(2)	441.102(a).
208.1(a)(2)(i), first sentence	441.102(b)(2).
208.1(a)(2)(i), second sentence	441.102(b)(1).
208.1(a)(2)(ii)	441.102(b)(4).
208.1(a)(2)(iii)	441.102(b)(3).
208.1(a)(2)(iv)	441.102(b)(5).
208.1(a)(3) and (4)	441.103.
208.1(a)(5) and (6)	441.105.
208.1(a)(7)	441.106.
208.1(b)	Not applicable to Medicaid.

PART 430—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

A. 42 CFR Section 430.0 is amended by revising paragraph (b)(3) to read as follows:

§ 430.0 Introduction to Subchapter C.

* * * * *

(b) *Federal regulations.*

* * * * *

(3) Regulations in 45 CFR Parts 201 and 213 also apply to the Medicaid program, to the extent specified.

PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

B. 42 CFR Part 431 is amended as set forth below:

1. The table of contents is amended by revising Subparts A, B, and M and adding new Subparts E and F to read as follows:

* * * * *

Subpart A—Single State Agency

Sec.
431.10 Single State agency.
431.11 Organization for administration.
431.12 Medical care advisory committee.
431.15 Methods of administration.
431.16 Reports.
431.17 Maintenance of records.
431.18 Availability of agency program manuals.

Subpart B—Administrative Requirements: General Program Services

431.50 Statewide operation.
431.51 Free choice of providers.
431.52 Payments for services furnished out of State.
431.53 Assurance of transportation.

* * * * *

Subpart D [Reserved]

Subpart E—Fair Hearings for Applicants and Recipients

GENERAL PROVISIONS

431.200 Basis and purpose.
431.201 Definitions.
431.202 State plan requirements.
431.205 Provision of hearing system.
431.206 Informing applicants and recipients.

NOTICE

431.210 Content of notice.
431.211 Advance notice.
431.213 Exceptions from advance notice.
431.214 Notice in cases of probable fraud.

RIGHT TO HEARING

431.220 When a hearing is required.
431.221 Request for hearing.
431.222 Group hearings.
431.223 Denial or dismissal of request for hearing.

PROCEDURES

Sec.
431.230 Maintaining services.
431.231 Reinstatement of services.
431.232 Adverse decision of local evidentiary hearing.
431.233 State agency hearing after adverse decision of local evidentiary hearing.
431.240 Conducting the hearing.
431.241 Matters to be considered at the hearing.
431.242 Procedural rights of the applicant or recipient.
431.243 Parties in cases involving an eligibility determination.
431.244 Hearing decisions.
431.245 Notifying the applicant or recipient of a State agency decision.
431.246 Corrective action.

FEDERAL FINANCIAL PARTICIPATION

431.250 Federal financial participation.

Subpart F—Safeguarding Information on Applicants and Recipients

431.300 Basis and purpose.
431.301 State plan requirements.
431.302 Purposes directly related to State plan administration.
431.303 State authority for safeguarding information.
431.304 Publicizing safeguarding requirements.
431.305 Types of information to be safeguarded.
431.306 Release of information.
431.307 Distribution of information materials.

Subpart G–K [Reserved]

* * * * *

Subpart M—Relations With Other Agencies

431.610 Relations with standard-setting and survey agencies.
431.615 Relations with State health and vocational rehabilitation agencies and title V grantees.
431.620 Agreement with State mental health authority or mental institutions.
431.625 Coordination of Medicaid with Medicare Part B.

* * * * *

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Subpart A is amended by adding new §§ 431.10, 431.11, and 431.15 through 431.18, to read as follows:

Subpart A—Single State Agency

§ 431.10 Single State agency.

(a) *Basis and purpose.* This section implements section 1902(a)(5) of the Act, which provides for designation of a single State agency for the Medicaid program.

(b) *Designation and certification.* A State plan must—

(1) Specify a single State agency established or designated to administer or supervise the administration of the plan; and

(2) Include a certification by the State Attorney General, citing the legal authority for the single State agency to—

(i) Administer or supervise the administration of the plan; and

(ii) Make rules and regulations that it follows in administering the plan or that are binding upon local agencies that administer the plan.

(c) *Determination of eligibility.* (1) The plan must specify whether the agency that determines eligibility for families and for individuals under 21 is—

(i) The Medicaid agency; or

(ii) The single State agency for the financial assistance program under title IV-A (in the 50 States or the District of Columbia), or under title I or XVI (AABD), in Guam, Puerto Rico, or the Virgin Islands.

(2) The plan must specify whether the agency that determines eligibility for the aged, blind, or disabled is—

(i) The Medicaid agency;

(ii) The single State agency for the financial assistance program under title IV-A (in the 50 States or the District of Columbia) or under title I or XVI (AABD), in Guam, Puerto Rico, or the Virgin Islands; or

(iii) The Federal agency administering the supplemental security income program under title XVI (SSI). In this case, the plan must also specify whether the Medicaid agency or the title IV-A agency determines eligibility for any groups whose eligibility is not determined by the Federal agency.

(d) *Agreement with Federal or State agencies.* The plan must provide for written agreements between the Medicaid agency and the Federal or other State agencies that determine eligibility for Medicaid, stating the relationships and respective responsibilities of the agencies.

(e) *Authority of the single State agency.* In order for an agency to qualify as the Medicaid agency—

(1) The agency must not delegate, to other than its own officials, authority to—

(i) Exercise administrative discretion in the administration or supervision of the plan, or

(ii) Issue policies, rules, and regulations on program matters.

(2) The authority of the agency must not be impaired if any of its rules, regulations, or decisions are subject to review, clearance, or similar action by other offices or agencies of the State.

(3) If other State or local agencies or offices perform services for the Medicaid agency, they must not have the authority to change or disapprove any administrative decision of that agency, or otherwise substitute their judgment for that of the Medicaid agency with respect to the application of policies, rules, and regulations issued by the Medicaid agency.

§ 431.11 Organization for administration.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes the general organization and staffing requirements for the Medicaid agency and the State plan.

(b) *Medical assistance unit.* A State plan must provide for a medical assistance unit within the Medicaid agency, staffed with a program director and other appropriate personnel who participate in the development, analysis, and evaluation of the Medicaid program.

(c) *Description of organization.* (1) The plan must include—

(i) A description of the organization and functions of the Medicaid agency and an organization chart;

(ii) A description of the organization and functions of the medical assistance unit and an organization chart; and

(iii) A description of the kinds and number of professional medical personnel and supporting staff used in the administration of the plan and their responsibilities.

(d) *Eligibility determined by other agencies.* If eligibility is determined by State agencies other than the Medicaid agency or by local agencies under the supervision of other State agencies, the plan must include a description of the staff designated by those other agencies and the functions they perform in carrying out their responsibility.

§ 431.15 Methods of administration.

A State plan must provide for methods of administration that are found by the Secretary to be necessary for the proper and efficient operation of the plan.

(Sec. 1902(a)(4) of the Act.)

§ 431.16 Reports.

A State plan must provide that the Medicaid agency will—

(a) Submit all reports required by the Secretary;

(b) Follow the Secretary's instructions with regard to the form and content of those reports; and

(c) Comply with any provisions that the Secretary finds necessary to verify and assure the correctness of the reports.

§ 431.17 Maintenance of records.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes the kinds of records a Medicaid agency must maintain, the retention period, and the conditions under which microfilm copies may be substituted for original records.

(b) *Content of records.* A State plan must provide that the Medicaid agency will maintain or supervise the maintenance of the records necessary for the proper and efficient operation of the plan. The records must include—

(1) Individual records on each applicant and recipient that contain information on—

(i) Date of application;

(ii) Date of and basis for disposition;

(iii) Facts essential to determination of initial and continuing eligibility;

(iv) Provision of medical assistance; and

(v) Basis for discontinuing assistance; and

(2) Statistical, fiscal, and other records necessary for reporting and accountability as required by the Secretary.

(c) *Retention of records.* The plan must provide that the records required under paragraph (b) of this section will be retained for the periods required by the Secretary.

(d) *Conditions for optional use of microfilm copies.* The agency may substitute certified microfilm copies for the originals of substantiating documents required for Federal audit and review, if the conditions in paragraphs (d)(1) through (4) of this section are met.

(1) The agency must make a study of its record storage and must show that the use of microfilm is efficient and economical.

(2) The microfilm system must not hinder the agency's supervision and control of the Medicaid program.

(3) The microfilm system must—

(i) Enable the State to audit the propriety of expenditures for which FFP is claimed; and

(ii) Enable the HEW Audit Agency and HCFA to properly discharge their respective responsibilities for reviewing the manner in which the Medicaid program is being administered.

(4) The agency must obtain approval from the HCFA regional office indicating—

(i) The system meets the conditions of paragraphs (d)(2) and (3) of this section; and

(ii) The microfilming procedures are reliable and are supported by an adequate retrieval system.

§ 431.18 Availability of agency program manuals.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes State plan requirements for facilitating access to Medicaid rules and policies by individuals outside the State Medicaid agency.

(b) *State plan requirements.* A State plan must provide that the Medicaid agency meets the requirements of paragraphs (c) through (g) of this section.

(c) *Availability in agency offices.* (1) The agency must maintain, in all its offices, copies of its current rules and policies that affect the public, including those that govern eligibility, provision of medical assistance, covered services, and recipient rights and responsibilities.

(2) These documents must be available upon request for review, study, and reproduction by individuals during regular working hours of the agency.

(d) *Availability through other entities.* The agency must provide copies of its current rules and policies to—

(1) Public and university libraries;

(2) The local or district offices of the Bureau of Indian Affairs;

(3) Welfare and legal services offices; and

(4) Other entities that—

(i) Request the material in order to make it accessible to the public;

(ii) Are centrally located and accessible to a substantial number of the recipient population they serve; and

(iii) Agree to accept responsibility for filing all amendments or changes forwarded by the agency.

(e) *Availability in relation to fair hearings.* The agency must make available to an applicant or recipient, or his representative, a copy of the specific policy materials necessary—

(1) To determine whether to request a fair hearing; or

(2) To prepare for a fair hearing.

(f) *Availability for other purposes.* The agency must establish rules for making program policy materials available to individuals who request them for other purposes.

(g) *Charges for reproduction.* The agency must make copies of its program policy materials available without charge or at a charge related to the cost of reproduction.

3. Subpart B is amended by adding a new § 431.50 to read as follows:

§ 431.50 Statewide operation.

(a) *Basis and purpose.* This section implements section 1902(a)(1) of the Act, which requires a State plan to be in effect throughout the State, and section 1902(a)(23), which permits certain exceptions.

(b) *State plan requirements.* A State plan must provide that the following requirements will be met:

(1) The plan will be in operation statewide through a system of local offices, under equitable standards for assistance and administration that are mandatory throughout the State.

(2) If administered by political subdivisions of the State, the plan will be mandatory on those subdivisions.

(3) The agency will assure that the plan is continuously in operation in all local offices or agencies through—

(i) Methods for informing staff of State policies, standards, procedures, and instructions;

(ii) Systematic planned examination and evaluation of operations in local

offices by regularly assigned State staff who make regular visits; and

(iii) Reports, controls, or other methods.

(c) *Exceptions.* The requirements of paragraph (b) of this section do not apply with respect to services offered by comprehensive health services organizations (see § 440.250(g) of this subchapter) or by rural health clinics (see § 440.20(b)).

4. A new Subpart E is added to read as follows:

Subpart E—Fair Hearings for Applicants and Recipients

General Provisions

§ 431.200 Basis and purpose.

This subpart implements section 1902(a)(3) of the Act, which requires that a State plan provide an opportunity for a fair hearing to any person whose claim for assistance is denied or not acted upon promptly. This subpart also prescribes procedures for an opportunity for hearing if the Medicaid agency takes action to suspend, terminate, or reduce services.

§ 431.201 Definitions.

For purposes of this subpart:

"Action" means a termination, suspension, or reduction of Medicaid eligibility or covered services.

"Date of action" means the intended date on which a termination, suspension, or reduction becomes effective.

"De novo hearing" means a hearing that starts over from the beginning.

"Evidentiary hearing" means a hearing conducted so that evidence may be presented.

"Notice" means a written statement that meets the requirements of § 431.210.

"Request for a hearing" means a clear expression by the applicant or recipient, or his authorized representative, that he wants the opportunity to present his case to a reviewing authority.

§ 431.202 State plan requirements.

A State plan must provide that the requirements of §§ 431.205 through 431.246 of this subpart are met.

§ 431.205 Provision of hearing system.

(a) The Medicaid agency must be responsible for maintaining a hearing system that meets the requirements of this subpart.

(b) The State's hearing system must provide for—

(1) A hearing before the agency; or

(2) An evidentiary hearing at the local level, with a right of appeal to a State agency hearing.

(c) The agency may offer local hearings in some political subdivisions and not in others.

(d) The hearing system must meet the due process standards set forth in *Goldberg v. Kelly*, 397 U.S. 245 (1970), and any additional standards specified in this subpart.

§ 431.206 Informing applicants and recipients.

(a) The agency must issue and publicize its hearing procedures.

(b) The agency must, at the time specified in paragraph (c) of this section, inform every applicant or recipient in writing—

(1) Of his right to a hearing;

(2) Of the method by which he may obtain a hearing; and

(3) That he may represent himself or use legal counsel, a relative, a friend, or other spokesman.

(c) The agency must provide the information required in paragraph (b) of this section—

(1) At the time that the individual applies for Medicaid; and

(2) At the time of any action affecting his claim.

Notice

§ 431.210 Content of notice.

A notice required under § 431.206(c)(2) of this subpart must contain—

(a) A statement of what action the agency intends to take;

(b) The reasons for the intended action;

(c) The specific regulations that support, or the change in Federal or State law that requires, the action;

(d) An explanation of—

(1) The individual's right to request an evidentiary hearing if one is available, or a State agency hearing; or

(2) In cases of an action based on a change in law, the circumstances under which a hearing will be granted; and

(e) An explanation of the circumstances under which Medicaid is continued if a hearing is requested.

§ 431.211 Advance notice.

The State or local agency must mail a notice at least 10 days before the date of action, except as permitted under §§ 431.213 and 431.214 of this subpart.

§ 431.213 Exceptions from advance notice.

The agency may mail a notice not later than the date of action if—

(a) The agency has factual information confirming the death of a recipient;

(b) The agency receives a clear written statement signed by a recipient that—

(1) He no longer wishes services; or

(2) Gives information that requires termination or reduction of services and indicates that he understands that this must be the result of supplying that information;

(c) The recipient has been admitted to an institution where he is ineligible under the plan for further services;

(d) The recipient's whereabouts are unknown and the post office returns agency mail directed to him indicating no forwarding address (See § 431.231 (d) of this subpart for procedure if the recipient's whereabouts become known);

(e) The agency establishes the fact that the recipient has been accepted for Medicaid services by another local jurisdiction, State, territory, or commonwealth; or

(f) A change in the level of medical care is prescribed by the recipient's physician.

§ 431.214 Notice in cases of probable fraud.

The agency may shorten the period of advance notice to 5 days before the date of action if—

(a) The agency has facts indicating that action should be taken because of probable fraud by the recipient; and

(b) The facts have been verified, if possible, through secondary sources.

Right to Hearing

§ 431.220 When a hearing is required.

(a) The agency must grant an opportunity for a hearing to:

(1) Any applicant who requests it because his claim for services is denied or is not acted upon with reasonable promptness; and

(2) Any recipient who requests it because he believes the agency has taken an action erroneously.

(b) The agency need not grant a hearing if the sole issue is a Federal or State law requiring an automatic change adversely affecting some or all recipients.

§ 431.221 Request for hearing.

(a) The agency may require that a request for a hearing be in writing.

(b) The agency may not limit or interfere with the applicant's or recipient's freedom to make a request for a hearing.

(c) The agency may assist the applicant or recipient in submitting and processing his request.

(d) The agency must allow the applicant or recipient a reasonable time, not to exceed 90 days from the date that notice of action is mailed, to request a hearings.

§ 431.222 Group hearings.

The agency—

(a) May respond to a series of individual requests for hearing by conducting a single group hearing;

(b) May consolidate hearings only in cases in which the sole issue involved

is one of Federal or State law or policy;

(c) Must follow the policies of this subpart and its own policies governing hearings in all group hearings; and

(d) Must permit each person to present his own case or be represented by his authorized representative.

§ 431.223 Denial or dismissal of request for a hearing.

The agency may deny or dismiss a request for a hearing if—

(a) The applicant or recipient withdraws the request in writing; or

(b) The applicant or recipient fails to appear at a scheduled hearing without good cause.

PROCEDURES

§ 431.230 Maintaining services.

(a) If the agency mails the 10-day or 5-day notice as required under § 431.211 or § 431.214 of this subpart, and the applicant or recipient requests a hearing before the date of action, the agency may not terminate or reduce services until a decision is rendered after the hearing unless—

(1) It is determined at the hearing that the sole issue is one of Federal or State law or policy; and

(2) The agency promptly informs the applicant or recipient in writing that services are to be terminated or reduced pending the hearing decision.

(b) If the agency's action is sustained by the hearing decision, the agency may institute recovery procedures against the applicant or recipient to recoup the cost of any services furnished the recipient, to the extent they were furnished solely by reason of this section.

§ 431.231 Reinstatement of services.

(a) The agency may reinstate services if a recipient requests a hearing not more than 10 days after the date of action.

(b) The reinstated services must continue until a hearing decision unless, at the hearing, it is determined that the sole issue is one of Federal or State law or policy.

(c) The agency must reinstate and continue services until a decision is rendered after a hearing if—

(1) Action is taken without the advance notice required under § 431.211 or § 431.214 of this subpart;

(2) The recipient requests a hearing within 10 days of the mailing of the notice of action; and

(3) The agency determines that the action resulted from other than the application of Federal or State law or policy.

(d) If a recipient's whereabouts are unknown, as indicated by the return of unforwardable agency mail directed to him, any discontinued services must be reinstated if his whereabouts become known during the time he is eligible for services.

§ 431.232 Adverse decision of local evidentiary hearing.

If the decision of a local evidentiary hearing is adverse to the applicant or recipient, the agency must—

(a) Inform the applicant or recipient of the decision;

(b) Inform the applicant or recipient that he has the right to appeal the decision to the State agency, in writing, within 15 days of the mailing of the notice of the adverse decision;

(c) Inform the applicant or recipient of his right to request that his appeal be a *de novo* hearing; and

(d) Discontinue services after the adverse decision.

§ 431.233 State agency hearing after adverse decision of local evidentiary hearing.

(a) Unless the applicant or recipient specifically requests a *de novo* hearing, the State agency hearing may consist of a review by the agency hearing officer of the record of the local evidentiary hearing to determine whether the decision of the local hearing officer was supported by substantial evidence in the record.

(b) A person who participates in the local decision being appealed may not participate in the State agency hearing decision.

§ 431.240 Conducting the hearing.

(a) All hearings must be conducted—

(1) At a reasonable time, date, and place;

(2) Only after adequate written notice of the hearing; and

(3) By one or more impartial officials or other individuals who have not been directly involved in the initial determination of the action in question.

(b) If the hearing involves medical issues such as those concerning a diagnosis, an examining physician's report, or a medical review team's decision, and if the hearing officer considers it necessary to have a medical assessment other than that of the individual involved in making the original decision, such a medical assessment must be obtained at agency expense and made part of the record.

§ 431.241 Matters to be considered at the hearing.

The hearing must cover—

(a) Agency action or failure to act with reasonable promptness on a claim for services, including both initial and subsequent decisions regarding eligibility; and

(b) Agency decisions regarding changes in the type or amount of services.

§ 431.242 Procedural rights of the applicant or recipient.

The applicant or recipient, or his representative, must be given an opportunity to—

(a) Examine at a reasonable time before the date of the hearing and during the hearing:

(1) The content of the applicant's or recipient's case file; and

(2) All documents and records to be used by the State or local agency at the hearing;

(b) Bring witnesses;

(c) Establish all pertinent facts and circumstances;

(d) Present an argument without undue interference; and

(e) Question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

§ 431.243 Parties in cases involving an eligibility determination.

If the hearing involves an issue of eligibility and the Medicaid agency is not responsible for eligibility determinations, the agency that is responsible for determining eligibility must participate in the hearing.

§ 431.244 Hearing decisions.

(a) Hearing recommendations or decisions must be based exclusively on evidence introduced at the hearing.

(b) The record must consist only of—

(1) The transcript or recording of testimony and exhibits, or an official report containing the substance of what happened at the hearing;

(2) All papers and requests filed in the proceeding; and

(3) The recommendation or decision of the hearing officer.

(c) The applicant or recipient must have access to the record at a convenient place and time.

(d) In any evidentiary hearing, the decision must be a written one that—

(1) Summarizes the facts; and

(2) Identifies the regulations supporting the decision.

(e) In a *de novo* hearing, the decision must—

(1) Specify the reasons for the decision; and

(2) Identify the supporting evidence and regulations.

(f) The agency must take final administrative action within 90 days from the date of the request for a hearing.

(g) The public must have access to all agency hearing decisions, subject to the requirements of Subpart F of this part for safeguarding of information.

§ 431.245 Notifying the applicant or recipient of a State agency decision.

The agency must notify the applicant or recipient in writing of—

(a) The decision; and

(b) His right to request a State agency hearing or seek judicial review, to the extent that either is available to him.

§ 431.246 Corrective action.

The agency must promptly make corrective payments, retroactive to the date an incorrect action was taken, if—

(a) The hearing decision is favorable to the applicant or recipient; or

(b) The agency decides in the applicant's or recipient's favor before the hearing.

FEDERAL FINANCIAL PARTICIPATION

§ 431.250 Federal financial participation.

FFP is available in expenditures for—

(a) Payments for services continued pending a hearing decision;

(b) Payments made to carry out hearing decisions;

(c) Payments made to take corrective action prior to a hearing;

(d) Payments made to extend the benefit of a hearing decision or court order to individuals in the same situation as those directly affected by the decision or order;

(e) Retroactive payments under paragraphs (b), (c), and (d) of this section in accordance with applicable Federal policies on corrective payments; and

(f) Administrative costs incurred by the agency for—

(1) Transportation for the applicant or recipient, his representative, and witnesses to and from the hearing;

(2) Meeting other expenses of the applicant or recipient in connection with the hearing; and

(3) Carrying out the hearing procedures, including expenses of obtaining the additional medical assessment specified in § 431.240 of this subpart.

5. A new Subpart F is added to read as follows:

Subpart F—Safeguarding Information on Applicants and Recipients

§ 431.300 Basis and purpose.

Section 1902(a)(7) of the Act requires that a State plan must provide safeguards that restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan. This subpart specifies State plan requirements, the types of information to be safeguarded, the conditions for release of safeguarded information, and restrictions on the distribution of other information.

§ 431.301 State plan requirements.

A State plan must provide, under a State statute that imposes legal sanctions, safeguards meeting the requirements of this subpart that restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan.

§ 431.302 Purposes directly related to State plan administration.

Purposes directly related to plan administration include—

(a) Establishing eligibility;

(b) Determining the amount of medical assistance;

(c) Providing services for recipients; and

(d) Conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the plan.

§ 431.303 State authority for safeguarding information.

The Medicaid agency must have authority to implement and enforce the provisions specified in this subpart for safeguarding information about applicants and recipients.

§ 431.304 Publicizing safeguarding requirements.

(a) The agency must publicize provisions governing the confidential nature of information about applicants and recipients, including the legal sanctions imposed for improper disclosure and use.

(b) The agency must provide copies of these provisions to applicants and recipients and to other persons and agencies to whom information is disclosed.

§ 431.305 Types of information to be safeguarded.

(a) The agency must have criteria that govern the types of information about applicants and recipients that are safeguarded.

(b) This information must include at least—

(1) Names and addresses;

(2) Medical services provided;

(3) Social and economic conditions or circumstances;

(4) Agency evaluation of personal information; and

(5) Medical data, including diagnosis and past history of disease or disability.

§ 431.306 Release of information.

(a) The agency must have criteria specifying the conditions for release and use of information about applicants and recipients.

(b) Access to information concerning applicants or recipients must be restricted to persons or agency representatives who are subject to standards of confidentiality that are comparable to those of the agency.

(c) The agency must not publish names of applicants or recipients.

(d) The agency must obtain permission from a family or individual, whenever possible, before responding to a request for information from an outside source. If, because of an emergency situation, times does not permit obtaining consent before release, the agency must notify the family or individual immediately after supplying the information.

(e) The agency's policies must apply to all requests for information from outside sources, including governmental bodies, the courts, or law enforcement officials.

(f) If a court issues a subpoena for a case record or for any agency representative to testify concerning an applicant or recipient, the agency must inform the court of the applicable statutory provisions, policies, and regulations restricting disclosure of information.

§ 431.307 Distribution of information materials.

(a) All materials distributed to applicants, recipients, or medical providers must—

(1) Directly relate to the administration of the Medicaid program;

(2) Have no politicial implications;

(3) Contain the names only of individuals directly connected with the administration of the plan; and

(4) Identify those individuals only in their official capacity with the State or local agency.

(b) The agency must not distribute materials such as "holiday" greetings, general public announcements, voting information, and alien registration notices.

(c) The agency may distribute materials directly related to the health and welfare of applicants and recipients, such as announcements of free medical examinations, availability of surplus food, and consumer protection information.

6. In Subpart L, § 431.503 is amended by revising paragraph (n) to read as follows:

§ 431.503 All contracts.

A State plan must provide that contracts under this subpart—

* * * * *

(n) Provide that the contractor safeguards information about recipients as required by Subpart F, part 431 of this subchapter;

* * * * *

7. Subpart M is amended as follows:

a. A new § 431.620 is added to read as follows:

§ 431.620 Agreement with State mental health authority or mental institutions.

(a) *Basis and purpose.* This section implements section 1902(a)(20)(A) of the Act, for States offering Medicaid services in institutions for mental diseases for recipients aged 65 or older, by specifying the terms of the agreement those States must have with other State authorities and institutions. (See Part 441, Subpart C of this subchapter for regulations implementing section 1902(a)(20)(B) and (C).)

(b) *Definition.* For purposes of this section, an "institution for mental diseases" means an institution primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases. This includes medical attention, nursing care, and related services.

(c) *State plan requirement.* A State plan that includes Medicaid for persons aged 65 or older in institutions for mental diseases must provide that the Medicaid agency has in effect a written agreement with—

(1) The State authority or authorities concernd with mental diseases; and

(2) Any institution for mental diseases that is not under the jurisdiction of those State authorities, and that provides services under Medicaid to recipients aged 65 or older.

(d) *Provisions required in an agreement.* The agreement must specify the respective responsibilities of the agency and the authority or institution, including arrangements for—

(1) Joint planning between the parties to the agreement;

(2) Development of alternative methods of care;

(3) Immediate readmission to an institution when needed by a recipient who is in alternative care;

(4) Access by the agency to the institution, the recipient, and the recipient's records when necessary to carry out the agency's responsibilities;

(5) Recording, reporting, and exchanging medical and social information about recipients; and

(6) Other procedures needed to carry out the agreement.

b. Section 431.625 is amended by revising paragraph (c)(2) to read as follows:

§ 431.625 Coordination of Medicaid with Medicare part B.

* * * * * *

(c) *Federal financial participation.* * * *

(2) No FFP is available in State medicaid expenditures that could have been paid for under medicare part B but were not because the person was not enrolled in part B. This limit applies to all recipients eligible for enrollment under part B, whether individually or through an agreement under sec. 1843(a) of the Act. However, FFP is available in expenditures required by §§ 435.914 and 436.901 of this subchapter for retroactive coverage of recipients.

8. In Subpart P, § 431.800 is amended by revising paragraph (h) to read as follows:

§ 431.800 Medicaid quality control (MQC) system.

* * * * * *

(h) *Protection of recipient rights.* Any individual performing activities under the Medicaid quality control program must do so in a manner consistent with §§ 435.902 and 436.901 of this subchapter concerning the rights of the recipient.

PART 432—STATE PERSONNEL ADMINISTRATION

C. 42 CFR Part 432 is amended as follows:

1. Section 432.55 is amended by revising paragraph (b)(3) to read as follows:

§ 432.55 Reporting training and administrative costs.

* * * * * *

(b) *Activities and costs to be reported on training expenditures.* * * *

(3) For State and local Medicaid agency staff development personnel (including supporting staff) assigned fulltime training functions: Salaries, fringe benefits, travel, and per diem. Costs for staff spending less than full time on training for the Medicaid program must be allocated between training and administration in accordance with § 433.34 of this subchapter.

* * * * * *

2. Section 432.60 is amended by revising paragraph (c) to read as follows:

§ 432.60 Sources of State share of training expenditures and cost allocation.

* * * * * *

(c) *Cost allocation.* Costs of training are chargeable to Medicaid only to the extent that the training benefits that program. If the training benefits both federally funded programs and other programs financed solely with State or local funds, the training costs must be allocated among programs as specified in 45 CFR part 74, appendix C and § 433.34 of this subchapter.

PART 433—STATE FISCAL ADMINISTRATION

D. 42 CFR Part 433 is amended as follows:

1. The table of contents is amended by adding §§ 433.32 through 433.35 to read as follows:

* * * * * *

Subpart B—General Administrative Requirements

Sec.
433.32 Fiscal policies and accountability.
433.33 State financial participation.
433.34 Cost allocation.
433.35 Nonexpendable personal property: Conditions for FFP.
433.36 Liens and recoveries.
433.37 Reporting provider payments to Internal Revenue Service.

* * * * * *

2. New §§ 433.32 through 433.35 are added to read as follows:

§ 433.32 Fiscal policies and accountability.

A State plan must provide that the Medicaid agency and, where applicable, local agencies administering the plan will—

(a) Maintain an accounting system and supporting fiscal records to assure that claims for Federal funds are in accord with applicable Federal requirements;

(b) Retain records for 3 years from date of submission of a final expenditure report;

(c) Retain records beyond the 3-year period if audit findings have not been resolved; and

(d) Retain records for nonexpendable property acquired under a Federal grant for 3 years from the date of final disposition of that property.

(Sec. 1902(a)(4) of the Act)

§ 433.33 State financial participation.

A State plan must provide that—

(a) State (as distinguished from local) funds will be used both for medical assistance and administration;

(b) State funds will be used to pay at least 40 percent of the non-Federal share of total expenditures under the plan; and

(c) State and Federal funds will be apportioned among the political subdivisions of the State on a basis that assures that—

(1) Individuals in similar circumstances will be equitably treated throughout the State; and

(2) If there is local financial participation, lack of funds from local sources will not result in lowering the amount, duration, scope, or quality of services or level of administration under the plan in any part of the State.

(Sec. 1902(a)(2) of the Act)

§ 433.34 Cost allocation.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act,

prescribes requirements for submitting and revising cost allocation plans relating to Medicaid expenditures, specifies their content, and sets forth the effect on FFP if requirements are not met.

(b) *State plan requirement.* A State plan must provide that the requirements of paragraphs (c) through (e) of this section will be met.

(c) *Filing cost allocation plan.* The Medicaid agency must have a cost allocation plan approved by HCFA on file with the HCFA Regional Office.

(d) *Content of plan.* The cost allocation plan must include—

(1) Methods and procedures for properly charging the costs of administration, medical assistance, and training incurred under the plan, in accordance with 45 CFR Part 74, Appendix C and any other requirements specified by HEW or HCFA;

(2) Descriptions of functions and activities, by organizational units;

(3) Estimated costs for one year, by cost centers or pools, including costs of all organizational units of the State department in which the Medicaid agency is located (unless specifically waived by HCFA);

(4) The basis used for allocating the various pools of costs to program and activities, with justification for each;

(5) Other information necessary to document the validity of the cost allocation methods and procedures; and

(6) Methods and procedures for—

(i) Allocating costs of the State department in which the Medicaid agency is located between federally-aided and all other programs; and

(ii) Identifying costs applicable to more than one of the federally-aided programs and segregating these costs in accordance with program or other classifications specified by the Secretary.

(e) *Revision and approval.* (1) The agency must revise the plan whenever the allocation method is outdated because of organizational changes within the agency, changes in Federal law or regulations, or other similar changes.

(2) Within 60 days of receipt of a plan, the HCFA Regional Office will give the agency written notice of approval or of changes required for approval.

(3) Approval of the cost allocation plan does not constitute approval of the plan's estimated cost for purposes of calculating claims for FFP.

(f) *Federal financial participation.* (1) FFP is not available in expenditures for administration, medical assistance, and training for any quarterly period unless the State's claims for those expenditures are in accord with a cost allocation plan approved for that period and on file with HCFA.

(2) If the agency fails to submit for any quarter a revision to an outdated cost allocation plan, or if the submitted revision has not been approved, HCFA will—

(i) Defer payment of any amount it believes to be overstated; and

(ii) Disallow any amount it determines to be overstated.

(3) If no approved cost allocation plan is on file with HCFA, FFP will be made available only for those costs of administration, medical assistance, and training which are entirely chargeable to a particular function or activity that has a single rate of FFP. Claims for other costs that require allocation will be disallowed.

(4) Any costs disallowed under paragraphs (f) (2) and (3) of this section may by reclaimed after HCFA approves a cost allocation plan for the quarter for which the expenditures were claimed, to the extent that the reclaimed amounts are supported by the approved plan.

(5) The time frames and the procedures in 45 CFR 201.15* are applicable to deferrals made under paragraph (f)(2) of this section.

§ 433.35 Nonexpendable personal property: Conditions for FFP.

(a) *Basis and purpose.* This section, based on sec. 1102 of the Act, prescribes rules on availability of FFP for acquisition and depreciation of nonexpendable personal property, and on accounting for and managing the property.

(b) *Definitions.* As used in this section, unless the context indicates otherwise—

"Acquisition cost" means the amount expended for property (minus interest) plus, in the case of property acquired with a trade-in, the book value of the property traded in.

"Book value" of property traded in means acquisition cost minus the amount depreciated through the date of trade-in. (If the State claimed FFP in the acquisition cost when it acquired the property, the book value is zero.)

"Depreciation expense" means the portion of the acquisition cost assignable to a particular time period of the estimated useful service life of the property.

"Nonexpendable personal property" means tangible property of any kind, except real property, that has a useful life of more than one year and an acquisition cost of $300 or more per unit.

(c) *Availability of FFP.* Except as provided in paragraph (d) of this section, FFP is available in expenditures for nonexpendable personal property only in the depreciation expense, or an annual use allowance of 6⅔ percent of acquisition cost, applicable to the period for which the property is used in the Medicaid program.

(d) *Exceptions based on acquisition cost and use of property.* (1) Except as specified in paragraphs (d)(2) and (d)(3) of this section, the Medicaid agency may claim FFP in full in expenditures for acquiring nonexpendable personal property costing less than $5,000.

(2) FFP is available only on the basis of paragraph (c) of this section if the property is acquired by a provider under a cost reimbursement contract with the agency, unless the State has title to the property and the contract provides for the return of the property or its residual value at the completion of the contract.

(3) In the case of property acquired by the agency for use by organizational units of that agency, or of a parent agency, that are treated as indirect cost centers or pools in an HCFA cost allocation plan, FFP is available only in accordance with paragraph (c) of this section or on the basis of indirect costs negotiated by HEW.

(e) *Distribution of costs.* (1) *Costs of property used in a single activity.* The agency may charge costs directly to a single activity that has a separate rate of FFP, if the property is being used exclusively for that activity at the time of expenditures for the property.

(2) *Costs of property used in more than one activity.* The agency must distribute costs by one of the following methods:

(i) Using cost centers or pools and allocation bases that will distribute the costs consistent with use of the property at the time of expenditures. The agency must distribute any credits for property sold or retained for use in non-Federal programs in a manner consistent with the method used to distribute expenditures when the property was acquired (see 45 CFR 74.139 for HEW policies on disposition).

(ii) Using a common distribution factor for all property or for classifications of property (e.g., costs of desks may be distributed by number of staff employed in each activity). For property sold or retained for use in non-Federal programs, the agency must distribute credits to programs or activities by using the same distribution factors that are applied to expenditures for property acquired in the quarter in which credits occurred.

(f) *Other administrative requirements.* (1) *Determination of depreciation expense.* The agency must determine annual depreciation expense by—

*See proposed rulemaking republishing 45 CFR 201.15 as 42 CFR 430.230 through 430.232, 43 FR 38345, August 25, 1978.

(i) Dividing the acquisition cost by the number of years of estimated useful service life of the property; or

(ii) Any other method that is shown by the agency to be more consistent with the use of the property and is approved by the HCFA Regional Administrator.

(2) *Estimated useful service life.* The agency must determine the estimated useful service life of property in accordance with Internal Revenue Service policies on depreciation for tax purposes, except that a shorter period may be approved by the HCFA Regional Administrator if the State agency can justify it.

(3) *Accountability and management.* The agency must account for and manage nonexpendable personal property in accordance with the provisions in 45 CFR 74.133 and 74.135 through 74.140.

3. Section 433.112 is amended by revising paragraph (b)(9) to read as follows:

§ 433.112 FFP for design, development, installation, or improvement of mechanized claims processing and information retrieval systems.

* * * * *

(b) The Administrator will approve the system if the following conditions are met:

* * * * *

(9) The agency agrees in writing that the information in the system will be safeguarded in accordance with Subpart F, Part 431 of this subchapter.

PART 435—ELIGIBILITY IN THE STATES AND DISTRICT OF COLUMBIA

E. 42 CFR Part 435 is amended as follows:

1. The table of contents is amended by adding a new Subpart J to read as follows:

Subpart J—Eligibility Administration: Applications, Determinations of Eligibility, and Furnishing Medicaid

Sec.
435.900 Scope.

GENERAL METHODS OF ADMINISTRATION

435.902 Consistency with objectives and statutes.
435.903 Simplicity of administration.
435.904 Adherence of local agencies to State plan requirements.

APPLICATIONS

435.905 Availability of program information.
435.906 Opportunity to apply.
435.907 Written application.
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435.910 Use of social security number.

DETERMINATION OF MEDICAID ELIGIBILITY

435.911 Timely determination of eligibility.
435.912 Adequate notice.
435.913 Case documentation.
435.914 Effective date.

REDETERMINATIONS OF MEDICAID ELIGIBILITY

435.916 Periodic redeterminations of Medicaid eligibility.
435.919 Timely and adequate notice.
435.920 Verification of SSNs.

FURNISHING MEDICAID

435.930 Furnishing Medicaid.

* * * * *

§ 435.2 [Amended]

2. Section 435.2 is amended by deleting the uncoded paragraph in parenthesis following paragraph (e).

3. Section 435.531 is amended by revising paragraph (a)(3)(ii) to read as follows:

§ 435.531 Determinations of blindness.

(a) Except as specified in paragraph (b) of this section, in determining blindness—

* * * * *

(3) A physician skilled in the diseases of the eye (for example, an ophthalmologist or an eye, ear, nose, and throat specialist) must review the report and determine on behalf of the agency—

* * * * *

(ii) Whether and when re-examinations are necessary for periodic redeterminations of eligibility, as required under § 435.916 of this part.

* * * * *

4. Section 435.541 is amended by revising paragraphs (b) and (c) to read as follows:

§ 435.541 Determinations of disability.

* * * * *

(b) A physician and a social worker, qualified by professional training and experience, must review the medical report and social history and determine on behalf of the agency whether the individual meets the definition of disability. The physician must determine whether and when reexaminations will be necessary for periodic redeterminations of eligibility as required under § 435.916 of this part.

(c) In subsequently determining disability, the physician and social worker must review reexamination reports and the social history and determine whether the individual continues to meet the definition.

* * * * *

5. Section 435.724 is amended by revising paragraph (a) to read as follows:

§ 435.724 Financial responsibility of parents for blind or disabled children.

(a) If the agency provides Medicaid to SSI recipients, it must meet the requirements of this section in determining eligibility of blind and disabled children under the optional coverage provisions of §§ 435.210, 435.211, and 435.231.

* * * * *

6. A new Subpart J is added to read as follows:

Subpart J—Eligibility in the States and District of Columbia

§ 435.900 Scope.

This subpart sets forth requirements for processing applications, determining eligibility, and furnishing Medicaid.

GENERAL METHODS OF ADMINISTRATION

§ 435.902 Consistency with objectives and statutes.

The Medicaid agency's standards and methods for determining eligibility must be consistent with the objectives of the program and with the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, sec. 504 of the Rehabilitation Act of 1973, and all other relevant provisions of Federal and State laws.

§ 435.903 Simplicity of administration.

The agency's policies and procedures must ensure that eligibility is determined in a manner consistent with simplicity of administration and the best interests of the applicant or recipient.

§ 435.904 Adherence of local agencies to State plan requirements.

The agency must—

(a) Have methods to keep itself currently informed of the adherence of local agencies to the State plan provisions and the agency's procedures for determining eligibility; and

(b) Take corrective action to ensure their adherence.

APPLICATIONS

§ 435.905 Availability of program information.

(a) The agency must furnish the following information in appropriate written or oral form to all applicants and to all other individuals who request it:

(1) The eligibility requirements.
(2) Available Medicaid services.
(3) The rights and responsibilities of applicants and recipients.
(b) The agency must publish in quantity and make available bulletins or pamphlets that explain the rules governing eligibility and appeals in simple and understandable terms.

§ 435.906 Opportunity to apply.

The agency must afford an individual wishing to do so the opportunity to apply for Medicaid without delay.

§ 435.907 Written application.

The agency must require a written application from the applicant, an authorized representative or, if the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The application must be on a form prescribed by the agency and signed under a penalty of perjury.

§ 435.908 Assistance with application.

The agency must allow an individual or individuals of the applicant's choice to accompany, assist, and represent the applicant in the application process or a redetermination of eligibility.

§ 435.909 Automatic entitlement to Medicaid following a determination of eligibility under other programs.

The agency must not require a separate application for Medicaid from an individual, if—
(a) The individual receives AFDC; or
(b) The agency has an agreement with the Social Security Administration (SSA) under sec. 1634 of the Act for determining Medicaid eligibility; and—
(1) The individual receives SSI;
(2) The individual receives a mandatory State supplement under either a federally-administered or State-administered program; or
(3) The individual receives an optional State supplement and the agency provides Medicaid to recipients of optional supplements under § 435.230.

§ 435.910 Use of social security number.

(a) The agency must request, on the application, the social security number (SSN) of each individual (including children) for whom Medicaid services are requested.
(b) The agency must advise the applicant of—
(1) Whether disclosure of the SSN is mandatory or voluntary;
(2) The statute or other authority under which the agency is requesting the applicant's SSN; and
(3) The uses the agency will make of the SSN.
(c) The agency must not make disclosure mandatory unless it had a system of records in operation before January 1, 1975, that met the following conditions:
(1) It was used in the administration of the Medicaid program; and
(2) Under statute or regulation, it required an applicant to disclose his SSN to verify his identity.
(d) If disclosure of the SSN is voluntary, the agency must not deny Medicaid to an otherwise eligible applicant for failure or refusal to disclose or apply for a SSN and must inform the applicant that he is not required to disclose or apply for a SSN.
(e) If an applicant cannot recall his SSN or has not been issued a SSN, and wishes to secure one, the agency must—
(1) Assist the applicant in completing an application for a SSN;
(2) Obtain evidence required under SSA regulations to establish the age, the citizenship or alien status, and the true identity of the applicant; and
(3) Either sent the application to SSA or, if there is evidence that the applicant has previously been issued a SSN, request SSA to verify the number.
(f) The agency must not deny or delay services to an otherwise eligible applicant pending issuance or verification of the individual's SSN by SSA.

Determination of Medicaid Eligibility

§ 435.911 Timely determination of eligibility.

(a) The agency must establish time standards for determining eligibility and inform the applicant of what they are. These standards may not exceed—
(1) Sixty days for applicants who apply for Medicaid on the basis of disability; and
(2) Forty-five days for all other applicants.
(b) The time standards must cover the period from the date of application to the date the agency mails notice of its decision to the applicant.
(c) The agency must determine eligibility within the standards except in unusual circumstances, for example—
(1) When the agency cannot reach a decision because the applicant or an examining physician delays or fails to take a required action;
(2) When there is an administrative or other emergency beyond the agency's control; or
(3) When there is a delay in the receipt of eligibility information from SSA in States in which SSA determines Medicaid eligibility.
(d) The agency must document the reasons for delay in the applicant's case record.
(e) The agency must not use the time standards—
(1) As a waiting period before determining eligibility; or
(2) As a reason for denying eligibility (because it has not determined eligibility within the time standards).

§ 435.912 Adequate notice.

The agency must send each applicant a written notice of the agency's decision on his application, and, if eligibility is denied, the reasons for the action, the specific regulation supporting the action, and an explanation of his right to request a hearing. (See Subpart E of Part 431 of this subchapter for rules on hearings.)

§ 435.913 Case documentation.

(a) The agency must include in each applicant's case record facts to support the agency's decision on his application.
(b) The agency must dispose of each application by a finding of eligibility or ineligibility, unless—
(1) There is an entry in the case record that the applicant voluntarily withdrew the application, and that the agency sent a notice confirming his decision;
(2) There is a supporting entry in the case record that the applicant has died; or
(3) There is a supporting entry in the case record that the applicant cannot be located.

§ 435.914 Effective date.

(a) The agency must make eligibility for Medicaid effective no later than the third month before the month of application if the individual—
(1) Received Medicaid services, at any time during that period, of a type covered under the plan; and
(2) Would have been eligible for Medicaid at the time he received the services if he had applied (or someone had applied for him), regardless of whether the individual is alive when application for Medicaid is made.
(b) The agency may make eligiblity for Medicaid effective on the first day of a month if an individual was eligible at any time during that month.
(c) The State plan must specify the date on which eligibility will be made effective.

Redeterminations of Medicaid Eligibility

§ 435.916 Periodic redeterminations of Medicaid eligibility.

(a) The agency must redetermine the eligibility of Medicaid recipients, with respect to circumstances that may change, at least every 12 months, However—
(1) The agency may consider blindness as continuing until the review physician under § 435.531 determines that a recipient's vision has improved beyond the definition of blindness contained in the plan; and

(2) The agency may consider disability as continuing until the review team under § 435.541 determines that a recipient's disability no longer meets the definition of disability contained in the plan.

(b) *Procedures for reporting changes.* The agency must have procedures designed to ensure that recipients make timely and accurate reports of any change in circumstances that may affect their eligibility.

(c) *Agency action on information about changes.* (1) The agency must promptly redetermine eligibility when it receives information about changes in a recipient's circumstances that may affect his eligibility.

(2) If the agency has information about anticipated changes in a recipient's circumstances, it must redetermine eligibility at the appropriate time based on those changes.

§ 435.919 Timely and adequate notice.

(a) The agency must give recipients timely and adequate notice of proposed action to terminate, discontinue, or suspend their eligibility or to reduce or discontinue services they may receive under Medicaid.

(b) The notice must meet the requirements of Subpart J of Part 431 of this subchapter.

§ 435.920 Verification of SSNs.

(a) In redetermining eligibility, the agency must review case records to determine whether they contain the recipient's SSN or, in the case of families, each family member's SSN.

(b) If the case record does not contain the required SSNs, the agency must request them and meet other requirements of § 435.910.

(c) For any recipient whose SSN was established as part of the case record without evidence required under the SSA regulations as to age, citizenship, alien status, or true identity, the agency must obtain verification of these factors in accordance with § 435.910.

FURNISHING MEDICAID

§ 435.930 Furnishing Medicaid.

The agency must—

(a) Furnish Medicaid promptly to recipients without any delay caused by the agency's administrative procedures;

(b) Continue to furnish Medicaid regularly to all eligible individuals until they are found to be ineligible; and

(c) Make arrangements to assist applicants and recipients to get emergency medical care whenever needed, 24 hours a day and 7 days a week.

7. Section 435.1002 is amended by revising paragraph (b) to read as follows:

§ 435.1002 FFP for services.

* * * * *

(b) FFP is available in expenditures for services provided to recipients who were eligible for Medicaid in the month in which the medical care or services were provided except that, for recipients who establish eligibility for Medicaid by deducting incurred medical expenses from income, FFP is not available for expenses that are the recipient's liability. (See § 435.914 and § 436.901 of this subchapter for regulations on retroactive eligibility for Medicaid.)

8. Section 435.1003 is amended by revising paragraphs (a)(1), (2) and (3) to read as follows:

§ 435.1003 Recipients determined ineligible for SSI.

(a) If the Social Security Administration (SSA) notifies an agency that a recipient has been determined ineligible for SSI, FFP is available in Medicaid expenditures for services to the recipient as follows:

(1) If the agency receives the SSA notice by the 10th day of the month, FFP is available under this section only through the end of the month unless the recipient requests a hearing under Subpart E, Part 431 of this subchapter.

(2) If the agency receives the SSA notice after the 10th day of the month, FFP is available only through the end of the following month, unless the recipient requests a hearing under Subpart E, Part 431 of this subchapter.

(3) If a recipient requests a hearing, FFP is available as specified in Subpart E, Part 431 of this subchapter.

* * * * *

PART 436—ELIGIBILITY IN GUAM; PUERTO RICO; AND THE VIRGIN ISLANDS

F. 42 CFR Part 436 is amended as follows:

1. The table of contents is amended by adding a new Subpart J to read as follows:

* * * * *

Subpart J—Eligibility Administration: Applications, Determinations of Eligibility, and Furnishing Medicaid

Sec.
436.900 Scope.
436.901 General requirements.
436.909 Automatic entitlement to Medicaid following a determination of eligibility under other programs.

§ 436.1 [Amended]

2. Section 436.1 is amended by deleting the uncoded paragraph following paragraph (d).

3. Section 436.531 is amended by revising paragraph (c)(2) to read as follow:

§ 436.531 Determination of blindness.

In determining blindness—

* * * * *

(c) A physician skilled in the diseases of the eye (for example, an ophthalmologist or an eye, ear, nose, and throat specialist) must review the report and determine on behalf of the agency—

(1) Whether the individual meets the definition of blindness; and

(2) Whether and when reexaminations are necessary for periodic redeterminations of eligibility, as required under § 435.916 of this subchapter. Blindness is considered to continue until the reviewing physician determines that the recipient's vision no longer meets the definition.

4. Section 436.541 is amended by revising paragraph (b) to read as follows:

§ 436.541 Determination of disability.

* * * * *

(b) A physician and social worker, qualified by professional training and experience, must review the medical report and social history and determine on behalf of the agency whether the individual meets the definition of disability. The physician must determine whether and when reexaminations will be necessary for periodic redeterminations of eligibility as required under § 435.916 of this subchapter.

* * * * *

5. A new Subpart J is added to read as follows:

Subpart J—Eligibility in Guam, Puerto Rico, and the Virgin Islands.

§ 436.900 Scope.

This subpart sets forth requirements for processing applications, determining eligibility, and furnishing Medicaid.

§ 436.901 General requirements.

The Medicaid agency must comply with all the requirements of Part 435, Subpart J, of this subchapter, except those specified in § 435.909.

§ 436.909 Automatic entitlement to Medicaid following a determination of eligibility under other programs.

The agency may not require a separate application for Medicaid from an individual if the individual receives cash assistance under a State plan for OAA, AFDC, AB, APTD, or AABD.

6. Section 436.1002 is amended by revising paragraph (b) to read as follows:

§ 436.1002 FFP for services.

* * * * *

(b) FFP is available in expenditures for services provided to recipients who were eligible for Medicaid in the month in which the medical care or services were provided, except that, for recipients who establish eligibility for Medicaid by deducting incurred medical expenses from income, FFP is not available for expenses that are the recipient's liability.

PART 441—SERVICES: REQUIREMENTS AND LIMITS APPLICABLE TO SPECIFIC SERVICES

G. 42 CFR Part 441 is amended by adding a new Subpart C to read as follows:

* * * * *

Subpart C—Medicaid for Individuals Age 65 or Over in Institutions for Mental Diseases

Sec.
441.100 Basis and purpose.
441.101 State plan requirements.
441.102 Plan of care for institutionalized recipients.
441.103 Alternate plans of care.
441.105 Methods of administration.
405.106 Comprehensive mental health program

Subpart C—Medicaid for Individuals Age 65 or Over in Institutions for Mental Diseases

§ 441.100 Basis and purpose.

This subpart implements section 1905(a)(14) of the Act, which authorizes State plans to provide for inpatient hospital services, skilled nursing services, and intermediate care facility services for individuals age 65 or older in an institution for mental diseases, and sections 1902(a)(20)(B) and (C) and 1902(a)(21), which prescribe the conditions a State must meet to offer these services. (See § 431.620 of this subchapter for regulations implementing section 1902(a)(20)(A), which prescribe interagency requirements related to these services.)

§ 441.101 State plan requirements.

A State plan that includes Medicaid for individuals age 65 or older in institutions for mental diseases must provide that the requirements of this subpart are met.

§ 441.102 Plan of care for institutionalized recipients.

(a) The Medicaid agency must provide for a recorded individual plan of treatment and care to ensure that institutional care maintains the recipient at, or restores him to, the greatest possible degree of health and independent functioning.

(b) The plan must include—

(1) An initial review of the recipient's medical, psychiatric, and social needs—

(i) Within 90 days after approval of the State plan provision for services in institutions for mental disease; and

(ii) After that period, within 30 days after the date payments are initiated for services provided a recipient.

(2) Periodic review of the recipient's medical, psychiatric, and social needs;

(3) A determination, at least quarterly, of the recipient's need for continued institutional care and for alternative care arrangements;

(4) Appropriate medical treatment in the institution; and

(5) Appropriate social services.

§ 441.103 Alternate plans of care.

(a) The agency must develop alternate plans of care for each recipient age 65 or older who would otherwise need care in an institution for mental diseases.

(b) These alternate plans of care must—

(1) Make maximum use of available resources to meet the recipient's medical, social, and financial needs; and

(2) In Guam, Puerto Rico, and the Virgin Islands, make available appropriate social services authorized under sections 3(a)(4) (i) and (ii) or 1603(a)(4)(A) (i) and (ii) of the Act.

§ 441.105 Methods of administration.

The agency must have methods of administration to ensure that its responsibilities under this subpart are met.

§ 441.106 Comprehensive mental health program.

(a) If the plan includes services in public institutions for mental diseases, the agency must show that the State is making satisfactory progress in developing and implementing a comprehensive mental health program.

(b) The program must—

(1) Cover all ages;

(2) Use mental health and public welfare resources; including—

(i) Community mental health centers;

(ii) Nursing homes; and

(iii) Other alternatives to public institutional care; and

(3) Include joint planning with State authorities.

(c) The agency must submit annual progress reports within 3 months after the end of each fiscal year in which Medicaid is provided under this subpart.

PART 456—UTILIZATION CONTROL

H. 42 CFR 456.608 is amended by revising paragraph (b)(2) to read as follows:

§ 456.608 Personal contact with and observation of recipients and review of records.

* * * * *

(b) For recipients age 65 or older in IMDs, the team's inspection must include—

(1) Review of each recipient's medical record; and

(2) If the record does not contain complete reports of periodic assessments required by § 441.102 of this subchapter or, if such reports are inadequate, personal contact with and observation of each recipient.

(Sec. 1102 of the Social Security Act, 42 U.S.C. 1302) (Catalog of Federal Domestic Assistance Program No. 13.714 Medical Assistance Program)

Dated: December 4, 1978.

LEONARD D. SCHAEFFER,
Administrator, Health Care Financing Adminstration.

Approved: March 18, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-8961 Filed 3-22-79; 8:45 am]

[4110-35-M]

Title 45—Public Welfare

CHAPTER II—OFFICE OF FAMILY ASSISTANCE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PUBLIC ASSISTANCE PROGRAMS; ASSISTANCE TO AGED INDIVIDUALS IN INSTITUTIONS FOR MENTAL DISEASES

Applicability of Regulations

AGENCY: Office of the Secretary, HEW.

ACTION: Final rule.

SUMMARY: These amendments revise 45 CFR Sections 205.10, 205.30, 205.50, 205.60, 205.70, 205.100, 205.101,

205.120, 205.130, 205.145, 205.150, 205.160, 205.170, 205.190, 206.10, and 208.1 to make them inapplicable to the Medicaid program (Title XIX of the Social Security Act). The amendments are necessary to conform the cited sections with regulations published today in this issue of the FEDERAL REGISTER. Those regulations recodify the contents applicable to the Medicaid program under 42 CFR Parts 431, 433, 435, 436, and 441.

DATE: The amendments are effective on March 23, 1979.

FOR FURTHER INFORMATION, CONTACT:

Luisa V. Iglesias, 202-245-0950.

SUPPLEMENTARY INFORMATION: The explanation for these amendments is fully discussed in the preamble to the amendments made to title 42 of the Code of Federal Regulations published in today's FEDERAL REGISTER (see table of contents). As explained there, we do not intend to make any substantive changes. These amendments to title 45 merely remove their applicability to the Medicaid program and delete provisions that are solely applicable to Medicaid. The applicability of title 45 to programs other than Medicaid is not affected in any way by these amendments. Therefore, we have concluded that an opportunity for public comment and a delayed effective date are not necessary.

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAM

1. 45 CFR Part 205 is amended by amending §§ 205.10, 205.30, 205.50, 205.60, 205.70, 205.100, 205.101, 205.120, 205.130, 205.145, 205.150, 205.160, 205.170, and 205.190 as follows:

a. Section 205.10 is amended by revising the introductory text of paragraph (a), by vacating and reserving paragraph (a)(4)(ii)(H), and by revising paragraphs (a)(5), (a)(11), (a)(12)(i), (a)(12)(ii) (A) and (B).

§ 205.10 Hearings.

(a) *State plan requirements.* A State plan under title I, IV-A, X, XIV, or XVI of the Social Security Act shall provide for a system of hearings under which:

* * * * *

(4) In cases of intended action to discontinue, terminate, suspend or reduce assistance:

* * * * *

(ii) The agency may dispense with timely notice but shall send adequate notice not later than the date of action when:

* * * * *

(H) [Vacated and reserved.]

* * * * *

(5) An opportunity for a hearing shall be granted to any applicant who requests a hearing because his claim for financial assistance is denied, or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by any agency action resulting in suspension, reduction, discontinuance or termination of assistance. A hearing need not be granted when either State or Federal law require automatic grant adjustments for classes of recipients unless the reason for an individual appeal is incorrect grant computation.

* * * * *

(11) In respect to Title IV-C, when the appeal has been taken on the basis of a disputed WIN registration requirement, exemption determination or finding of failure to appear for an appraisal interview, a representative of the local WIN manpower agency shall, where appropriate, participate in the conduct of the hearing.

(12) The hearing shall include consideration of:

(i) An agency action, or failure to act with reasonable promptness, on a claim for financial assistance, which includes undue delay in reaching a decision on eligibility or in making a payment, refusal to consider a request for or undue delay in making an adjustment in payment, and discontinuance, termination or reduction of such assistance;

(ii) Agency decision regarding:

(A) Eligibility for financial assistance in both initial and subsequent determinations,

(B) Amount of financial assistance or change in payments,

(C) The manner or form of payment, including restricted or protective payments, even though no Federal financial participation is claimed.

* * * * *

b. Section 205.30 is revised.

§ 205.30 Methods of administration.

State plan requirements: A State plan under title I, IV-A, VI, X, XIV or XVI, of the Social Security Act must provide for such methods of administration as are found by the Secretary to be necessary for the proper and efficient operation of the plan.

c. Section 205.50 is amended by vacating and reserving paragraph (b).

§ 205.50 Safeguarding information for the financial assistance and social services programs.

* * * * *

(b) [Vacated and reserved.]

* * * * *

d. Section 205.60 is amended by revising introductory paragraph (a) and (a)(1).

§ 205.60 Reports and maintenance of records.

(a) *State plan requirements.* A State plan under title I, IV-A, VI, X, XIV or XVI of the Social Security Act must provide that:

(1) The State agency will maintain or supervise the maintenance of records necessary for the proper and efficient operation of the plan, including records regarding applications, determination of eligibility, the provision of financial assistance or social services, and administrative cost; and statistical, fiscal and other records necessary for reporting and accountability required by the Secretary; and will retain such records for such periods as are prescribed by the Secretary. Under this requirement, individual records are kept which contain pertinent facts about each applicant and recipient and include information as to the date of application and date and basis of its disposition; facts essential to determination of initial and continuing eligibility, need for, and provision of financial assistance or social services, and basis for discontinuing assistance or services.

* * * * *

e. Section 205.70 is amended by revising the introductory paragraph.

§ 205.70 Availability of agency program manuals.

State plan requirements. A State plan under title I, IV-A, IV-B, VI, X, XIV, or XVI of the Social Security Act must provide that:

* * * * *

f. Section § 205.100 is amended by revising introductory paragraph (a)(1) and by vacating and reserving paragraph (a)(2).

§ 205.100 Single State agency.

(a)(1) *State plan requirements.* A State plan under title I, IV-A, VI, X, XIV, or XVI of the Social Security Act must:

* * * * *

(2) [Vacated and reserved.]

* * * * *

g. Section 205.101 is amended by revising paragraph (a) and by vacating and reserving paragraph (c).

§ 205.101 Organization for administration.

(a) A State plan under title I, IV-A, VI, X, XIV, or XVI of the Social Security Act shall include a description of the organization and functions of the single State agency and an organizational chart of the agency.

* * * * *

(c) [Vacated and reserved.]

h. Section 205.120 is amended by revising introductory paragraph (a) and by vacating and reserving paragraph (b).

§ 205.120 Statewide operation.

(a) *State plan requirements.* A State plan under title I, IV-A, VI, X, XIV, or XVI of the Social Security Act must provide that:

* * * * *

(b) [Vacated and reserved.]

i. Section 205.130 is amended by revising introductory paragraph (a) and by vacating and reserving paragraph (c).

§ 205.130 State financial participation.

State plan requirements:

(a) A State plan under title I, IV-A, VI, X, XIV, or XVI of the Social Security Act must provide that:

* * * * *

(c) [Vacated and reserved.]

j. Section 205.145 is amended by revising the introductory paragraph.

§ 205.145 Fiscal policies and accountability.

State plan requirements: A State plan under title I, IV-A, VI, X, XIV, or XVI of the Social Security Act must provide that the State agency, in discharging its fiscal accountability, will maintain an accounting system and supporting fiscal records adequate to assure that claims for Federal funds are in accord with applicable Federal requirements. Under this requirement, State and, where applicable, local agencies are required to maintain accounting records, identifiable for each of the above titles of the Act, for a period of 3 years, subject to the following qualifications:

* * * * *

k. Section 205.150 is amended by revising introductory paragraph (a), (a)(1), (a)(1)(i), and paragraph (b).

§ 205.150 Cost allocation.

(a) *State plan requirements.* A State plan under Titles I, IV-A, IV-B, VI, X, XIV, XVI, or XX of the Social Security Act must provide that: (1) The single or appropriate State Agency will have an approved cost allocation plan on file with the SRS Regional Commissioner, which identifies and describes the methods and procedures the State has established for properly charging the costs of administration, services (excluding purchased services) and training activities under the plan in accordance with the Federal requirements set out in 45 CFR Part 74, Appendix C, and in Department and Social and Rehabilitation Service regulations and instructions. Under this requirement, the cost allocation plan shall:

(i) Include descriptions of the functions and activities by organizational units; estimated costs for an annual period by cost centers or pools which include the costs of all organizational units of the State department in which the single or appropriate State agency is located (unless specifically waived by the Regional Commissioner); and the basis used for allocating the various pools of costs to programs and activities with justification for each;

(The estimated costs are included solely to permit evaluation of the methods of allocation and therefore approval of the cost allocation plan shall not constitute approval of these estimated costs for use in calculating claims for Federal financial participation.)

* * * * *

(b) *Federal financial participation.* (1) As a condition for receipt of Federal financial participation in administration services (excluding purchased services) and training for any quarterly period, a State's claim for such expenditures must be in accord with a cost allocation plan on file with and approved by the Regional Commissioner for that period.

(2) If a State agency fails to submit for any quarter a cost allocation plan revising an outdated plan as required by paragraph (a)(2) of this section, or the submitted revision has not been approved, the Regional Commissioner, in reviewing the expenditures claimed for such quarter, shall: (i) Defer payment of any amount he believes to be overstated; or (ii) Disallow any amount which he determines to be overstated.

(3) If a State does not have any cost allocation plan on file with the Regional Commissioner, payment will be made only for those costs of administration, services, and training which are entirely chargeable to a function or activity within a given title having one rate of Federal financial participation. Payment for the remaining cost of administration, services and training which requires an allocation method, will be disallowed.

(4) Any costs disallowed under paragraph (b)(2) and (b)(3) of this section may be reclaimed after the Regional Commissioner approves a cost allocation plan for the quarter for which the expenditures were claimed, to the extent such reclaimed amounts are supported by the approved plan.

(5) Within 60 days of receipt of a cost allocation plan, the Regional Commissioner shall give to the State written notice of approval or written notice of changes required for approval.

(6) The time frames specified in § 201.15 of this chapter and the procedures set forth in § 201.15(c) are applicable to deferral of claims made pursuant to paragraph (b)(2) of this section.

l. Section 205.160 is amended by revising introductory paragraph (a) and paragraph (b).

§ 205.160 Non-expendable personal property.

(a) *Conditions for Federal financial participation.* This section is applicable to titles IV-A and B, VI, and XX and, with respect to Puerto Rico, Virgin Islands and Guam, Titles I, X, XIV, and XVI. Federal financial participation is available in amounts expended by a single State agency for a unit of non-expendable personal property having a useful life of more than one year only to the extent of the depreciation expense (or annual use allowance of 6⅔ percent of acquisition cost) applicable to the period for which the property was used under a Federal program or activity; except that:

* * * * *

(b) *Definitions.* (1) Acquisition cost is the amount expended by a single State agency for the property (excluding interest) plus, in the case of property acquired with a trade-in, the book value (acquisition cost less amount depreciated through the date of trade-in) of the property traded in. Property which was expensed when acquired has a book value of zero when traded in.

(2) Depreciation expense for any time period is the portion of the acquisition cost of property which is assignable to that time period. The acquisition cost of the property shall be divided by the number of years of estimated useful service life of the property to arrive at the depreciation expense per year. This method shall be used unless a State obtains approval from the Regional Commissioner to use another method, which must be demonstrated to be more consistent with the using up of the asset.

(3) The number of years of estimated useful service life of property shall

be based on the Department of Treasury, Internal Revenue Service policies on depreciation for tax purposes. However, the Regional Commissioner will approve a shorter period if the State agency can document that such period is justified.

* * * * *

m. Section 205.170 is amended by revising the introductory paragraph.

§ 205.170 State standards for office space, equipment, and facilities.

State plan requirements: A State plan under title I, IV-A, X, XIV, or XVI of the Social Security Act must provide that:

* * * * *

n. Section 205.190 is amended by revising paragraph (a).

§ 205.190 Standard-setting authority for institutions.

(a) *State plan requirements.* If a State plan under title I, X, XIV, or XVI, of the Social Security Act includes aid or assistance to individuals in institutions as defined in § 233.60(b)(1) and (2) of this chapter and if a State plan under title VI includes services for individuals in institutions the plan must:

(1) Provide for the designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(2) Provide that the State agency will keep on file and make available to the Social and Rehabilitation Service upon request:

(i) A listing of the types or kinds of institutions in which an individual may receive financial assistance;

(ii) A record naming the State authority(ies) responsible for establishing and maintaining standards for such types of institutions;

(iii) The standards to be utilized by such State authority(ies) for approval or licensing of institutions including, to the extent applicable, standards related to the following factors:

(*a*) Health (dietary standards and accident prevention);

(*b*) Humane treatment;

(*c*) Sanitation;

(*d*) Types of construction;

(*e*) Physical facilities, including space and accommodations per person;

(*f*) Fire and safety,

(*g*) Staffing, in number and qualifications, related to the purposes and scope of services of the institution;

(*h*) Resident records;

(*i*) Admission procedures;

(*j*) Administrative and fiscal records;

(*k*) The control by the individual, or his guardian or protective payee, of the individual's personal affairs.

* * * * *

PART 206—APPLICATION, DETERMINATION OF ELIGIBILITY AND FURNISHING ASSISTANCE—PUBLIC ASSISTANCE PROGRAMS

2. 45 CFR Part 206 is amended by revising § 206.10(a) to read as follows:

§ 206.10 Application, determination of eligibility and furnishing of assistance.

(a) *State plan requirements.* A State plan under title I, IV-A, X, XIV, or XVI(AABD), of the Social Security Act shall provide that:

(1) Each individual wishing to do so shall have the opportunity to apply for assistance under the plan without delay. Under this requirement:

(i) Each individual may apply under whichever of the State plan plans he chooses;

(ii) the agency shall require a written application, signed under a penalty of perjury, on a form prescribed by the State agency, from the applicant himself, or his authorized representative, or, where the applicant is incompetent or incapacitated, someone acting responsibily for him; and

(iii) An applicant may be assisted, if he so desires, by an individual(s) of his choice (who need not be a lawyer) in the various aspects of the application process and the redetermination of eligibility and may be accompanied by such individual(s) in contacts with the agency and when so accompanied may also be represented by them.

(iv) [Vacated and reserved.]

(v)(A) [Vacated and reserved.]

(B) For assistance under title IV-A prior to July 1, 1975, the agency shall request on the application the social security number (SSN) of each individual (including children) for whom assistance is requested. Under this requirement, the agency shall advise the applicant whether disclosure of such number is mandatory or voluntary, by what statute or other authority such number is requested, and what uses will be made of it. Disclosure of the SSN may be made mandatory only if the State had in existence and operating prior to January 1, 1975, a system of welfare or Medicaid records for which disclosure of the SSN was required, by statute or regulation, in order to verify the identity of the individual. If any individual cannot provide a SSN either because he has not been issued one or he does not know his SSN, and wishes to secure one, the agency shall assist him in filling out an application for such number on such forms and under such procedures as may be required by the Social Security Administration (SSA) and shall transmit it to the SSA. Under this requirement, the agency shall also obtain such evidence as may be required under SSA regulations to establish the age, citizenship or alien status, and true identity of such applicant, and, where the case record attests that a previous social security number has been issued, request verification of the number by SSA. Where disclosure of the SSN is voluntary, no individual who is otherwise eligible shall be denied assistance because of failure or refusal to disclose or apply for a SSN, and the individual shall be so informed.

(C) The agency shall not deny or delay assistance to an eligible individual pending issuance by SSA or verification by the agency of his SSN.

(2)(i) Applicants shall be informed about the eligiblity requirements and their rights and obligations under the program. Under this requirement individuals are given information in written form, and orally as appropriate, about coverage, conditions of eligibility, scope of the program, and related services available, and the rights and responsibilities of applicants for and recipients of assistance. Specifically developed bulletins or pamphlets explaining the rules regarding eligibility and appeals in simple, understandable terms are publicized and available in quantity.

(ii) Procedures shall be adopted which are designed to assure that recipients make timely and accurate reports of any change in circumstances which may affect their eligibility or the amount of assistance.

(3) A decision shall be made promptly on applications, pursuant to reasonable State-established time standards not in excess of:

(i) 45 days for OAA, AFDC, AB, AABD (for aged and blind); and

(ii) 60 days for APTD, AABD (for disabled). Under this requirement, the applicant is informed of the agency's time standard in acting on applications, which covers the time from date of application under the State plan to the date that the assistance check, or notification of denial of assistance or change of award is mailed to the applicant or recipient. The State's time standards apply except in unusual circumstances (e.g., where the agency cannot reach a decision because of failure or delay on the part of the applicant or an examining physician, or because of some administrative or other emergency that could not be controlled by the agency), in which instances the case record shows the cause for the delay. The agency's standards of promptness for acting on applications or redetermining eligibility shall not be used as a waiting period before granting aid, or as a basis for denial of an application or for terminating assistance.

(4) Adequate notice shall be sent to applicants and recipients to indicate that assistance has been authorized (including the amount of financial assistance) or that it has been denied or terminated. Under this requirement, adequate notice means a written notice that contains a statement of the action taken, and the reasons for and specific regulations supporting such action, and an explanation of the individual's right to request a hearing.

(5) Financial assistance and services included in the plan shall be furnished promptly to eligible individuals without any delay attributable to the agency's administrative process, and shall be continued regularly to all eligible individuals until they are found to be ineligible. Under this requirement there must be arrangements to assist applicants and recipients in obtaining medical care and services in emergency situations on a 24-hour basis, 7 days a week.

(6) Assistance shall begin as specified in the State plan, which:

(i) For financial assistance.

(A) Must be no later than:

(*1*) The date of authorization of payment, or

(*2*) Thirty days in OAA, AFDC, AB, and AABD (as to the aged and blind), and 60 days in APTD and AABD (as to the disabled), from the date of receipt of a signed and completed application form, whichever is earlier: *Provided*, That the individuals then met all the eligibility conditions, and

(B) For purposes of Federal financial participation, may be as early as the first of the month in which an application has been received and the individual meets all the eligibility conditions; and

(ii) [Vacated and reserved.]

(7) In cases of proposed action to terminate, discontinue, suspend or reduce assistance, the agency shall give timely and adequate notice. Such notice shall comply with the provisions of § 205.10 of this chapter.

(8) Each decision regarding eligibility or ineligibility will be supported by facts in the applicant's or recipient's case record. Under this requirement each application is disposed of by a finding of eligibility or ineligibility unless:

(i) The applicant voluntarily withdraws his application, and there is an entry in the case record that a notice has been sent to confirm the applicant's notification to the agency that he does not desire to pursue his application; or

(ii) There is an entry in the case record that the application has been disposed of because the applicant died or could not be located.

(9) Where an individual has been determined to be eligible, eligibility will be reconsidered or redetermined:

(i) When required on the basis of information the agency has obtained previously about anticipated changes in the individual's situation;

(ii) Promptly, after a report is obtained which indicates changes in the individual's circumstances that may affect the amount of assistance to which he is entitled or may make him ineligible; and

(iii) Periodically, within agency-established time standards, but not less frequently than every 6 months in AFDC, and every 12 months in OAA, AB, APTD, and AABD, on eligibility factors subject to change.

(A) For recipients of assistance under title IV-A, the agency shall verify that the case record contains a social security number (SSN) for each recipient, including children; if the case record does not contain a SSN, the agency shall follow the procedures set forth in paragraph (a)(1)(v) of this section for the purpose of obtaining a SSN; and

(B) For any recipient whose social security number was established as part of the case record without corroborative evidence of age, citizenship or alien status, and true identity, the agency shall obtain verification thereof under the procedures set forth in paragraph (a)(1)(v) of this section.

(10) Standards and methods for determination of eligibility shall be consistent with the objectives of the programs, and will respect the rights of individuals under the United States Constitution, the Social Security Act, title VI of the Civil Rights Act of 1964, and all other relevant provisions of Federal and State laws.

(11) [Vacated and reserved.]

(12) The State agency shall establish and maintain methods by which it shall be kept currently informed about local agencies' adherence to the State plan provisions and to the State agency's procedural requirements for determining eligibility, and it shall take corrective action when necessary.

* * * * *

PART 208—ASSISTANCE TO AGED INDIVIDUALS IN INSTITUTIONS FOR MENTAL DISEASES

3. 45 CFR Part 208 is amended by revising § 208.1 introductory paragraph (a), (a)(5), and (b)(2) to read as follows:

§ 208.1 Assistance to individuals 65 years of age or older in institutions for mental diseases.

(a) *State plan requirements.* A State plan under title I, or XVI of the Social Security Act which includes assistance to or in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases must provide for:

* * * * *

(5) Methods of determining the reasonable cost of institutional care for such patients in compliance with 42 CFR Part 447, Subpart C.

* * * * *

(b) *Federal financial participation.*

* * * * *

(2) For purposes of this section, an institution for mental diseases is one that meets the definition contained in 42 CFR 440.140.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance-Maintenance Assistance (State Aid); 13.707 Child Welfare Services; 13.754, Public Assistance-Social Services; 13.771, Social Services for Low Income and Public Assistance Recipients.)

Dated: March 18, 1979.

JOSEPH A. CALIFANO, Jr.,
Secretary.

[FR Doc. 79-8962 Filed 3-22-79; 8:45 am]

federal register

FRIDAY, MARCH 23, 1979

PART VIII

ENVIRONMENTAL PROTECTION AGENCY

■

FUEL ECONOMY RETROFIT DEVICES

Final Test Procedures and Evaluation Criteria

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL—1056-6]

PART 610—FUEL ECONOMY RETROFIT DEVICES

Final Test Procedures and Evaluation Criteria

AGENCY: Environmental Protection Agency.

ACTION: Final Rulemaking.

SUMMARY: These regulations make final the evaluation criteria and test procedures for evaluating the fuel economy improvement claims for devices that may be retrofitted on new or in-use vehicles which were published on an interim basis on August 10, 1977 (42 FR 40438).

DATE: These regulations will become effective April 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Hutchins, Emission Control Technology Division, Office of Mobile Source Air Pollution Control, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313-668-4200.

SUPPLEMENTARY INFORMATION: Section 511 of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2011 et seq., requires the Administrator of EPA to (1) establish testing and other procedures for measuring the effects of retrofit devices on automobile fuel economy and pollutant emissions; (2) establish criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices; and (3) publish test results, conclusions on fuel economy and emissions effects, and other relevant information. A retrofit device for the purpose of this rulemaking is any component, equipment, or device for which fuel economy improvement claims are made which replaces, modifies, or adds to any original component, equipment, or device found on an automobile. Although fuel additives are also included in this definition, EPA has not yet developed testing protocols for fuel additives; therefore, these rules will not apply to fuel additives. Fuel additive protocols used in this program are being developed as a part of EPA's responsibility to evaluate the emissions impact of fuel additives under Section 211 of the Clean Air Act and will be published in a future rulemaking.

These rules contain criteria for evaluating claims and conducting tests, descriptions and categories of the devices that can be evaluated, and test procedures. Chassis dynamometer tests known as the 1975 Federal Test Procedure for light-duty vehicles (40 CFR Part 86) and the EPA Highway Fuel Economy Test (40 CFR Part 600) will be the primary methods used to determine the economy and emissions. Other, specialized test procedures may be used when devices and effects cannot be adequately evaluated by these tests.

Only three significant issues were mentioned by commenters on the interim regulations. Several parties mentioned that they believed that the government should permit on-road in-service fleet testing and should work with industry to jointly develop standard testing methods. It was pointed out that some effects will not be evident using dynamometer or standard road tests. EPA agrees with the comments that flexibility is necessary in testing retrofit devices. EPA believes that the interim regulations currently provide adequate flexibility to use test procedures other than the standard dynamometer tests and has clarified this point in the final regulations (§ 610.65).

Another significant issue was raised by the Lubrizol Corporation. Lubrizol stated that the inclusion of lubricants and lubricant additives within the purview of these rules is beyond the scope of EPA's statutory authority. Given the definition of "fuel" provided by Section 501(5) of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2001, EPA concludes that the term "fuel additive" contained in Section 511(e)(2) does not include lubricants and lubricant additives. Therefore, EPA has decided not to include the testing of lubricants or lubricant additives in this program as proposed in the interim regulations. EPA generally intends to follow the test procedures contained in this rulemaking for any testing which may be performed under section 206(a) of the Clean Air Act (pertaining to testing of emission control devices). Thus, the exclusion of lubricants from testing under § 511 of the Motor Vehicle Information Act does not affect EPA's ability to evaluate lubricants nor the manner in which they will be evaluated.

Renault commented that EPA's evaluation should protect the public from the harmful consequences that could result from installing devices that are poorly adapted to vehicles on which they are intended to be used. EPA believes the public interest in this area will be adequately served within the limits of EPA's authority by the publication of its evaluation.

In accordance with section 317(c) and (d) of the Clean Air Act, the EPA has considered the economic impacts of this action and determined that the effects of this rule on inflation, competition, consumer costs and energy use are negligible. Accordingly, the EPA has determined that this document is *not* a "significant" regulation and does not require preparation of a Regulatory Analysis under Executive Order 12044.

Dated: March 14, 1979.

DOUGLAS M. COSTLE,
Administrator.

40 CFR Chapter I is amended by adding a new Part 610 to read as follows:

PART 610—FUEL ECONOMY RETROFIT DEVICES

TEST PROCEDURES AND EVALUATION CRITERIA

Subpart A—General Provisions

Sec.
610.10 Program purpose.
610.11 Definitions.
610.12 Program initiation.
610.13 Program structure.
610.14 Payment of program costs.
610.15 Eligibility for participation.
610.16 Applicant's responsibilities.
610.17 Application format.

Subpart B—Evaluation Criteria for the Preliminary Analysis

610.20 General.
610.21 Device category.
610.22 Device integrity.
610.23 Operator interaction effects.
610.24 Validity of test data.
610.25 Evaluation of test data.

Subpart C—Test Requirement Criteria

610.30 General.
610.31 Vehicle tests for fuel economy and exhaust emissions.
610.32 Test fleet selection.
610.33 Durability tests.
610.34 Special test conditions.
610.36 Driveability and performance tests.

Subpart D—General Vehicle Test Procedures

610.40 General.
610.41 Test configurations.
610.42 Fuel economy measurement.
610.43 Chassis dynamometer procedures.

Subpart E—Durability Test Procedures

610.50 Test configurations.
610.51 Mileage accumulation procedure.
610.52 Maintenance.

Subpart F—Special Test Procedures

610.60 Non-standard ambient conditions.
610.61 Engine dynamometer tests.
610.62 Driveability tests.
610.63 Performance tests.
610.64 Track test procedures.
610.65 Other test procedures.

Subpart A—General Provisions

§ 610.10 Program purpose.

(a) The purpose of an evaluation program initiated under these rules is to determine, in accordance with standardized procedures, the performance of various retrofit devices applicable to automobiles for which fuel economy improvement claims are made, and to compile and disseminate the results of the evaluation. It should be stressed that the role of this program will be the generation, analysis and dissemination of technical data, and not the approval or certification of retrofit devices.

(1) Through engineering or statistical analysis of data from vehicle tests, the evaluation program will determine the effects on fuel economy, exhaust emissions, durability and driveability of the applicable vehicles due to the installation or use of the devices. The evaluation program will also include additional procedures, whenever determined by the Administrator as necessary, to evaluate the durability of the devices themselves, their effects on vehicle durability or other effects only evident over the course of extended mileage accumulation.

(b) Data generated in an evaluation program by the Administrator of the Environmental Protection Agency (EPA) are public information and will be published in the FEDERAL REGISTER and elsewhere for use by the Federal Trade Commission and the public. The results of any evaluation conducted by the Administrator may be used in any subsequent investigation or enforcement action in the event that a device is marketed in violation of Federal or state law.

§ 610.11 Definitions.

(a) Except as specifically defined below, all terms used in this part which are defined in 40 CFR Part 86 or 40 CFR Part 600 shall have the meanings provided therein.

(1) "Retrofit device" or "device" means any component, equipment or other device (except flow measuring instruments or other driving aids):

(i) Which is designed to be installed in or on an automobile as an addition to, as a replacement for, or through alteration or modification of, any original component, equipment, or other devices; and

(ii) Which any manufacturer represents will provide higher fuel economy than would have resulted with the automobile as originally equipped, or

(iii) [Reserved]

(2) "Automobile" means any four-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails), and which is rated at 6,000 lbs. gross vehicle weight or less.

(3) "Fuel economy" means the average number of miles traveled by an automobile per gallon of gasoline (or equivalent amount of other fuel) consumed, as determined by the Administrator in accordance with procedures established under Subparts D or F.

(4) "Manufacturer" means a person or company who is engaged in the business of manufacturing, distributing, or selling retrofit devices for which a fuel economy improvement claim is made.

(5) "Retrofit" means the addition of a new item, modification or removal of an existing item of equipment beyond that of regular maintenance, on an automobile after its initial manufacture.

(6) "Federal Test Procedure" or "City Fuel Economy Test" means the test procedures specified in 40 CFR Part 86, except as those procedures are modified in these protocols.

(7) "Highway Fuel Economy Test" means the test procedure described in § 600.111(b).

(8) "Operator" means any person who installs, services or maintains a retrofit device in an automobile or who operates an automobile with a retrofit device installed.

(9) "Device integrity" means the durability of a device and effect of its malfunction on vehicle safety or other parts of the vehicle system.

(10) "Test data" means any information which is a quantitative measure of any aspect of the behavior of a retrofit device.

(11) "Testing agent" means any person who develops test data on a retrofit device.

(12) "Preconditioning" means the operation of an automobile through one (1) EPA Urban Dynamometer Driving Schedule, described in 40 CFR Part 86.

(13) "Configuration" means the mechanical arrangement, calibration and condition of a test automobile, with particular respect to carburetion, ignition timing, and emission control systems.

(14) "Baseline configuration" means the unretrofitted test configuration, tuned in accordance with the automobile manufacturer's specifications.

(15) "Adjusted configuration" means the test configuration after adjustment of engine calibrations to the retrofit specifications, but excluding retrofit hardware installation.

(16) "Retrofitted configuration" means the test configuration after adjustment of engine calibrations to the retrofit specifications *and* after all retrofit hardware has been installed.

(17) "Data fleet" means a fleet of automobiles tested at "zero device-miles" in "baseline configuration," the "retrofitted configuration" and in some cases the "adjusted configuration," in order to determine the changes in fuel economy and exhaust emissions due to the "retrofitted configuration," and where applicable the changes due to the "adjusted configuration," as compared to the fuel economy and exhaust emissions of the "baseline configuration."

(18) "Durability fleet" means a fleet of automobiles operated for mileage accumulation used to assess deterioration effects associated with the retrofit device.

(19) "Zero device-miles" means the period of time between retrofit installation and the accumulation of 100 miles of automobile operation after installation.

(20) "Independent laboratory" means a test facility operated independently of any motor vehicle, motor vehicle engine, or retrofit device manufacturer capable of performing retrofit device evaluation tests. Additionally, the laboratory shall have no financial interests in the outcome of these tests other than a fee charged for each test performed.

(21) "Evaluation program" or "program" means the sequence of analyses and tests prescribed by the Administrator as described in § 610.13 in order to evaluate the performance of a retrofit device.

(22) "Preliminary analysis" means the engineering analysis performed by EPA prior to testing prescribed by the Administrator based on data and information submitted by a manufacturer or available from other sources.

§ 610.12 Program initiative.

A retrofit device evaluation program will be initiated as follows:

(a) At the request of the Federal Trade Commission (FTC) when it has reason to believe that fuel economy representation made for a retrofit device being marketed may be inadequate,

(b) At the EPA Administrator's initiative, or

(c) Upon the application of any manufacturer of a retrofit device (or prototype thereof) for which a fuel economy improvement claim is made.

§ 610.13 Program structure.

(a) Each device evaluation program will consist of up to three phases:

(1) A preliminary analysis of available information and test data on the device to be performed by the EPA Administrator;

(2) Designing and conducting of a sequence of tests to determine device effectiveness if considered necessary by virtue of the Administrator's preliminary analysis; and

(3) Publication in the FEDERAL REGISTER, and submission to the Depart-

ment of Transportation and to the Federal Trade Commission, of a summary of the results of any tests conducted under Subparts C through F, or if none were conducted, then a summary of the results of the preliminary analysis conducted under Subpart B; together with the Administrator's conclusions as to the effect of the tested retrofit device on fuel economy and exhaust emissions, and as to any other information that the Administrator determines is relevant in evaluating such device.

(b) Each of the above phases may, as appropriate, include the use of statistically valid sample sizes and statistical evaluation of measured results.

§ 610.14 Payment of program costs.

(a) All costs incurred in an evaluation program initiated at the request of the FTC or at the Administrator's initiative, including the cost of purchasing any necessary quantity of the device under evaluation, will be borne by the United States.

(b) If the evaluation program has been initiated by the application of a manufacturer under § 610.12(c), the manufacturer shall supply, at his own expense, samples of the device in the number required by the Administrator to an independent laboratory recognized by the Administrator. The costs of testing at the independent laboratory will be the responsibility of the manufacturer and will not be borne by the U.S. Government.

§ 610.15 Eligibility for participation.

Participation in an evaluation program initiated under § 610.12(c) will be available to any person or company who agrees to follow the procedures set forth in these protocols. Failure to conform to any aspect of these protocols, without the approval of the Adminstrator, may be interpreted as withdrawal from participation in the program.

§ 610.16 Applicant's responsibilities.

Each applicant for evaluation under § 610.12(c) will be responsible for the following:

(a) Submission of an application, in the format specified by the Administrator, prior to initiation of the evaluation. A separate application shall be made for each different device. The application shall be made to the Administrator (or his delegate) by the manufacturer and shall be updated and corrected by amendment if deemed necessary by EPA.

(b) The application shall be in writing, signed by an authorized representative of the manufacturer, and shall include the following:

(1) Identification and description of the device covered by the application, including drawings, schematics and information on the theory of operation.

(2) Vehicles or engines to which the device is applicable and a description of the types of vehicles or engines to which it is not applicable, e.g., would not provide a benefit, a benefit less than claimed for the device in general, or would result in a safety hazard or damage to the engine. If the reason for inapplicability is safety or damage related, this must be explained as required by paragraph (b)(7) of this section.

(3) Installation or usage instructions, including degree of knowledge required by persons making the installation and the tools and equipment required.

(4) A statement of recommended maintenance, degree of knowledge required for that maintenance, and the tools and equipment required to perform the maintenance.

(5) All data regarding exhaust emissions regulated by EPA under § 202 of the Clean Air Act and fuel economy test data on the device or product available to the applicant.

(6) All information available to the applicant concerning whether the device in its operation, function, or malfunction may cause an automobile using that device to emit into the ambient air any substance other than pollutants regulated by EPA under section 202 of the Clean Air Act (i.e., hydrocarbons, carbon monoxide, and oxides of nitrogen), or natural gaseous atmospheric constituents (such as carbon dioxide, or water vapor) in a quantity differing from that emitted in the operation of the automobile without the device.

(7) All information available to the applicant concerning whether and under what conditions the device in its operation, function or malfunction may result in damage to an automobile or endanger its occupants or persons or property in close proximity to the automobile.

(c) Shipment to the EPA's Motor Vehicle Emission Laboratory, or other test site designated by the Administrator, of the devices being evaluated in the quantity specified by the Administrator.

(d) Complete copies of the application and of any amendments thereto shall be submitted in such multiple copies as the Administrator may require.

§ 610.17 Application format.

(a) Device manufactures who apply for evaluation of a fuel economy retrofit device should use the standard application format, in order to allow the Administrator to compile relevant data on specific devices and to allow timely response to applications. Application formats are available from and submissions shall be made to:

Director, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Attn: Fuel Economy Retrofit Device Evaluation.

(b) Four weeks should be allowed for analysis of the application and preparation of a response. As indicated in other sections of this part, this response will include the evaluation of the device according to the criteria discussed in Subpart B of this part. The results of the Administrator's evaluation will be made public.

Subpart B—Evaluation Criteria for the Preliminary Analysis

§ 610.20 General.

The Administrator will employ the following criteria for evaluating the accuracy of fuel economy representations made with respect to retrofit devices:

(a) Device functional category;
(b) Device integrity;
(c) Operator interaction effects;
(d) Validity of test data;
(e) Evaluation of test data;

as these concepts are explained in §§ 610.21 through 610.25 respectively.

§ 610.21 Device functional category and vehicle system effects.

(a) The devices evaluated in this program are organized into categories for purposes of definition and establishment of evaluation criteria and test procedures, and to indicate which vehicle functional characteristics (other than fuel economy) may be adversely affected by installation or use of the device.

(b) A device's category will be based on:

(1) Engineering principles governing operation of the device;

(2) Interaction between the device and specific vehicle/engine operating characteristics; and

(3) Constraints with respect to vehicle applicability of the device.

(c) The device categories and the affected vehicle functional characteristics which may be adversely affected are noted for each device category in Table I. The notations for each characteristic are as follows:

Exhaust emissions	1
Driveability	2
Durability	3
Performance	4

TABLE I

Device categories	Characteristics adversely affected
Fuel-air system	
Carburetors and fuel injection systems	All
Air-fuel ratio modifiers (e.g., air bleeds)	All

TABLE I—Continued

Device categories	Characteristics adversely affected
Fuel-air system	
Atomization devices (acoustic and mechanical)	All
Vapor injectors	All
Choke controls	1, 2, 4
Air filters	1, 3, 4
Fuel-air distribution systems (intake manifolds)	1, 2, 4
Fuel pressure regulators	All
Ignition system	
Spark plugs	All
Spark timing control systems	All
Spark duration control systems	1, 4
Spark energy sources	1, 4
Emission control systems	
Exhaust gas recirculation (EGR) systems	All
After-treatment devices	1, 2, 4
Drivetrain	
Tires	1
Overdrive units	All
Torque converter lockups	1, 2, 4
Exhaust system	
Headers	1
Tuned exhaust systems	1
Accessories	
Cooling fan or cooling for couplings	1
Cold start aids (e.g., engine heaters)	1
Lubrication	
Oil filters	3
Vehicle body	
Aerodynamic drag reduction devices	1
Miscellaneous	
Modifications to valve timing	All
Retrofit pre-chambers	All
Other miscellaneous	Potentially all

(d) In the absence of sufficient information from the device manufacturer on this topic or if the Administrator's preliminary analysis indicates that testing is necessary to determine the nature or extent of possible adverse effects of device installation and use on vehicle operation and performance, the Administrator will require such tests to be conducted prior to the publication of a complete evaluation of the device.

§ 610.22 Device integrity.

The integrity of a device will be evaluated with respect to:

(a) The extent to which device manufacture is standardized by means of drawings, specifications, and other fabrication and quality assurance controls;

(b) The degree of sensitivity of device effectiveness to deterioration under exposure to normal operating conditions.

(c) The susceptibility of the device to deterioration of effectiveness under abnormal operating conditions;

(d) The effect upon its surroundings of device malfunction which may be reasonably anticipated to occur in actual use; and

(e) The extent to which test data support (b), (c) and (d).

§ 610.23 Operator interaction effects.

The device will also be evaluated with respect to:

(a) The degree of sensitivity of device effectiveness to variances in installation, operation and maintenance;

(b) The adequacy of manufacturer-furnished instructions for minimizing variances in installation, operation and maintenance;

(c) the extent to which device installation or use, or the effects of such installation or use, relate to Federal emission control regulations;

(d) Effects on the performance, safety, or occupant comfort of the retrofitted vehicle, and on that of other vehicles; and

(e) the relationship between total cost of ownership of the device (purchase price plus maintenance costs) and the cost savings realizable from its fuel economy effects.

§ 610.24 Validity of test data.

The Administrator will make a determination as to the validity of manufacturer-furnished test data on the basis of:

(a) The correlation between the test procedures used by the manufacturer or testing agent and the procedures prescribed in Subpart D;

(b) The choice of test vehicle(s) as representative of the manufacturer's claim for operation and/or principles of operation;

(c) The degree of control exercised over ambient and operating conditions in the tests, including vehicle calibrations;

(d) Accuracy and precision of the measurement techniques and instrumentation used in the tests;

(e) Disclosure of all test data acquired on the device, whether representing positive, negative, or inconclusive results;

(f) Qualifications and independence of the testing agent; and

(g) The extent to which test data include evaluation of the durability of the device, or its effect on vehicle durability.

§ 610.25 Evaluation of test data.

Valid manufacturer-furnished test data will be evaluated with respect to:

(a) Vehicle applicability;

(b) Dependence of device effects upon vehicle type;

(c) Device effects on fuel economy, and on emissions, with statistical or other caveats as established by the data base;

(d) Definition of claims which can be made based on the available data; and

(e) Substantiation of specified claims made by the manufacturer.

Subpart C—Test Requirement Criteria

§ 610.30 General.

(a) If the Administrator determines, by the criteria given in Subpart B, that the claims made for a device are not supported by existing test data or other information, the Administrator will request the manufacturer to furnish additional information, and may design a test program to investigate those areas where claims appear to be erroneous or unsupported or where adverse effects due to use of the device are suspected.

(b) In cases where the Administrator determines on the basis of the preliminary analysis that a device either can have no significant beneficial effect on fuel economy, or will have an adverse effect on emissions, he may elect not to design a test program or test the device and to publish only his preliminary analysis and conclusions.

(c) If the evaluation was initiated upon application of a manufacturer [as described in § 610.12(c)] and the manufacturer elects not to have the device tested, the Administrator's preliminary analysis and conclusions will be published.

§ 610.31 Vehicle tests for fuel economy and exhaust emissions.

(a) The tests described in Subparts D, E, or F may be conducted if existing data or other information are insufficient to support claims for a device in any of these areas:

(1) Degree of improvement in fuel economy

(2) Effect on exhaust emissions

(3) Vehicle applicability

(b) The Administrator may determine that, in certain cases, tests using engine dynamometers are adequate for determining the effect of a device. Examples of such cases are given below.

(1) *Long-term effects.* In some cases, it may be necessary for the engine to operate for several thousand miles before the effectiveness can be adequately measured. In such cases an engine dynamometer will permit a less expensive and better controlled durability and economy test than one in which a vehicle must be driven on a durability route and then tested on a chassis dynamometer or test track.

(2) *Durability requirements.* Aspects of engine durability can be efficiently determined using specialized engine testing rather than through durability mileage accumulation in a vehicle. A number of standard engine tests are presently used which can be incorporated into this requirement.

(c) When in the judgment of the Administrator a device cannot satisfactorily be evaluated using either dynamometer or track versions of the City Fuel Economy Test and the Highway

Fuel Economy Test, the Administrator will select or design other procedures.

§ 610.32 Test fleet selection.

(a) The composition and size of the test fleet will be determined by the Administrator. In a device evaluation program initiated at the request of the FTC, the composition and size of the test fleet will be determined by the Administrator in consultation with the FTC.

(b) The goal of the test fleet selection will be the provision of a data base adequate to give the Administrator reasonable confidence in the conclusions to be reached.

(c) Once the number of vehicles to be tested has been determined, the Administrator will specify the test fleet makeup by make, model, model year, engine displacement and carburetor, transmission type, and such other factors as he may deem relevant to the testing program.

§ 610.33 Durability tests.

The Administrator may determine that a device under evaluation will require durability testing in addition to the basic evaluation testing for device effectiveness. This requirement may be necessary for several reasons:

(a) A retrofit device manufacturer may claim that some mileage accumulation may be needed before the full effectiveness of the device can be obtained. If such claims are made, durability testing as described in Subpart E may be performed. To determine whether the effectiveness change during the mileage accumulation is a function of the device or of the mileage accumulation alone, in some durability tests it may be necessary to run the mileage accumulation on vehicles with and without the device. Due to the high cost of durability testing and in particular of such duplicate testing, it will be used only where it is judged by the Administrator to be necessary.

(b) A device may have a limited life expectancy or be such that it requires replacement or adjustment at a prescribed mileage interval. Confirmatory durability tests may be run to assess whether such mileage intervals are proper and effective.

(c) A device may be suspected of having an adverse effect on the durability of the engine to which it is applied. After identification of a potential failure mode, durability tests may be conducted to investigate any changes in engine characteristics associated with that failure mode. Examples are valve problems, deterioration in spark plug life, increase in carburetor or combustion chamber deposits, or increased engine wear. If it is not possible to directly measure the change in the suspect characteristic, then a durability run may be made as described in Subpart E, in which fuel economy and exhaust emissions are periodically checked during the accumulation of up to 15,000 miles.

(d) A critical item which can influence fuel economy is vehicle maintenance. Any durability test program used in evaluation of the effectiveness of a fuel economy device will be designed to differentiate maintenance effects from the effect of the device. Any maintenance associated with the device operation will be rigidly controlled. If the maintenance appears to be a significant factor in the effectiveness of a device, then it may be necessary to run a control test on vehicles without the device installed where the same maintenance is performed to quantify any incremental effect of that maintenance.

§ 610.34 Special test conditions.

If the Administrator determines that a device may have potentially detrimental effects on the operation of a vehicle when operated in ambient conditions outside the range specified in 40 CFR Part 86, or if the device manufacturer claims a fuel economy improvement in such conditions, additional tests may be performed. These tests will determine whether the device will significantly limit the operational usefulness of the vehicle and will assess the claimed fuel economy benefit.

(a) *Extreme temperatures.* As required by the Administrator, tests will be conducted at extreme ambient temperature conditions to determine the effect due to devices (e.g. engine heaters) for which fuel economy improvements at extreme temperatures are made. For other devices it may be necessary to determine whether the cold starting and driving capability of device-equipped vehicles is affected sufficiently to make them dangerous, or whether fuel economy characteristics at extreme temperatures are significantly worse than before the device was installed.

(b) *High altitude.* Devices for which specific claims of improved fuel economy at high altitude are made may be tested using the procedures in Subpart D, at altitudes above 4000 feet. For other devices, testing at high altitude may be necessary for determining whether a device will make the vehicle less useful or efficient when operated at various altitudes. The Administrator will determine when such testing is required.

§ 610.35 Driveability and performance tests.

If the Administrator determines that driveability and performance of a vehicle may be adversely affected by the use of a device, a number of automobiles to be determined by the Administrator will be subjected to the driveability and performance tests discussed in §§ 610.62 and 610.63, respectively.

Subpart D—General Vehicle Test Procedures

§ 610.40 General.

Two chassis dynamometer test procedures, the Federal Test Procedure and the Highway Fuel Economy Test will generally be used to evaluate the effectiveness of the devices supplemented by steady state or engine dynamometer tests where warranted. Under unusual circumstances, other test procedures, durability test procedures or special test procedures such as track versions of the City and Highway fuel economy tests may be used. These procedures are described in Subparts E and F.

§ 610.41 Test configurations.

(a) In order to measure the effectiveness of a retrofit device at least two, and in some cases, three vehicle configurations defined in § 610.11 will be tested. Each vehicle will be tested at least twice in each configuration, as determined by the Administrator.

(b) The first test configuration is a baseline configuration. In this configuration the baseline or unretrofitted vehicle emissions will be measured.

(c) A second test configuration, an adjusted configuration, may be required at the discretion of the Administrator if a device requires both hardware and engine parameter modifications to achieve the fuel economy improvement. If, in the Administrator's judgment, based on a review of the available information, the combined effects of retrofit hardware installation and parametric adjustment could be substantially duplicated by parametric adjustment alone, then the Administrator may specify a second test, to evaluate such adjustment exclusive of the retrofit hardware.

(d) The third series of tests, in the retrofitted configuration, will evaluate the full retrofit system installed on the vehicle.

§ 610.42 Fuel economy measurement.

(a) Fuel consumption will be measured by: 1) the carbon balance method, or 2) gravimetric or volumetric methods. In the gravimetric and volumetric methods, fuel consumption is determined by weighing the fuel source before and after a test, or by measuring the volume of fuel consumed during a test. Since the distance traveled during the tests is known, the fuel economy, in miles per gallon, can be calculated. Gravimetric and volumetric methods require the use of special test equipment in addi-

tion to the emissions measuring equipment.

(b) The carbon balance procedure for measuring fuel consumption relates the carbon products in the exhaust to the amount of fuel burned during the test. This method will be the one used to measure fuel economy unless track or road tests are employed.

(c) Three values of fuel economy will be reported: for city driving ('75 FTP), for highway driving (HFET), and the combined city/highway value calculated according to this equation:

$$MPG_{combined} = 1 \Big/ \left[\frac{.55}{MPG_{city}} + \frac{.45}{MPG_{hwy}} \right]$$

§ 610.43 Chassis dynamometer procedures.

(a)(1) *1975 Federal Test Procedure.* Vehicle exhaust emissions and fuel economy under urban driving conditions will be measured according to the Federal emission test procedure described in 40 CFR 86 Subpart B, which is known as the 1975 Federal Test Procedure ('75 FTP). However, the following modifications will be employed:

(i) No evaporative emission loss, as specified by 40 CFR Part 86 need be measured (with the exception of devices modifying or disconnecting existing evaporative control devices in such a manner as would be expected to adversely affect their evaporative emission control performance).

(ii) Vehicle preconditioning shall consist of operation of the vehicle through one (1) EPA Urban Dynamometer Driving Schedule. This preconditioning must be done at least 12 hours, but no earlier than 36 hours before the emission test.

(iii) While the test fuel must meet the specifications outlined in 40 CFR Part 86, fuel conditioning as specified for evaporative emission test procedures is not required.

(b) *Highway Fuel Economy Test.* The test vehicle is fully warmed up at the start of the highway Fuel Economy Test which is ordinarily run immediately following the Federal Emission Test Procedure. The test procedure to be followed for generation of highway fuel economy data is that specified in § 600.111.

(c) *Steady state tests.* Constant speed, road load tests may be conducted to help give insight into operational differences and exhaust emission and fuel economy changes due to a retrofit device. Speeds between 0 (engine idling) and 60 mpg will be investigated, with a time period at each speed long enough to ensure that engine operation has stabilized.

§ 610.50 Test configurations.

(a) In addition to the tuneup to manufacturer's specifications per § 610.41, all vehicles in the durability fleet will have installed the following new parts: Air, oil, and fuel filters, spark plugs, points, condenser, rotor, distributor cap, PCV valve, and emission control devices such as vacuum control valves and EGR valves.

(b) Vehicles included in the durability fleet will be subjected at zero device-miles to the same test sequence for fuel economy and exhaust emissions as specified in Subpart D. Subsequently, they will be tested at 3,000 device-mile intervals, up to and including the final mileage point of 15,000 device-miles. Testing at these mileage points will be performed with the vehicle equipped with the full retrofit system.

(c) After the 15,000-mile test the vehicle will be tuned as necessary and the device adjusted to the manufacturer's specifications as required. The fully restored retrofitted configuration will then be tested. The device will then be removed from the vehicle and the vehicle set to vehicle manufacturer's specifications. A tuned baseline test will then be conducted.

§ 610.51 Mileage accumulation procedure.

(a) Except as otherwise provided in this part, the mileage accumulation procedure will be that provided in 40 CFR Part 86. This mileage accumulation schedule, or a suitable alternate procedure approved by the Administrator, will be used.

(b) Fuel used in the accumulation of mileage will be commercial fuel available in the retail market and shall conform to the requirements of 40 CFR Part 86 for mileage accumulation fuel.

(1) The requirements of this paragraph may be modified by the Administrator when it is a fuel or fuel additive that is being tested.

§ 610.52 Maintenance.

(a) Maintenance during the durability evaluation can best be considered in three separate categories:

(1) Normal scheduled vehicle maintenance,

(2) Unscheduled vehicle maintenance, and

(3) Retrofit maintenance.

(b) *Normal scheduled vehicle maintenance* is the periodic service specified in the original owner's manual supplied to the owner at the time of new vehicle purchase.

(1) Normal periodic engine oil changes, vehicle lubrication, and oil filter changes, as specified in the original owner's manual, will be performed during durability mileage accumulation.

(2) For purposes of this part, the following items of normally scheduled vehicle maintenance will not be performed during the durability mileage accumulation:

(i) Normal tune-up items:

(A) Spark plugs.

(B) Condenser.

(C) Rotor.

(D) Distributor cap.

(ii) Air Cleaner element.

(iii) PCV Inspection.

(iv) Dwell and timing check.

(v) Charging circuit check.

(3) Periodic maintenance items specified in the original owner's manual, other than those listed above, may be performed if found to be necessary by the Administrator.

(c) *Unscheduled maintenance.* Because the vehicles used for durability evaluation in this program will probably have considerable mileage accumulation and unknown maintenance prior to inclusion in the program, it can be anticipated that certain vehicle and engine failures may occur, which may be unrelated to the retrofit device. Unscheduled maintenance will be performed only in those cases where a significant and obvious driveability problem has been reported by the driver of the vehicle.

(1) Correction of the following problems will be made as soon as the problems occur:

(i) Tire replacement (same size and type).

(ii) Vehicle body repairs (remote from engine and retrofit).

(iii) Windshield wipers.

(iv) Fluid levels unrelated to retrofit.

(v) Brakes.

(vi) Hoses unrelated to retrofit.

(vii) Belts unrelated to retrofit.

(viii) Suspension failures.

(ix) Wheel alignment.

(x) Steering.

(xi) Wheel bearings.

(xii) Non-engine electrical system.

(xiii) Drivetrain components (U-joints, axles, transmission adjustments, etc.)

(2) Other unscheduled maintenance of the engine or drivetrain may be made as directed by the Administrator. Upon notification of a need for unscheduled maintenance, the Administrator may decide that before and after maintenance fuel economy tests are required.

(d) *Retrofit maintenance.* Maintenance of the retrofit device will normally not be performed during the ac-

cumulation of durability mileage of 15,000 miles. However, certain retrofit devices may require periodic maintenance that is directly related to device function. An example is the periodic addition of fluid to the reservoir of a vapor injector. The Administrator will determine whether periodic maintenance will be allowed, based on his review of available information including the device manufacturer's maintenance instructions to the consumer.

(e) A log of all maintenance shall be kept for every vehicle. These logs will be summarized in the final report by the Administrator.

Subpart F—Special Test Procedures

§ 610.60 Non-standard ambient conditions.

(a) *Extreme temperatures.* For vehicles required to be tested at extreme temperatures, the test sequence described in § 610.41 will be performed using either test track or dynamometer, in ambient temperatures outside the 60° to 90° range specified in § 610.64 as determined by the Administrator. The driveability tests described in § 610.62 may also be performed at non-standard temperatures, as determined to be necessary by the Administrator.

(b) *High altitudes.* Vehicles required to be tested at high altitudes will undergo the tests described in § 610.43 if necessary, on either test track or dynamometer as determined by the Administrator. One test location, at an elevation of no less than 4000 feet, will be selected.

§ 610.61 Engine dynamometer tests.

The Administrator will choose a test procedure or procedures from various engine dynamometer durability test procedures used by research organizations in government, the oil industry, engine manufacturing companies, and independent laboratories.

§ 610.62 Driveability tests.

Driveability assessment (at normal ambient temperatures) of the baseline configuration, of the adjusted configuration (if required by the Administrator), and of the fully retrofitted configuration may be conducted at zero device-miles for all vehicles included in the durability fleet, and at approximately zero device-miles at low ambient temperatures (0°F–20°F). Driveability evaluation procedures will be provided by the Administrator when necessary.

§ 610.63 Performance tests.

The effect of a device on a vehicle's performance will be determined by performing wide-open-throttle 0 to 60 mph acceleration tests (at normal ambient temperatures) on the baseline vehicle configuration, on the adjusted configuration (if required), and on the fully retrofitted configuration. Tests will be conducted on a dry, level, smooth-surfaced test track, with appropriate speed-time measuring equipment, on as many vehicles as determined to be necessary.

§ 610.64 Track test procedures.

(a) Cases may arise where it will be necessary to evaluate the fuel economy effects of a retrofit device on a test track, because the effect of the device cannot be adequately tested using the chassis dynamometer procedures. (An obvious example is a device that changes the aerodynamic drag of the test vehicle.) In such cases, testing will be performed on a dry, level, smooth-surfaced test track for such dimensions that the speeds required by the city and highway fuel economy tests may be safely achieved.

(1) Because aerodynamic drag is not a linear function of velocity, it will be necessary to limit testing to times when the wind velocity is less than 5 mph, with gusts less than 10 mph.

(2) Testing will also be limited to ambient temperatures between 60° and 90° F, and to times when the ambient temperature remains reasonably constant during individual tests. Temperature differences between tests of baseline and retrofit configurations will also be minimized.

(3) Exhaust emissions will not be measured during track testing.

(4) Fuel economy of a vehicle running on a track will be measured using either a volumetric or gravimetric procedure approved by the Administrator.

(5) Vehicle speed and distance will be measured with a "fifth wheel" type of device. Suitable apparatus will be used to generate a permanent record (strip chart recorder, etc.) of the vehicle speed versus time.

(b) *City Fuel Economy Test.* Although essentially the same procedures will be used for track testing as for dynamometer testing, some modifications will be necessary to insure safe operation of the test vehicle and to adjust to the requirements of track testing.

(1) An assistant to the driver will be necessary to steer the vehicle, so that the driver will not be distracted from following the speed-time schedules used in the Federal test procedure.

(2) The test vehicle will be preconditioned within the same time constraints given in § 610.43(a)(1)(ii). Preconditioning may take place either on the track or on a dynamometer. The 12-hour soak after preconditioning will take place in an area where the ambient temperature will remain within the 60° to 90° F range, indoors, if necessary.

(3) The vehicle will be transported to the test track without being started. If the distance from soak area to track is no greater than one-quarter mile, then the vehicle may be pushed or towed to the track. Otherwise the vehicle must be transported by truck or trailer.

(4) Fuel economy will be determined by either a gravimetric or volumetric method.

(c) *Highway Fuel Economy Test.* The Highway test will follow the City Fuel Economy Test in the same manner as in dynamometer tests (§ 610.43(b)). Fuel economy will be measured by gravimetric or volumetric methods.

(d) *Steady state tests.* Steady state tests on the track will be run in the same manner as on the dynamometer except that fuel economy will be measured by gravimetric or volumetric methods.

§ 610.65 Other test procedures.

The Administrator may, pursuant to § 610.31(c), choose a test procedure or procedures from those used by research organizations in government, the oil industry, engine manufacturing companies, and independent laboratories. If none of these is deemed suitable, the Administrator may, in consultation with the party requesting the test, design a dynamometer, track or road test to measure the effects of the device.

[FR Doc. 79-8735 Filed 3-22-79; 8:45 am]

federal register

FRIDAY, MARCH 23, 1979

PART IX

NATIONAL CREDIT UNION ADMINISTRATION

■

IMPROVING GOVERNMENT REGULATIONS

Final Report

[7535-01-M]

Title 12—Banks and Banking

CHAPTER 7—NATIONAL CREDIT UNION ADMINISTRATION

PART 720—DESCRIPTION OF OFFICE, DISCLOSURE OF OFFICIAL RECORDS—AVAILABILITY OF INFORMATION, PROMULGATION OF REGULATIONS

Improving Government Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final Report.

SUMMARY: NCUA issues its final report implementing Executive Order No. 12044: Improving Government Regulations.

EFFECTIVE DATE: March 23, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, NW, Room 4202, Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Robert Monheit, Regulatory Development Coordinator, Office of the General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION: NCUA adds its Final Report as Appendix A to Part 720 of 12 CFR as follows:

Appendix A—Final Report on Improving Government Regulations

Overview. On March 23, 1978, President Carter issued Executive Order 12044 (the Executive Order) directing that each executive agency adopt procedures to improve existing and future regulations (see 43 FR 12661). On May 31, 1978, NCUA published and invited public comment on its draft report implementing the Executive Order (43 FR 23688). Having reviewed the comments received, and having received the approval of the Office of Management and Budget, NCUA now issues this Final Report.

The Report is organized in six parts. Part I describes the scope and coverage of the Report. Part II defines key terms used throughout the Report. The remaining parts set forth NCUA's procedures for improving its regulation: Part III describes the Semi-Annual Agenda of regulations under review by NCUA that will be published in the Federal Register. Part IV describes the way in which the public can participate in the development of NUCA's regulations. Part V describes the procedure NCUA will use in developing a regulation. Part VI sets forth NCUA's plan for periodically reviewing existing regulations.

I. Explanation and Statement of Coverage

This report describes the methods and procedures that NCUA will use to establish new regulations and to change existing regulations. It covers the process from the time NCUA receives a suggestion to change its regulations (either from a member of the public, from another State or Federal agency, from within NCUA, or from a change in the law resulting from an Act of Congress) through the decision to issue a proposed regulation, the development of a proposed regulation, the consideration of public comments on the proposal, the issuance of a final regulation, if any, and, finally, the review of that regulation every few years to determine its continued need and effectiveness. The goals of these procedures are to ensure that the regulations are clear and understandable, and that they effectively carry out the requirements of the law while imposing only the minimum necessary burdens on the public. To achieve these goals, the procedures are designed to increase the opportunity for the public to participate in changing the regulations, to create standards to measure how a change will affect credit unions and others subject to the regulations, and to make sure that the Administrator of NCUA has reviewed all the options before deciding on a final change to a regulation. In some cases, these procedures may, however, be inappropriate either because of factors outside of NCUA's control or because following the procedures is determined not to be in the public interest. Therefore, NCUA will not apply the procedures contained in this report in the development of:

1. Regulations that are required by statute to be developed on the record after oral hearings before the Administration;

2. Regulations that are prepared in response to an emergency or that a statute or a court requires to be developed under a short deadline;

3. Regulations where the process would be unnecessary or contrary to the public interest; and

4. Matters that relate to the management of NCUA, its personnel, and its procurement of goods and services.

In the event that one of these exemptions is used and the procedures outlined in this report are not followed, NCUA will notify the public, explain the reasons for not following the procedures and give the name of the official who was responsible for making that decision.

II. Definitions

The following words and phrases have been used throughout the report:

1. Initiation statement—a written statement that identifies an issue or a subject and that suggests and supports the need for a change to NCUA's regulations on that issue or subject.

2. Office of primary interest—an office within NCUA that will develop and draft a regulation, with assistance from, and review by, other offices.

3. Regulation—an agency rule of general applicability that has the force and effect of law and that has been adopted in accordance with the requirements of 5 USC Section 553.

4. Regulatory analysis—a written statement that sets forth: (a) the problem to be addressed by a proposed regulation and possible consequences of the problem; (b) a description of the major alternatives for dealing with the problem and the economic and competitive consequences of each alternative; and (c) an explanation of the reasons for choosing one alternative over the others.

5. Regulatory Development Coordinator—an individual in NCUA's Office of General Counsel responsible for: (a) coordinating the rulemaking process; (b) reviewing the issues raised by initiation statements and maintaining a record of the development of those issues; (c) preparation and publication in the Federal Register of the semi-annual agenda of significant regulations being developed by NCUA and existing regulations being reviewed by NCUA; and (d) review and approval of proposed and final regulations to ensure compliance with the requirements of the Administrative Procedures Act and the requirements of this report.

6. Significant regulation—any regulation, other than one that merely updates or clarifies existing regulations without affecting their substantive meaning or the burdens placed on those subject to the regulation.

III. Semi-Annual Agenda

Twice a year, NCUA will publish in the Federal Register an agenda listing the significant regulations and regulations of public interest being considered and/or developed by NCUA and also listing those existing regulations undergoing periodic review. A notice will be published in the Federal Register on the first Monday in October of each year announcing the dates that the agenda will be published.

1. Contents of the agenda. The agenda will, for each regulation listed in it, contain the following information: (a) a brief description of the regulation; (b) the need for the regulation and the legal basis for issuing it; (c) the status of the regulation, that is, the stage of development that it is in

at the time the agenda is published; (d) the name and telephone number of an NUCA official who is familiar with the regulation; and (e) whether a regulatory analysis will be required for the regulation.

2. Development of the agenda. The Regulatory Development Coordinator will be responsible for compiling, maintaining, and updating a listing of regulations that will be used for the agenda. When an initiation statement and recommendations for action is sent by an office through the Regulatory Development Coordinator to the Administrator for authorization to develop a regulation, the subject will be included in the list. If the Administrator authorizes the development of a regulation and assigns it to the office of primary interest, that office will notify the Regulatory Development Coordinator, who will then update the list. As each stage of development of the regulation is entered, the Regulatory Development Coordinator will be notified by the office of primary interest so that the list may be updated. Members of the public wanting to know the status of a regulation under development or review may call the Regulatory Development Coordinator, who will be able to advise them by consulting the list, of the status and the agency official to contact for further information. In this way the list, which is the basis for the published agenda, will be used as a method for both the agency and the public to keep track of the development of the regulation, and for the Regulatory Development Coordinator to ensure that all the required steps in the process are being taken.

3. Publication of the agenda—Prior to date announced for publication of the agenda, the Regulatory Development Coordinator will send each NCUA office a copy of the list and will request that the office advise of any needed corrections. The Regulatory Development Coordinator will then compile a current agenda which the Administrator will approve before it is published in the FEDERAL REGISTER.

IV. OPPORTUNITY FOR PUBLIC PARTICIPATION

This part describes the methods provided by NCUA in the development of its regulations.

1. Initiating a regulation. A member of the public may recommend that NCUA develop a regulation by submitting an initiation statement. NCUA requests, but does not require, that the initiation statement contain the following information:

a. A statement of the issues;

b. The opinion and recommendations of the person submitting the statement;

c. Any data that is relevant to the issues;

d. An indication of the support of others for the recommendations; and

e. A description of the interest that the person has in the action requested.

NCUA also suggests, in order to avoid having one NCUA office duplicate the efforts of another, that initiation statements be sent to the Regulatory Development Coordinator (whose name and address appear at the beginning of this report). The person submitting an initiation statement will be advised if NCUA is presently considering a regulation on the subject, in which case the initiation statement will be included in the consideration and development of that regulation. If NCUA is not presently developing or reviewing a regulation on the subject, the person submitting the initiation statement will be advised of the Administrator's decision on whether to develop a proposed regulation.

2. Solicitation of public participation. A number of methods will be used by NCUA to encourage public participation in the development and review of regulations. The methods used will depend upon the stage of the development or review process, the issues involved, the amount of expressed interest, and the public sector affected by the regulation.

a. The Semi-Annual Agenda. The agenda, which is described in detail in Part III, will advise the public on the status of regulations being developed and the name of an NCUA official to contact.

b. Advance notice of proposed rulemaking. This notice, when the Administrator determines it is appropriate, will be published in the FEDERAL REGISTER after the Administrator has authorized the development of a regulation. It will set forth the issues involved in the regulation being developed, briefly describe some of the options being considered and the restrictions that the law imposes, and will ask the public to send written comments to an NCUA official named in the notice.

c. Questionnaires. When the office of primary interest determines that it does not have sufficient data to proceed with the development of a regulation, it will send out questionnaires to parties likely to be affected by the regulation, especially to Federal credit unions. The information obtained from the questionnaires should enable NCUA to decide whether there is a need for a regulation and the most efficient and effective means for dealing with the subject of the regulation.

d. Articles. NCUA will publish articles in its own publications, such as the *Administrator's Letter*, and will on occasion contribute articles to interested trade publications. These articles will dicuss regulations being developed and will include the name of an NCUA official to whom comments can be sent. Also, NCUA will publish copies of proposed and final regulations in its own publications.

e. Advance copies of proposed regulations. Advance copies of significant proposed regulations will be sent to persons identified on NCUA's regulation mailing list at the time a copy is sent to the FEDERAL REGISTER for publication. To be included on the mailing list, persons should write to the Assistant Administrator for Administration. In this way, persons who have expressed an interest in the development of a regulation, but who do not have regular access to the FEDERAL REGISTER, will be assured of receiving a copy of a proposed regulation with sufficient time to comment prior to the close of the official or formal comment period.

f. Public comment. NCUA will continue to solicit public comment on proposed regulations as required by the Administrative Procedures Act, 5 U.S.C. Section 553. As a matter of policy, NCUA believes that the public should be given at least 60 days (from the date of publication in the FEDERAL REGISTER) to comment on a proposed significant regulation. If the comment period is less than 60 days, or is extended beyond 60 days, NCUA will publish a statement in the FEDERAL REGISTER (usually along with the publication of the proposed regulation) explaining the reasons for the change. NCUA will consider, during the comment period, any request to extend the comment period.

g. Public hearing or conferences. If NCUA determines that the written comments that it has received do not provide sufficient information or do not adequately represent significantly varying public interests, public hearings or conferences will be held. Depending upon the nature of the issues involved and the interest expressed by the written comments received, these public meetings will vary from informal conferences, between NCUA officials and interested members of the public at which the issues are discussed, to hearings at which oral testimony is recorded and written testimony may be submitted. NCUA will also consider, where appropriate, holding hearings or conferences at each NCUA Regional Office around the country as well as at the Central Office in Washington, D.C.

h. Procedures for consulting State and local government officials. When it appears that a regulation under development will have a significant impact on relations between NCUA and State government or between NCUA and the government of a partic-

ular locality, NCUA will send to the appropriate government official an advance notice of the development of a regulation or an advance copy of the proposed regulation being developed. This will ensure that affected State and local governments have an opportunity to submit their views.

V. Procedures for the Development of Regulations

This part of the report describes the procedures for developing a regulation, from the initial suggestion through the publication of the final regulation.

1. Initiating a regulation. This section describes the process whereby a suggestion for a change in NCUA's regulations is initially reviewed and then authorized by the Administrator for development into a regulation.

a. Potential sources. NCUA receives, and will act on, information relating to needed regulations or changes in existing regulations from the public, State and Federal regulatory agencies, Congressional legislation, Presidential requests, the various offices within the Administration, and the National Credit Union Board.

b. Preliminary review. Upon receiving an initiation statement or other information relating to the need for a change in NCUA's regulation, the following action will be taken: (i) The Regulatory Development Coordinator will be advised and will determine whether the issues presented are under development. If so, the Regulatory Development Coordinator will forward the initiation statement to the appropriate office. If not, the office receiving the initiation statement or other information may conduct the preliminary review or suggest that another office do so; (ii) The office conducting the preliminary review will make recommendations as to the action to be taken, the office to be designated as the office of primary interest if further development is approved, alternative approaches to be explored, plans for obtaining public comment, and anticipated target dates. This information, along with the initiation statement, will be reviewed by the Regulatory Development Coordinator and then forwarded to the Administrator; (iii) The Administrator will approve or disapprove any further development of a regulation and will designate the office of primary interest. The office of primary interest will advise the party that submitted the suggestion and the Regulatory Development Coordinator that the regulation has been approved for development and will also provide the name of an NCUA official in that office who can be contacted with any further inquiries. If the Administrator does not approve further development, the office that prepared the preliminary review will advise the source of the suggestion and the Regulatory Development Coordinator of that fact.

2. Preparation of the proposed regulation. This section describes the procedures that NCUA will use from the time that the Administrator authorizes the development of a regulation to the time a proposed regulation is published in the Federal Register. The office of primary interest will be responsible for preparing the proposed regulation and for seeing that the tasks set forth below are carried out. The office of primary interest will advise the Regulatory Development Coordinator as each task is begun and then completed.

a. Coordination with other NCUA offices. Offices other than the office of primary interest that have operations or responsibilities that will be directly effected by the regulation under development will be included in the development of the regulation. The participation of these offices will include consultation during the consideration of the problem and review of the drafts of the proposed regulation and regulatory analysis.

b. Solicitation of public opinion. The office of primary interest, in consultation with the Regulatory Development Coordinator, will decide on a plan to be used to ensure public participation in the development of the regulation (the alternative methods available are described in detail in Part IV). A decision on whether to issue an advance notice of proposed rulemaking will be made shortly after the office of primary interest receives the Administrator's authorization to develop the regulation. A file of all comments and suggestions relating to the regulation under development will be maintained in the office of primary interest. The Regulatory Development Coordinator will be given the name of an NCUA official in the office of primary interest who will be available to respond to inquiries from the public.

c. Preparation of a draft regulatory analysis. The office of primary interest will prepare a regulatory analysis, prior to drafting the proposed regulation, whenever it is determined that a significant regulation to be developed will result in: (i) an annual effect on the economy of $100 million or more; or (ii) a major increase in costs or expenses for all, or a significant portion of, Federal or federally insured credit unions with assets under $1 million (which includes half of all Federal credit unions who are least able to absorb the increase) or for other financial institutions. Although required only in the development of significant regulations meeting this test, the Administrator, when authorizing the development of a regulation, may direct a regulatory analysis be performed for any proposed regulation. The regulatory analysis will be used to aid in the preparation of the proposed regulation.

d. Preparation for publication of the proposed regulation. The draft of the proposed regulation, along with copies of the regulatory analysis and any public comment received at this point, will be sent to the other interested offices within NCUA for comment. The office of primary interest will then prepare a final version of the proposed regulation, which will include, in the preamble, a brief discussion of the regulatory approach and a statement indicating, if a draft regulatory analysis was prepared, that it is available for public comment. Significant proposed regulations will normally have a public comment period of at least 60 days from the date of publication in the Federal Register. If a shorter or longer comment period is provided, a statement of the reasons will be included in the preamble to the proposed regulation. The final version of the proposed rule will be reviewed by the Office of General Counsel for legal sufficiency and by the Regulatory Development Coordinator for compliance with the requirements of the Administrative Procedures Act and this report. It will then be submitted to the Administrator for final approval. The proposed regulation will then be sent to the Federal Register for publication and advance copies will be sent to persons identified on the NCUA regulations mailing list.

3. Preparation of the final Regulation. This section of the report will describe what happens from the time that the proposed regulation is published in the Federal Register to the time that the final regulation is published.

a. Public participation. During the public comment period, the office of primary interest and the Regulatory Development Coordinator will review the plans established to ensure public participation and will recommend any needed or desirable changes to the Administrator. Requests for an extension of the comment period will be considered. A public conference or hearing, if not already called for, will be considered. The final decision on any recommendation to change the plans for obtaining public participation will be made by the Administrator.

b. Drafting the final regulation. After the public comment period has ended and the other adopted methods of public participation have been completed the office of primary interest will review all information received. The office of primary interest will then prepare a draft of the final regulation. The office of primary interest will also prepare a memorandum to

the Administrator establishing that the following issues have been considered: (i) the need for the regulation; (ii) the alternative approaches to achieving the purpose of the regulation; (iii) the least burdensome of the acceptable approaches was chosen; (iv) the potential effects of the regulation, including an estimate of the reporting burdens and recordkeeping requirements, have been adequately assessed; (v) the public comments received were considered and adequately responded to; (vi) the regulation is written as clearly and simply as possible and will be understandable to those who must comply with it; and (vii) the name, address, and telephone number of a knowledgeable staff person has been provided for further inquiries from the public. If a regulatory analysis was prepared for the proposed regulation, it will be revised to reflect NCUA's response to the public comments received, and the public notice of the final regulation will indicate that a revised analysis is available to the public. The Office of primary interest, in consultation with the Office of Research and Analysis, will draft a plan for evaluating the effect of the regulation. The drafts of the final regulation, the memorandum, the revised regulatory analysis, and the plan for evaluation will be sent to the other NCUA offices for comment. The office of primary interest will then prepare the final version of these documents in response to the comments received.

c. Approval and publication of the final regulation. The final version of the regulation, the memorandum, the revised regulatory analysis, and the plan for evaluation will be reviewed by the Office of General Counsel to ensure that the substance of the regulation complies with applicable laws. The Regulatory Development Coordinator will review these documents for compliance with the requirements of Administrative Procedures Act and this report. The Administrator will review these documents and approve the final regulation. Final regulations will be published in the FEDERAL REGISTER and will become effective 30 days after publication (unless NCUA finds good cause for shortening or lengthening the time and explains this in the publication of the final regulation).

VI. REVIEW OF EXISTING REGULATIONS

This part of the report sets forth NCUA's plans for periodically reviewing its regulations. The purpose of these reviews will be to update, clarify, and simplify existing regulations, and to eliminate redundant and unnecessary provisions.

1. Initial plan for review. After the publication of this final report, the Regulatory Development Coordinator will begin the review of existing regulations by meeting with, and coordinating the plans of, the NCUA offices with primary interest in the regulations listed below. The priority of review is reflected by the order of the list:

a. Manuals incorporated by reference into NCUA's Rules and Regulations in §§ 701.2 and 701.14;

b. Rules related to the organization, operation, investments, and incidental powers of Federal credit unions in Parts 701, 703, and 721 of NCUA's Rules and Regulations;

c. Rules related to Federal share insurance in Parts 740, 741, 745, 746, 748, and 749; and

d. Rules relating to administrative procedures in Parts 715, 720, 735, 747, and 750.

2. Future Review. After the effective date of the review of the existing regulations listed above, these regulations will be reviewed for clarity and efficiency every three years on a continuous basis. [E.O. 12044]

LAWRENCE CONNELL,
Administrator.

MARCH 16, 1979.

[FR Doc. 79-8894 Filed 3-22-79; 8:45 am]

FRIDAY, MARCH 23, 1979
PART X

DEPARTMENT OF ENERGY

Economic Regulatory Administration

■

OIL IMPORT ALLOCATIONS FOR 1979–1980

federal register

[6450-01-M]

Title 10—Energy

CHAPTER II—DEPARTMENT OF ENERGY

[Docket No. ERA-R-78-27]

PART 213—OIL IMPORT REGULATIONS

Oil Import Allocations for 1979–1980

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: Presidential Proclamation 3279, as amended, provides for an annually decreasing quantity of oil imports not subject to the license fees otherwise imposed by the Proclamation. For the next allocation period, which begins on May 1, 1979 and ends on April 30, 1980, the quantity of oil which may be imported without being subject to the fee is twenty percent of the level which was originally established in 1973. This rulemaking revises the Oil Import Regulations to conform them to the allocation levels established by the Proclamation for the next allocation year. Notwithstanding the above, the allocation of residual fuel imported as fuel into District I shall not be subject to the twenty percent reduction in fee free licenses until July 1, 1979, in accordance with Presidential Proclamation No. 4629 issued on December 8, 1978.

EFFECTIVE DATE: Date of Issuance.

FOR FURTHER INFORMATION CONTACT:

Robert D. R. de Sugny, Office of General Counsel, Department of Energy, Room 5116, Federal Building, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 (202) 633-9380.

Robert R. Moore, Office of Oil Imports, Department of Energy, Room 6114, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-8620.

Gerald P. Emmer, Allocation Regulations, Department of Energy, Room 2304, 2000 M Street, N.W., Washington, D.C. 20461 (202) 254-7200.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Comparison With Proposed Rule.
III. Evaluation of Comments.
IV. Regulation Prescribed.

I. Background

Under the Mandatory Oil Import Program established pursuant to Presidential Proclamation No. 3279, as amended, the next allocation period for imports not subject to license fees under Section 3(a)(1)(i)-(ii) of the Proclamation will commence on May 1, 1979. Section 8 of the Proclamation provides that for this allocation period the maximum levels of imports subject to allocation and licenses to which license fees under Section 3(a)(1)(i)-(ii) shall not be applicable shall be reduced to twenty percent (20%) of the levels established during the calendar year 1973.

II. Comparison With Proposed Rule

On December 29, 1978, the Economic Regulatory Administration of the Department of Energy issued proposed amendments to Part 213 of Chapter II, Title 10 of the Code of Federal Regulations (44 FR 1896, January 8, 1979), to provide for the commencement of the next allocation period and to reduce the levels of fee-exempt allocations in accordance with Presidential Proclamation 3279, as amended. It was also proposed that § 213.10(a)(1) be amended to reflect changes made by the Department of Commerce in its Trade Classification Schedule B (Statistical Classifications of Domestic and Foreign Commodities Exported from the United States). Furthermore, we also proposed additional language in § 213.35(c)(1) to effectively exempt from the Oil Imports Program all crude oil and finished products imported for the Strategic Petroleum Reserve Program. No other substantive changes were proposed.

The proposed rule provided for the submission of written comments and a public hearing which was subsequently cancelled after no requests to speak were received. After an evaluation of these comments it has been determined to adopt the proposal without change.

III. Evaluation of Comments

Of the four comments submitted, none addressed the specific technical changes which has been proposed. The comments addressed much broader issues arising from the Oil Import and Entitlements Programs which were beyond the purview of this rulemaking which merely conforms the Department's regulations to the levels established in Presidential Proclamation 3279 for the next allocation year. Among the general issues discussed by the commenters included support for the continued elimination of reverse entitlements, adequate protection for East Coast refiners, reissuance of special guideline I, and the granting of full entitlements for residual fuel imported into PAD I. The issues raised in the comments continue to be studied by the Department and may result in additional proposed rulemakings in the future; such issues, however, have no bearing on the proposal at hand.

IV. Regulation Prescribed

After careful consideration of the comments, the Economic Regulatory Administration has decided not to make any changes in the amendment as proposed.

(Trade Expansion Act of 1962, Pub. L. 87-794, as amended; Proclamation 3279, as amended; Department of Energy Organization Act, Pub. L. 95-91; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, E. O. 12009, 42 FR 46267; E. O. 12038, 43 FR 64849.)

In consideration of the foregoing, Part 213 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., on March 19, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

§ 213.5 [Amended]

1. Section 213.5 is amended in paragraph (a) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "April 28, 1978" and by substituting therefor "April 2, 1979."

§ 213.9 [Amended]

2. Section 213.9 is amended in paragraphs (a) and (b) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the terms "1977" and ".35" and by substituting therefor "1978" and ".20" respectively.

§ 213.10 [Amended]

3. Section 213.10 is amended in paragraph (a)(1) by deleting the Trade Classification Schedule B Table and substituting the following Trade Classification Schedule B Table:

Trade classification schedule B number	Description
309-310.9	Manmade fibers.
357.8020	Cellulosic fibers for use in tires.
401-404.8	Cyclic organic chemicals; and products.
415.1500	Carbon (except carbon black, and contact, channel, and furnace blacks).
431-431.9	Acyclic organic chemical compounds.
433.1016-433.1022	Antiknock preparations.
433.1044-433.1047	Additives for fuel oil, liquid gum inhibitors.
433.1060-433.1066	Additives for lubricating oils.
433.1073	Reagents for ore recovery.
435.2500-435.2600	Enzymes.
435.3500	Steroid hormones & synthetic substitutes, N.S.P.F.
435.3900	Other hormones & synthetic substitutes.
435.6700-435.9500	Other drugs.
444-444.8	Plastic materials and synthetic resins.

Trade classification schedule B number	Description
446.1506-446.3000	Synthetic rubber and rubber substitutes; e.g. SBR type rubber, butyl rubber, carbon black masterbatch.
459.0900-459.1900	Unmixed aromatic & odoriferous substances.
464-464.8	Surface-active agents.
466.1800-466.4000	Synthetic detergents, synthetic organic bulk.
472.2500	Carbon black.
472.3000	Bone black and lamp black.
480.3000	Urea.
480.9500	Fertilizers.
486.0200-486.3900	Pesticides, unmixed.
487.0500	Cyclic organic chemical compounds used chiefly in photography.
487.1510-487.3080	Plasticizers and rubber-processing chemicals not artificially mixed.
487.4040	Textile assistants.
490.0500-491	Fatty substances.
492.1820-492.1840	Methyl cellulose and hydroxy ethyl cellulose and other cellulose compounds.
492.5410-492.5420	Artificial waxes.
492.6520-492.6555	Synthetic resin adhesives.
772.4500-777.5160	Rubber tires for vehicles and aircraft.

§ 213.12 [Amended]

4. Section 213.12 is amended in paragraph (a) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and in paragraph (b) by deleting the terms "1977" and "365" and by substituting therefor "1978" and "366" respectively.

§ 213.13 [Amended]

5. Section 213.13 is amended in paragraph (a) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and in paragraph (b) by deleting the terms "1977" and "365" and by substituting therefor "1978" and "366" respectively.

§ 213.16 [Amended]

6. Section 213.16 is amended in paragraph (a) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the terms "7,000" and "2,625" and by substituting therefor "4,000" and "1,500" respectively.

§ 213.20 [Amended]

7. Section 213.20 is amended in paragraph (a)(2) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "79,527 bbl/d" and by substituting therefor "45,444 bbl/d".

§ 213.21 [Amended]

8. Section 213.21 is amended in paragraphs (a)(2) and (b)(2) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; in paragraph (a)(2) by deleting the term "503 bbl/d" and by substituting therefor "287 bbl/d"; and in paragraph (b)(2) by deleting the term "577 bbl/d" and by substituting therefor "330 bbl/d".

§ 213.32 [Amended]

9. Section 213.32 is amended in paragraph (d) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "26,460 bbl/d" and by substituting therefor "15,120 bbl/d".

§ 213.33 [Amended]

10. Section 213.33 is amended in paragraph (c) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "434,000" and by substituting therefor "248,000"; in paragraph (d)(1) by deleting the term ".35" and by substituting therefor ".20"; in paragraph (d)(2) by deleting the term "May 1, 1978" and by substituting therefor "May 1, 1979"; and by deleting the term "April 30, 1979" and by substituting therefor "April 30, 1980"; in paragraph (f) by deleting the term "August 31, 1978" wherever it appears and by substituting therefor "August 31, 1979"; by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting the term "July 1, 1978" and by substituting therefor "July 1, 1979"; and in paragraph (h) by deleting the term "April 28, 1978" and by substituting therefor "April 2, 1979".

§ 213.34 [Amended]

11. Section 213.34 is amended in paragraphs (b) and (e) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "17,500" and by substituting therefor "10,000".

§ 213.35 [Amended]

12. Section 213.35 is amended in paragraph (c)(1) by deleting the schedule and by substituting therefor the following schedule:

	Fee, $/Barrel
Crude Oil (Other than that imported by the Department of Energy, or by another person or agency of the Federal Government acting on behalf of the Department of Energy, for the Strategic Petroleum Reserve Program)	0.21
Natural Gas Products	0.21
All other finished products and unfinished oils including crude oil to be burned directly as fuel (except finished products imported by the Department of Energy, or another person or agency of the Federal Government acting on behalf of the Department of Energy, for the Strategic Petroleum Reserve Program, ethane, propane, butanes, asphalt)	0.63

§ 213.36 [Amended]

13. Section 213.36 is amended in paragraph (c) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and by deleting the term "434,000" and by substituting therefor "248,000"; in paragraph (d)(1) by deleting the term ".35" and by substituting therefor ".20"; in paragraph (d)(2) by deleting the term "May 1, 1978" and by substituting therefor "May 1, 1979"; and by deleting the term "April 30, 1979" and by substituting therefor "April 30, 1980"; in paragraph (f) by deleting the term "August 31, 1978" wherever it appears and by substituting therefor "August 31, 1979"; by deleting the term "May 1, 1977 through April 30, 1978" and by substituting therefor "May 1, 1978 through April 30, 1979"; and by deleting "July 1, 1978" and by substituting therefor "July 1, 1979"; and in paragraph (h) by deleting the term "April 28, 1978" and by substituting therefor "April 2, 1979".

§ 213.37 [Amended]

14. Section 213.37 is amended in paragraphs (a) and (c) by deleting the term "May 1, 1978 through April 30, 1979" and by substituting therefor "May 1, 1979 through April 30, 1980"; and in paragraph (a) by deleting the term "11,375" and by substituting therefor "6,500".

[FR Doc. 79-8956 Filed 3-22-79; 8:45 am]

federal register

FRIDAY, MARCH 23, 1979

PART XI

MERIT SYSTEMS PROTECTION BOARD

■

INTERIM OPERATING PROCEDURES: FREEDOM OF INFORMATION, PRIVACY, AND GOVERNMENT IN THE SUNSHINE ACTS; PROPOSED ADJUDICATORY PROCEDURES

[6325-20-M]

Title 5—Administrative Personnel

CHAPTER II—MERIT SYSTEMS PROTECTION BOARD

[Docket No. 79-2 Notice 1]

INTERIM OPERATING PROCEDURES: FREEDOM OF INFORMATION ACT; PRIVACY ACT; GOVERNMENT IN THE SUNSHINE ACT

AGENCY: Merit Systems Protection Board.

ACTION: Interim Regulation; request for comments.

SUMMARY: These regulations establish interim operating procedures for the Merit Systems Protection Board pursuant to the requirements of the Freedom of Information Act; the Privacy Act; and the Government in the Sunshine Act. In addition, the Merit Systems Protection Board requests public comment on these regulations.

EFFECTIVE DATE: March 20, 1979. Written comments should be submitted on or before May 22, 1979.

ADDRESS: Comments should be addressed to the Office of the Secretary of the Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT:

Alan Greenwald or Deborah House (202-653-7101).

SUPPLEMENTARY INFORMATION: The Board was created pursuant to Reorganization Plan No. 2 of 1978 and the Civil Service Reform Act of 1978 (Pub. L. 95-454) signed into law by President Carter on October 13, 1978.

The Reorganization Plan and the Act contemplated that the Board would immediately begin to function as an agency subject to the provisions of the Freedom of Information, Privacy and Government in the Sunshine Acts. Accordingly, it is necessary to adopt regulations which serve a dual role as interim operating procedures and proposed regulations for comment.

Part 1204 of these regulations implements the provisions of the Freedom of Information Act as set forth at 5 U.S.C. 552. It is the policy of the Board to make full and complete disclosure of all information within its control under this Act unless specifically exempted and disclosure would not be in the interest of the public.

Part 1205 of these regulations implements the provisions of the Privacy Act as set forth at 5 U.S.C. 552a. It is the policy of the Board to fully protect the privacy interests of each individual by insuring the confidentiality of records; by limiting information in those records to that which is relevant and necessary to the functions of the Board and by facilitating access of an individual to his/her record.

Part 1206 of these regulations implements the provisions of the Government in the Sunshine Act as set forth at 5 U.S.C. 552b. It is the policy of the Board to conduct all proceedings in open meetings unless to do so is specifically exempted under the Act and would not be in the interest of the public.

Interested parties may participate in this proposed rulemaking by submitting their views, in writing, to the Board. Each comment should include the name and address of the person or organization submitting the comment and should make reference to the above-cited docket number. All comments received on or before May 22, 1979 will be considered in promulgating final regulations on the matters addressed here. All written comments received will be docketed and made available for public inspection at the Board.

These regulations do not include a notice of system of records as is annually required to be published under the Privacy Act. Publication of this notice has been delayed pending the official establishment of the Board's record systems. Publication shall occur as soon as these systems are established and identified.

The Board has determined that the January 1, 1979 effective date of Reorganization Plan No. 2 of 1978 and the January 11, 1979 effective date of the Civil Service Reform Act of 1978 establishes good cause for immediate publication of these regulations for interim effect.

Issued on March 20, 1979.

RUTH T. PROKOP,
Chair, Merit Systems Protection Board.

5 CFR is amended by adding Parts 1204-1206 to read as follows:

PART 1204—FREEDOM OF INFORMATION ACT

Subpart A—Purpose and Policy

Sec.
1204.1 Purpose.
1204.2 Policy.

Subpart B—Proceedures for Obtaining Records

1204.11 Submission of request.
1204.12 Time limitations.
1204.13 Fees.
1204.14 Denials.

Subpart C—Appeals

1204.21 Submission.
1204.22 Determinations upon appeal.

AUTHORITY: 5 U.S.C. § 552.

Subpart A—Purpose and Policy

§ 1204.1 Purpose.

The purpose of this part is to set forth the procedures pursuant to the Freedom of Information Act (5 U.S.C. 552) ("the Act") by which the public may obtain records controlled by the Board.

§ 1204.2 Policy.

(a) It is the policy of the Board to release records where:

(1) the request submitted reasonably describes such records; and

(2) is made in accordance with the rules of this part.

(b) Records shall be disclosed to a requestor unless:

(1) they are exempt from disclosure under subsection (b) of the Act; and

(2) disclosure of such records would not be in the public interest.

Subpart B—Procedures for Obtaining Records

§ 1204.11 Submission of request.

(a) *Place:* Requests for copies of records shall be made to the appropriate field office of the Board or the Office of the Secretary of the Board at 1717 H Street, N.W., Washington, D.C. 20419. It is appropriate to submit a request to a field office if the requestor has reason to believe the records in question are located in that office. Requests shall be made during normal business hours, or submitted by mail. Although oral requests may be honored, a requestor may be required to submit his/her request in writing.

(b) *Form:* Each submission shall reasonably describe the record requested including any name, subject matter and number or date where possible so that the Board can identify and locate the record. Requests submitted by mail shall be clearly marked as a "FREEDOM OF INFORMATION ACT REQUEST" on both the envolope and letter.

(c) *Payment:* The request shall be accompanied by the fee or an offer to pay the fee pursuant to § 1204.14 of this part.

§ 1204.12 Time limitations.

(a) Determinations of whether to comply with an original request for agency records shall be made within ten days (excluding Saturdays, Sundays, and legal public holidays) except in "unusual circumstances" as provided in paragraph (b) of this section.

(b) In "unusual circumstances" the time limits specified above may be extended by written notice to the requestor setting forth reasons for such an extension and the date on which a determination is expected to be made.

No such notice shall specify a date that would result in an extension for more than ten working days. Unusual circumstances means:

(1) The need to search for and collect the requested records from field facilities or other establishments which are separate from the office processing the request;

(2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(c) Where a request or an appeal is not properly labled or is submitted to an inappropriate office, the time limitation for processing of the request shall run from the time it is received by the proper official to process such a request.

§ 1204.13 Fees.

(a) Requests for records are subject to the following fees for search and duplication.

(1) Photocopies $0.10 for the first copy of each page.

(2) Manual records search:

(i) First hour and any single request: no fee.

(ii) Each additional hour or fraction thereof: $5.00.

(iii) Fees for search and duplication of automated records shall be provided upon request.

(b) At their discretion, the Secretary or appropriate field official may refuse to furnish records prior to receipt of the required fee.

(c) At their discretion, the Secretary or appropriate field official shall furnish records without charge or at a reduced charge where to do so primariy benefits the general public.

§ 1204.14 Denials.

(a) Denials of a request for records in whole or in part shall be issued in writing within the applicable time limits.

(b) Denials shall set forth the basis for the denial and the right of the requestor to appeal the denial to the Chair under subpart C of this part.

Subpart C—Appeals

§ 1204.21 Submission.

(a) *Time:* Appeals shall be submitted within thirty days of the date of the issuance of the written denial.

(b) *Place:* Appeals shall be addressed to the Chair, Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419.

(c) *Form:* Appeals shall be clearly marked as "FREEDOM OF INFORMATION ACT APPEAL" on both the envelope and letter. Appeals must be in writing and shall include:

(1) a copy of the original request or a statement thereof if it was made orally;

(2) a copy of the written denial; and

(3) a statement of the reasons why the original denial should be overruled.

§ 1204.22 Determinations upon appeal.

(a) Determinations upon appeal shall be made within twenty days of receipt of appeal by the Chair (excluding Saturdays, Sundays and legal public holidays).

(b) A determination overruling or sustaining the original denial in whole or in part shall be provided to the requestor and shall set forth the reasons therefore.

(c) A determination upon appeal shall constitute final agency action and the right to judicial review shall be set forth therein.

PART 1205—PRIVACY ACT

Subpart A—Purpose and Policy

Sec.
1205.1 Purpose.
1205.2 Policy.
1205.3 Definitions.

Subpart B—Procedures for Obtaining Records

1205.11 Submission of request.
1205.12 Time limitations.
1205.13 Identification.
1205.14 Grant of access.
1205.15 Medical records.
1205.16 Fees.

Subpart C—Amendment of Records

1205.21 Request for amendment.
1205.22 Action on request.
1205.23 Time limitations.

Subpart D—Appeals

1205.31 Submission of appeal.
1205.32 Determinations upon appeal.

Authority: 5 U.S.C. § 552a.

Subpart A—Purpose and Policy

§ 1205.1 Purpose.

The purpose of this part is to set forth the procedures pursuant to the Privacy Act (5 U.S.C. 552a) ("the Act") by which a requestor may make an inquiry regarding a record, gain access to such record or amend the record.

§ 1205.2 Policy.

It is the policy of the Board to facilitate the full exercise of rights conferred by the Act upon individuals and to insure the privacy of records maintained regarding such individuals. Such records shall contain only that information which is relevant and necessary to the functions of the Board and shall be treated in a manner which is fully in accordance with the provisions of the Act.

§ 1205.3 Definitions.

The definitions of 5 U.S.C. 552a apply to this part and are incorporated herein by reference. As used in this part:

"Inquiry" means a request by an individual as to whether the Board has a record which pertains to that individual.

"Request for access" means a request by an individual to inspect or copy a record.

"Request for amendment" means a request by an individual to change the substance of a particular record by addition, deletion or other correction.

"Requestor" means the individual requesting access or amendment to a record. The individual may be either the person to whom the record requested pertains or a legal guardian acting on behalf of an individual.

Subpart B—Procedures for Obtaining Records

§ 1205.11 Submission of request.

(a) *Place:* Inquiries or requests for access to records shall be made to the appropriate field office of the Board or the Office of the Secretary of the Board at 1717 H Street, N.W., Washington, D.C. 20419. It is appropriate to submit a request to a field office if the requestor has reason to believe the records in question are located in that office.

(b) *Form:* Each submission shall contain the following information:

(1) Name, address and telephone number of the individual making the request;

(2) Name, address and telephone number of the individual making the request if the requestor is either a parent or a minor child, or the legal guardian or representative of an individual to whom the record pertains. In addition, evidence of the relationship must be supplied such as: an authenticated copy of the birth certificate of the minor child; or the court document appointing the individual legal guardian; or an agreement for representation signed by the individual to whom the record pertains and the representative;

(3) Name and location, if known, of the system of records as published in the FEDERAL REGISTER;

(4) Such additional information as may assist the Board in responding to the request (for example the name of the agency which is taking the action, the subject matter of the case, etc.);

(5) Date of inquiry;

(6) Individual's signature;

(7) Indication both on the envelope and the letter that the inquiry is a "PRIVACY ACT REQUEST."

(c) Each submission shall comply with the identification requirements set forth in § 1205.13 of this part.

§ 1205.12 Time limitations.

(a) Response to an inquiry or request for access shall be made within ten days (excluding Saturdays, Sundays and legal public holidays), except in "unusual circumstances" as provided in paragraph (b) of this section.

(b) "Unusual circumstances":

(1) An extensive search of records is required;

(2) The records in question are not readily available;

(3) Information regarding another individual(s) must be expunged from the records;

(4) Consultation with other agencies having substantial interest in the records is necessary; or

(5) Other extenuating circumstances exist which reasonably prohibit the Board from processing the request within the ten day period.

(c) Where a request is not properly labeled or is submitted improperly or it is necessary to obtain further information or identification from the requestor, the time limitation for processing the request shall run from the time when it is received by the proper official to process such a request or necessary additional information is obtained from the requestor. Where it is necessary to obtain additional information the request for such information shall be made by the Secretary or appropriate field official within the ten day period.

§ 1205.13 Identification.

(a) *In person.* Each individual making a request in person shall be required to present satisfactory proof of identity. In order of preference the following items shall be acceptable:

(1) A document bearing the requestor's photograph; or

(2) A document bearing the individual's signature.

(3) In the event (1) or (2) are not available, the requestor will be required to sign a statement asserting his/her identity and acknowledging the requestor's understanding that misrepresentation of identity in order to obtain a record is a misdemeanor and subject to a possible fine of $5,000 under 5 U.S.C. § 552a(i)(3).

(b) *By mail.* The identification of a requestor making a request by mail must be certified by a notary public or equivalent official or other information sufficient to identify the requestor.

(c) *Parents of minors, legal guardians and representatives.* Parents of minors, legal guardians and representatives must submit identification pursuant to paragraphs (a) or (b) of this section. Additionally, they must present an authenticated copy of the minor's birth certificate, court order of guardianship, and agreement of representation where appropriate.

§ 1205.14 Grant of access.

(a) The alternative following methods of access may be granted for inspection of records:

(1) Personal inspection during normal business hours;

(2) Transfer of records to a suitable Federal facility in closer proximity to the requestor;

(3) Provision of copies by mail.

(b) An individual seeking personal access to records may be accompanied by another individual of his/her choice. However, the requestor shall be required to sign a written statement authorizing the discussion and presentation of his/her record in the accompanying individual's presence.

§ 1205.15 Medical records.

When a request for access involves medical records which are not otherwise exempt from disclosure, the requestor may be advised, as necessary, that the records will be disclosed only to a physician designated by the requestor. Upon proper identification the physician will be permitted access to the records as provided in this part.

§ 1205.16 Fees.

(a) No fees shall be charged by the Board for any other purpose than making copies of records.

(b) It is the policy of the Board to provide one copy of a record upon request free of charge. However, where the requested record exceeds fifty pages, the Board shall charge $0.10 for each copy in excess of that amount.

(c) It is the policy of the Board to provide one copy of any amended record free of charge as evidence of the amendment.

Subpart C—Amendment of Records

§ 1205.21 Request for amendment.

(a) A request for amendment of a record shall be made to the appropriate field office of the Board or the Office of the Secretary of the Board at 1717 H Street, N.W., Washington, D.C. 20419. The request shall be in writing and shall be designated on the outside of the envelope and the letter as a "PRIVACY ACT REQUEST" and shall include the following information:

(1) Identification of the record to be amended;

(2) A description of the amendment requested (e.g., addition, deletion, placement of amendment, etc.);

(3) A statement of the basis for the amendment and supporting documentation if any.

(b) The provisions for amendment of the record are not intended to permit the alteration of evidence to be presented in the course of adjudication before the Board.

§ 1205.22 Action on request.

(a) *Amendment granted:* Where the amendment requested is granted the requestor shall be so notified and shall be supplied a copy of the amendment as evidence therof.

(b) *Amendment denied:* Where the amendment requested is denied in whole or in part the requestor shall be notified of the denial in writing and provided the following information:

(1) The basis for the denial; and

(2) The procedures for appealing the denial.

§ 1205.23 Time limitations.

A determination to grant or deny a request for amendment shall be made within ten days after receipt by the appropriate official.

Subpart D—Appeals

§ 1205.31 Submission of appeal.

(a) *Time:* Appeals from denial of amendment shall be submitted within thirty days of the date of the issuance of the written denial (excluding Saturdays, Sundays and legal public holidays).

(b) *Place:* Appeals shall be addressed to the Chair, Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419.

(c) *Form:* Appeals shall be in writing and clearly marked as "PRIVACY ACT APPEAL" on both the envelope and letter. Appeals must be in writing and shall include:

(1) a copy of the original request for amendment;

(2) a copy of the written denial; and

(3) a statement of the reasons why the original denial should be overturned.

§ 1205.32 Determinations upon appeal.

(a) A written determination either overruling or sustaining the original denial shall be made within thirty days (excluding Saturdays, Sundays, and legal public holidays) unless the Chair determines that there is good cause for extending the thirty day period. Where an appeal is not properly labeled or is submitted to an inappropriate official, the time limitation for processing the request shall run from the time it is received by the Chair.

(b) If the amendment is granted upon appeal, the Chair shall direct the amendment be made and shall supply

the requestor with a copy of the amended record as evidence thereof.

(c) If the amendment is denied, the Chair shall notify the requestor of the denial and inform him/her of the following:

(1) The basis for the denial;

(2) The right to file a concise statement with the Board stating the reasons for his/her disagreement with the denial which shall become a part of the record; and

(3) The right to judicial review of the decision under 5 U.S.C. 552a(g)(1)(A).

PART 1206—OPEN MEETINGS

Subpart A—Purpose and Policy

Sec.
1206.1 Purpose.
1206.2 Policy.
1206.3 Definitions.

Subpart B—Procedures

1206.4 Notice of meeting.
1206.5 Change in meeting plans after notice.
1206.6 Determination to close meeting.
1206.7 Record of meetings.
1206.8 Provision of information to the public.

Subpart C—Conduct of Meetings

1206.11 Meeting place.
1206.12 Role of observers.

AUTHORITY: 5 U.S.C. § 552b

Subpart A—Purpose and Policy

§ 1206.1 Purpose.

The purpose of this part is to set forth the procedures pursuant to the Government in the Sunshine Act (5 U.S.C. 552b) ("the Act") by which the Board will conduct open meetings.

§ 1206.2 Policy.

It is the policy of the Board to provide the public with the fullest practicable information regarding the decision-making processes of the Board. Board meetings involving deliberations which determine or result in the joint conduct or disposition of official Board business are presumptively open to the public. It is the intent of these regulations to open such meetings to public observation while protecting individuals' rights and the Board's ability to carry out its responsibilities. Board meetings will be closed in whole or in part only in accordance with the exemptions provided under 5 U.S.C. 552b(c) and where to do so is in the public interest.

§ 1206.3 Definitions.

In this part:

"Meeting" means the deliberations of at least two Board Members where such deliberations determine or result in the joint conduct of official Board business.

"Member" means one of the Members of the Merit Systems Protection Board.

Subpart B—Procedures

§ 1206.4 Notice of meeting.

(a) Notices of Board meetings shall be published in the FEDERAL REGISTER at least one week prior to the meeting. Such notice shall include the following information:

(1) Time;

(2) Place;

(3) Subject of meeting;

(4) Whether the meeting is to be opened or closed; and

(5) The name and telephone number of a Board official responsible for receiving inquiries regarding the meeting.

(b) The Board may, by majority vote, provide less than one week's notice and then such notice be provided at the earliest practicable time.

§ 1206.5 Change in meeting plans after notice.

(a) Following notice of a meeting, the time or place of a meeting may be changed only if the change is announced publicly at the earliest practicable time.

(b) Following notice of a meeting, the subject matter of a meeting or the determination to open or close a meeting may be changed only if both of the following conditions are met:

(1) There must be a majority, recorded vote of the Board members that Board business requires the change and that no earlier announcement of such changes was possible; and

(2) there must be a notice of the change in the FEDERAL REGISTER and of the individual Board Members' votes at the earliest practicable time.

§ 1206.6 Determination to close meeting.

(a) *Basis:* The Board, by majority vote, may determine to close a meeting in accordance with the provisions of 5 U.S.C. 552b(c)(1-9) and where it is in the public interest.

(b) *General Counsel Certification:* Where the Board has determined that a meeting shall be closed in whole or in part, the General Counsel shall certify the propriety of doing so and state the basis therefor.

(c) *Vote:* Where the Board has voted to close a meeting, within one day of such vote the Board shall make publicly available a record reflecting the vote of each Member on the question. In addition, within one day of any vote which closed a portion or portions of a meeting to the public, the Board shall make publicly available a full written explanation of its decision to close together with a list naming all persons expected to attend and identifying their affiliation, unless such disclosure would reveal the information that the meeting itself was closed to protect.

§ 1206.7 Record of meetings.

(a) *Closed Meeting:* Where the Board has determined that a meeting shall be closed in whole or in part the following record shall be maintained:

(1) a transcript or recording of the proceeding;

(2) a copy of the General Counsel's certification;

(3) a statement from the presiding official setting forth the time and place of the meeting and the persons present; and

(4) a recordation of all votes and all documents considered (which may be part of the transcript).

(b) *Open Meetings:* Transcripts or other recordations shall be made of all open meetings of the Board and shall be made available upon request at actual cost.

§ 1206.8 Provision of information to the public.

Information available to the public under this part shall be made available at the Office of the Secretary, Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419. Individuals or organizations having a special interest in activities of the Board may submit a request with the Office of the Secretary to be placed on a mailing list for receipt of information available under this part.

Subpart C—Conduct of Meetings

§ 1206.11 Meeting place.

Meetings shall be held in meeting rooms designated in the public announcement. Whenever the number of observers is greater than can be accommodated in the meeting room designated, alternative facilities shall be made available to the extent possible.

§ 1206.12 Role of observers.

The public may attend open meetings for the sole purpose of observation. Observers may not participate in meetings unless expressly invited to do so. Observers may not create distractions which interfere with the conduct and disposition of Board business and may be asked to leave if they do so. For the portions of meetings which are partially closed, observers shall leave the meeting room upon request.

[FR Doc. 79-9092 Filed 3-22-79; 8:45 am]

[6325-20-M]

MERIT SYSTEMS PROTECTION BOARD

[Docket No. 79-1 Notice 1]

[5 CFR Parts 1200-1202]

ORGANIZATION AND PROCEDURES

AGENCY: Merit Systems Protection Board.

ACTION: Proposed rule.

SUMMARY: These proposed regulations published for public comment set forth the adjudicatory procedures of the Board. The purpose of the proposed regulations is to inform Federal agencies and employees as to the procedures for processing appeals and cases of original jurisdiction before the Board. Public comments are invited on the procedures.

DATE: Written comments will be accepted on or before May 22, 1979.

ADDRESS: Comments should be addressed to the Office of the Secretary, Merit Systems Protection Board, 1717 H Street, N.W., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT:

Alan Greenwald or Deborah House (202-653-7101).

SUPPLEMENTARY INFORMATION: Section 1205(g) of Title 5 of the United States Code authorizes the Merit Systems Protection Board to prescribe such regulations as may be necessary for the performance of its functions. Pursuant to that provision, on March 20, 1979 the Board approved the issuance of these proposed regulations to establish procedures necessary for the Board to carry out its adjudicatory duties as prescribed by the Civil Service Reform Act of 1978 (Pub. L. 95-454).

Public comment on these proposed regulations is both encouraged and welcomed. All comments received prior to May 22 will be considered in the formulation of final regulations. Comments received by the Board will be available for public inspection at the Board during normal business hours.

The promulgation of these proposed regulations is without effect on the interim regulations published in the FEDERAL REGISTER on January 19, 1979 (44 FR 3946) which will continue to be applied until their expiration on June 30, 1979 or upon the effective date of final regulations prior to June 30th.

Accordingly, it is proposed to establish 5 CFR Parts 1200-1202 in the manner set forth below.

Issued on March 20, 1979 at Washington, D.C.

RUTH T. PROKOP,
Chair, Merit Systems Protection Board.

SUBCHAPTER A: MERIT SYSTEMS PROTECTION BOARD

PART 1200—BOARD ORGANIZATION

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PART 1201—PRACTICE AND PROCEDURE

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AUTHORITY: 5 U.S.C. 1205(g).

SUBCHAPTER A: MERIT SYSTEMS PROTECTION BOARD

PART 1200—BOARD ORGANIZATION

Subpart A—General

§ 1200.1 The Board.

The Merit Systems Protection Board ("the Board") is composed of three Members who are appointed by the President with the advice and consent of the Senate, and whose terms are for a period of seven years.

§ 1200.2 The Chair; Vice Chair.

One of the Members of the Board shall be designated from time to time by the President, with the advice and consent of the Senate, to serve as the Chair and chief executive and administrative officer of the Board. From time to time the President shall also designate one of the Members of the Board to serve as Vice Chair. In the absence or disability of the Chair, or when the Office of Chair is vacant, the Vice Chair shall perform the functions vested in the Chair. During the absence or disability of both the Chair and Vice Chair, or when their offices are vacant, the remaining Board Member shall perform the functions vested in the Chair.

Subpart B—Offices of the Board [Reserved]

PART 1201—PRACTICE AND PROCEDURE

Subpart A—Jurisdiction and Definitions

GENERAL

§ 1201.1 Scope.

The Board exercises two types of jurisdiction, original and appellate.

§ 1201.2 Original jurisdiction: definition and application.

The Act confers upon the Board original jurisdiction over: (a) actions brought by the Special Counsel (5 U.S.C. 1206(c)(1)(B) (g)(1), (h) and 1207(d)); (b) requests for stays of certain personnel actions (5 U.S.C. 1208); (c) actions against administrative law judges (5 U.S.C. 7521); and (d) requests for informal hearings in cases of removal from the Senior Executive Service (5 U.S.C. 3592).

§ 1201.3 Appellate jurisdiction: definition and application.

(a) The Board has appellate jurisdiction over cases specified in the Act where there have been prior actions or proceedings within an agency. In addition to the original jurisdiction described in § 1201.2, the Act confers upon the Board appellate jurisdiction over: (1) actions based upon removal, suspension for more than 14 days, reduction in grade or pay, or furlough for 30 days or less (5 U.S.C. 7513(d)); (2) actions otherwise appealable to the Board and involving an allegation of discrimination (5 U.S.C. 7702); (3) certain action relating to the Senior Executive Service (5 U.S.C. 7543(d); and 413(j) of Pub. L. 95-454); (4) actions involving reinstatement of preference eligibles (38 U.S.C. 2023); (5) removal or reduction in grade of competitive or preference eligible employees (5 U.S.C. 4303(e)); (6) denial of grade step increases (5 U.S.C. 5335(c)); and (7) those actions for which jurisdiction may be properly granted by regulations of the Office of Personnel management (OPM).

(b) The Board may not hear matters under sections 4303 and 7512 where the aggrieved employee has elected to utilize a negotiated grievance procedure rather than the appellate procedures of section 7701. This election does not, however, prejudice the right of the employee to request review pursuant to section 7702 of any final decision otherwise appealable to the Board involving discrimination. (5 U.S.C. 7121 (d) and (e)).

§ 1201.4 General definitions.

(a) *Presiding official:* This term means any person designated by the Board to preside over any hearing or to make a decision on the record under this chapter, including: a hearing officer, an administrative law judge, the Board, or any of the Members of the Board.

(b) *The Act:* This term means the Civil Service Reform Act of 1978 (Pub. L. 95-454).

(c) *Pleadings:* This term refers generally to briefs, motions, petitions, and the like.

(d) *Appropriate field office:* The appropriate field office is that office listed in Appendix II in the area where the appellant's duty station was located when the agency action was taken.

Subpart B—Hearing Procedures for Appellate Cases

GENERAL

§ 1201.11 Scope and policy.

The rules in this subpart apply to appellate proceedings of the Board. These rules also apply to original jurisdiction proceedings of the Board except as otherwise provided. It is the policy of the Board that these rules shall be applied in a manner which expedites the processing of each case, but with due regard to the right of all parties.

§ 1201.12 Suspension, revocation, amendment or waiver of rules.

Under 5 U.S.C. 1205(g), the Board, acting on its own motion or on petition, may, revoke, amend, or waive in whole or in part, any of these rules as they apply generally to all cases. The Board may take such action on its own motion or petition. *Provided however,* that a presiding official may waive a rule for an individual case for good cause shown.

PETITIONS FOR REVIEW OF AGENCY ACTION, PLEADINGS

§ 1201.21 Notice of rights to appeal.

At the time an agency serves a decision notice on an individual in any matter falling within the appellant jurisdiction of the Board, it shall provide that individual with the following:

(a) Notice of the time limits for appealing to the Board under these regulations and the address of the appropriate Merit Systems Protection Board field office for filing such an appeal;

(b) Access to a copy of the Board regulations; and

(c) A copy of the appropriate form for filing an appeal as contained in Appendix II to these regulations.

§ 1201.22 Filing of petition for appeal, response.

(a) *Place of filing:* Petitions for appeal to the Board shall be filed at the appropriate Board field office.

(b) *Time of filing:* The petition shall be filed in the designated place no later than twenty calendar days after the effective date of the agency action complained of, or the appellant's receipt of the decision notice of the appealable action, whichever is later. Petitions received from outside of the contiguous 48 states, however, shall be deemed timely filed if received within thirty days after appellant's receipt of notice of an appealable action or the effective date of the action, whichever is later. The agency shall file the record of the agency proceeding and such responsive pleadings, and other documentation as may be required to adjudicate the case fairly and completely within 5 work days of the re-

ceipt of the petition for appeal by the agency. Failure of the agency to provide responses as required by this section may result in the application of sanctions by the presiding official as set forth in § 1201.43. For purposes of this section, filing shall mean receipt of the document by the field office.

§ 1201.23 Computation of time.

In computing the time for filing pleadings, the day of the event, action, or failure to act, from which the designated time period begins to run shall not be counted. The last day of the period so computed shall be counted unless it is a Saturday, Sunday, or Federal legal holiday, in which case the time period shall include the next day which is not a Saturday, Sunday, or Federal legal holiday. When the time period prescribed or allowed under these regulations or by order of the presiding official is less than seven (7) days, the time computation shall exclude intervening Saturdays, Sundays and Federal legal holidays. When these regulations require the filing of any petition for appeal or review, such petition must be received at the field office before the close of business of the last day of the time limit for such filing.

§ 1201.24 Content of petitions, request for hearing.

(a) *Petitions:*

(1) All petitions shall contain the following information and be signed by the appellant or his/her representative:

(i) Name of the agency involved;

(ii) Date of the agency decision notice and the effective date of the action;

(iii) The action taken by the agency;

(iv) A request for hearing if so desired;

(v) A statement setting forth with particularity the reasons why the appellant believes the action of the agency to be wrong and the evidence for these conclusions including the identification of any regulations or laws alleged to have been violated and the parties involved;

(vi) A statement of the action which appellant would like the presiding official to order; and

(vii) A designation of appellant's representative (if any).

A failure to raise a claim or defense in the petition shall not bar the raising of that claim or defense at a later date unless to do so would prejudice the rights of the other parties or unduly delay the proceedings.

(b) *Use of form:*

Completion of the form in Appendix II to these regulations shall constitute compliance with subsection (a) and § 1201.31, if a representative is designated in the form.

(c) *Request for hearing:*

(1) An appellant under U.S.C. 7701 is entitled to a hearing. The appellant may, however, choose to have the presiding official's determination made on the written record.

(2) An agency may request a hearing or the presiding official may hold one on his/her own motion.

§ 201.25 Number of pleadings: proof of service.

(a) *Number:* Two copies of all pleadings and attachments must be filed with the field office. Pleadings must be signed by the submitting party and must be served on all parties.

(b) *Service:* Service on parties or their representatives can be made either by mail or personal delivery.

(1) Mail: Service by mail is accomplished by mailing copies to all parties or their representatives at the address provided by appellant on his/her petition or by the agency in its decision notice. Copies must be deposited in a public United States Postal Service mailbox and must contain a Certificate of Service.

(2) Personal delivery: Service by personal delivery is accomplished by delivering the pleading to the business office or home of the person to whom it is addressed and leaving it with a responsible person at that address.

(3) Certificate of Service: An acceptable form for the Certificate of Service is set forth as part of the form printed as the Appendix to these regulations.

§ 1201.26 Class appeals.

(a) Prerequisites. One or more appellants may file an appeal as representative parties on behalf of all appellants only if: (1) the class is so numerous that joinder of all appellants is impractical; (2) there are questions of law or fact common to the class; (3) claims or defenses of the representative parties are typical of the claims or defenses of the class; and (4) the representative parties will inadequately protect the interest of the class.

(b) Class Appeal Maintainable. An appeal may be maintained as a class appeal if the prerequisites of subsection (a) are satisfied and in addition: (1) the presiding official finds the questions of law or fact common to members of the class are predominant over any questions affecting only individual members; and (2) that a class appeal is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include:

(i) The interest of the members of the class in individually controlling the prosecution of separate appeal;

(ii) The extent and nature of any appeals concerning the controversy already commenced by members of the class;

(iii) The desirability or undesirability of concentrating the appeals in the office of the particular presiding official;

(iv) Difficulties likely to be encountered in management of a class appeal.

(c) Procedure. (1) Within thirty (30) days after the commencement of a class appeal the presiding official shall determine by order whether it is to be so maintained. An order under this subsection may be conditioned and may be altered or amended before the decision on the merits.

(2) The presiding official shall direct the agency to identify all members of the class and provide notice to each class member advising him/her that: (i) the presiding official will remove him/her from the class if he/she so requests by a specified date; (ii) a decision favorable or not will include all members who do not request exclusion; and (iii) any member of the class who does not request exclusion may appear in the proceeding.

(3) Decisions on class appeals shall describe particular appellants which the presiding official finds to be members of the class.

(4) The class appeal may be brought or maintained with respect to particular issues or a class may be divided into subclasses with each subclass treated as a class.

(5) Each member of the class shall be notified of any hearing in the class appeal.

(6) Class appeals shall not be dismissed or compromised without the approval of the presiding official and notice of the proposed dismissal or compromise shall be given to all members of the class.

PARTIES, PRACTITIONERS, WITNESSES

§ 1201.31 Representation.

(a) All parties to an appeal may be represented in any matter relating to the appeal. The parties shall designate their representatives, if any, in the petition for appeal or responsive pleading. Any subsequent changes in representatives shall also be in writing and served on all other parties.

(b) A party may choose anyone he/she wishes to serve as his/her representative so long as the person is willing and able to serve. However, the other party or parties may challenge the representative on the grounds of conflict of interest. This challenge must be made by motion to the presiding official within seven (7) calendar days after receipt of the notice of designation, and shall be ruled upon prior to consideration of the case on the merits. These procedures apply equally to original and subsequent designations of representatives. In the event that the selected representative is dis-

qualified, the party affected shall be given adequate time to obtain another representative.

(c) The presiding official, on his/her own motion, may disqualify a party's representative on the same grounds as described above.

§ 1201.32 Witnesses: right to representation and exclusion.

(a) Witnesses shall have the right to representation when testifying.

(b) A party may request by motion that a non-party witness be excluded from the hearing room to avoid prejudicing subsequent testimony or where the witness' presence may have a prejudicial chilling effect on the testimony of any other witness.

§ 1201.33 Federal witnesses.

Every Federal agency shall make its employees available to furnish sworn statements or to appear as witnesses at the hearing when requested by the presiding official. When making such statements or testimony, witnesses shall be in official duty status as provided under Executive Order 12107.

§ 1201.34 Intervenors.

(a) *Intervention by OPM:* Pursuant to 5 U.S.C. § 7701(d)(1), the Director of OPM ("the Director") may intervene as a matter of right if:

(1) The interpretation or application of any civil service law, rule or regulation, under the jurisdiction of OPM is at issue; and

(2) The Director is of the opinion that an erroneous decision would have a substantial impact on any Civil Service law, rule, or regulation under the jurisdiction of the Office. Such intervention shall be made at the earliest practicable time in order not to prejudice the parties or unduly delay the proceeding.

(b) *Intervention of the Special Counsel:* Pursuant to 5 U.S.C. 1206(i), the Special Counsel may intervene as a matter of right in any proceeding before the Board. Such intervention shall be made at the earliest practicable time in order not to prejudice the parties or unduly delay the proceedings.

(c) *Permissive intervention:*

(1) In accordance with the following rules, any person whose interests may be directly affected by the outcome of a proceeding before the Board may petition the presiding official for permission to intervene.

(i) The petitions shall be served on all parties and shall clearly set forth the reasons why the petitioners should be permitted to intervene.

(ii) It shall be solely within the discretion of the presiding official to grant or deny the petition. An order to permit intervention shall specify the issue(s) regarding which the intervenor may participate.

(2) A permissive intervenor in a proceeding shall have all the rights and obligations of the other parties except that:

(i) The scope of participation may be limited to certain issues;

(ii) The intervenor shall not have an independent right to a hearing; and

(iii) The intervenor shall not have the right to appeal the decision of the presiding official, *provided however,* that the intervenor may petition the Board to participate if a petition for review is filed.

§ 1201.35 Substitution.

If a party to an appeal dies or is otherwise unable to pursue the action, the appeal shall be processed to completion upon substitution of the successor-in-interest to the rights of the party, *provided* the interests of the original party have not been rendered moot.

§ 1201.36 Consolidation or joinder.

(a) If the presiding official believes that consolidation or joinder of cases would result in more expeditious processing of the appeals and would not adversely affect any party, he/she may, after giving the parties opportunity to object, consolidate the cases and hear and decide them concurrently. In so doing the presiding official may:

(1) Join appeals filed by two or more appellants; or

(2) Consolidate two or more appeals filed by the same appellant.

§ 1201.37 Fees.

(a) *Attorney fees:* Except as provided in subparagraph (1) of this section, the presiding official may require payment by the agency involved of reasonable attorney fees incurred by an appellant if he/she is the prevailing party and payment by the agency is warranted in the interest of justice, including any cases in which a prohibited personnel practice was engaged in by the agency or any case in which the agency's action was clearly without merit.

(1) If an appellant is the prevailing party and the decision is based on a finding of discrimination prohibited under 5 U.S.C. 2302(b)(1), the payment of attorney fees shall be in accordance with the standards prescribed under 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)).

(2) Requests for payment of attorney fees shall be made by motion within seven days of the filing of an initial decision in favor of the appellant. The agency may file a responsive pleading within seven days of receipt of appellant's motion. The ruling of the presiding official shall be made an addendum to the initial decision.

(b) *Witness fees:*

(1) *Federal employees:* Employees of any Federal agency testifying in any proceeding before the Board or making a statement for the record shall be in official duty status and shall not receive additional witness fees. Payment of travel and per diem expenses shall be governed by applicable regulations of OPM and the Federal Travel Regulations of the General Services Administration.

(2) *Other witnesses:* Witnesses who are not covered by subsection (1) of this section are entitled to the same witness fees as those paid subpenaed witnesses under 28 U.S.C. 1821.

(3) *Payment of witness fees:* Witness fees shall be paid by the party requesting the presence of the witness and shall be tendered to the witness at the time the subpena is served, or, where the witness appears voluntarily, at the time of appearance.

PRESIDING OFFICIALS

§ 1201.41 Authority of presiding official.

Presiding officials shall conduct fair and impartial hearings and take all necessary action to avoid delay in the disposition of all proceedings. They shall have all powers necessary to that end unless otherwise limited by statute or regulation, including the authority to:

(a) Administer oaths and affirmations;

(b) Issue subpenas in accordance with § 1201.81 of this Part;

(c) Rule upon offers of proof and receive relevant evidence;

(d) Rule upon the institution of discovery procedures as appropriate in accordance with § 1201.73;

(e) Regulate the course of the hearing, maintain decorum, and exclude from the hearing any person engaged in contemptuous conduct or otherwise disrupting the proceeding, any witness whose presence may adversely affect the testimony of any other witness, or any witness who may testify in the future;

(f) Consider and rule upon all procedural and other appropriate motions, witness and exhibit lists, proposed findings;

(g) Require the filing of memoranda of law and the presentation of oral argument with respect to any question of law;

(h) Order the production of evidence relevant to the issues to be resolved in the hearing;

(i) Impose sanctions as provided under § 1201.43 of this Part;

(j) File initial decisions; and

(k) To take any other action authorized by these rules.

§ 1201.42 Disqualification of presiding official.

(a) In the event that a presiding official deems himself/herself disqualified he/she shall withdraw from the case stating on the record the reasons therefor and immediately notify the Board of the withdrawal.

(b) Any party may request the presiding official to withdraw on the grounds of personal bias or other disqualification.

(1) The party seeking disqualification shall file with the presiding official an affidavit setting forth in detail the facts alleged to constitute grounds for disqualification. Such affidavit shall be filed not later than five days before the commencement of the hearing.

(2) The presiding official may file a response to the affidavit, and if he/she believes himself/herself not disqualified, shall so rule and proceed with the hearing.

(3) The person seeking disqualification may except to a ruling of non-disqualification and, in that event, shall do so within three days after receipt of the ruling is made. Unless exception is taken to the ruling at this time, the right to request withdrawal of the presiding official shall be deemed to have been waived.

(4) If exception to the ruling is taken, the presiding official shall immediately certify the question, and transmit the record to the Board. The hearing shall be suspended pending a ruling on the question by the Board.

(5) The Board may rule on the question without hearing, or it may require testimony or argument on the issues raised.

(6) The affidavit, response, testimony or argument thereon, and the Board's decision shall be part of the record in the case.

§ 1201.43 Sanctions.

The presiding official may impose any necessary sanctions upon the parties as will serve the ends of justice including but not limited to:

(a) *Failure to comply with an order:* In the absence of good cause shown, if a party fails to comply with an order, including an order for the taking of a deposition; the production of evidence within the party's control; a request for admission; and production of a witness, the presiding official may:

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) Prohibit the party failing to comply with such order from introducing evidence of, or otherwise relying upon testimony relating to, the information sought;

(3) Permit the requesting party to introduce secondary evidence of the information sought; and

(4) Strike any part of the pleadings or other submission of the party failing to comply with such request pertaining thereto.

(b) *Failure to prosecute:* If a party fails to prosecute his/her case or defend an appeal the presiding official may dismiss the action with prejudice or rule for the appellant.

(c) *Failure to make timely filing:* The presiding official may refuse to consider any motion or other action which is not filed in a timely fashion in compliance with this part.

(d) *Failure to make service:* The presiding official may refuse to consider any motion or other action which is not properly served on all parties. A failure to meet technical requirements of service under this part will not affect the rights of any parties if service was actually completed and the rights of the party being served were not prejudiced.

HEARINGS

§ 1201.51 Scheduling the hearing.

The notice of initial hearing shall fix the date, time and place of the hearing. The hearing shall be scheduled not earlier than ten calendar days after the date of the notice, *provided however,* that this requirement may be waived upon agreement of the parties. All parties shall attend the hearings for the purpose of fully developing the record. The agency, upon request of the presiding official, shall provide adequate hearing facilities. Motions for postponement by either party shall be made in writing and shall be granted only upon a verified showing of good cause.

§ 1201.52 Public hearings.

Hearing shall be public, *provided however,* that the presiding official may order part of a hearing closed, where to do so would be in the best interest of the appellant, a witness, the public or other affected persons. The order shall set forth the reasons for the hearing officer's decision to close a hearing, and any objections thereto, shall be made a part of the record.

§ 1201.53 Transcript.

(a) *Preparation:* Every hearing shall be recorded verbatim under the supervision of the presiding official and shall be the sole official transcript of the proceeding. A copy of the transcript shall be made available to each party; intervenors and other interested parties shall be furnished a copy at their own cost.

(b) *Corrections:* Corrections of the official transcript will be permitted upon motion. Motions for correction must be submitted within ten days of the issuance of the transcript. Corrections of the official transcript will be permitted only when errors of substance are involved and only upon approval of the presiding official.

§ 1201.54 Official record.

The transcript of testimony and exhibits, together with all papers and motions filed in the proceeding shall constitute the exclusive and official record.

§ 1201.55 Motions.

(a) All motions shall be filed with and decided by the presiding official when such decision is within his/her authority.

(b) All motions shall be in writing, shall state the particular order desired and the basis therefor, and shall be served on all parties. The presiding official may waive the requirement for a written submission if it is made during the course of the hearing.

(c) Motions for extension of time will be granted only for good cause shown.

§ 1201.56 Burden and degree of proof.

(a) *Burden of proof:*

(1) Pursuant to Section 7701(c)(2) of the Act, the agency's decision shall not be sustained by the presiding official if the employee can demonstrate that the decision of the agency:

(i) Was based upon harmful error in the application of the agency's procedures in arriving at the decision;

(ii) Was based upon a prohibited personnel practice as set forth in Section 2302(b) of the Act; or

(iii) Was not otherwise in accordance with law or applicable OPM regulations.

(b) In the absence of the appellant's ability to demonstrate the above, the decision of the agency must be sustained by the Board pursuant to Section 7701(b)(1) of the Act if:

(1) It is brought under § 4303 of the Act and can be supported by substantial evidence, or

(2) It is any other type of case and is supported by a preponderance of the evidence.

(c) For purposes of this section, the following definitions shall apply:

(1) *Substantial Evidence:* That degree of relevant evidence which a reasonable mind, considering the record as a whole, might accept as adequate to support a conclusion that the matter asserted is true.

(2) *Preponderance of the Evidence:* That degree of relevant evidence which a reasonable mind might accept as sufficient to support a conclusion that the matter asserted is more likely to be true than not true.

(3) *Harmful error:* Error by the agency in the application of its procedures which, in the absence or cure of the error, would have caused the agency to reach a conclusion different

than the one reached. The burden is upon the appellant to show that the harmful error caused substantial harm or prejudice to his/her rights.

(d) *Moving forward:*

In cases where action has been taken against an employee by the agency, the agency shall present its case first. The appellant may then present evidence, *provided however,* that the appellant shall have the burden of proof as to issues of jurisdiction and timeliness of filing.

§ 1201.57 Closing the record.

(a) When there is a hearing, the record shall be closed at the conclusion of the hearing except that, when the presiding official allows the parties to submit argument or briefs or documents previously identified for introduction into evidence, the record shall be left open for such time as the presiding official grants for that purpose.

(b) If the appellant waives a hearing, the record shall be closed on the date set by the presiding official as the final date for the receipt of representations of the parties to the matter.

(c) Once the record is closed, no additional evidence or argument shall be accepted into the record except upon a showing that new and material evidence which was not readily available prior to the closing of the record becomes available. *Provided however,* that the presiding official shall make part of the record any motions for attorneys fees and supporting documentation.

EVIDENCE

§ 1201.61 Service of documents.

All documents referred to in the pleadings shall be served upon all parties to the proceeding in the same manner as pleadings, to the extent practicable. Exception to this rule shall be made for medical evidence which a prudent physician would hesitate to release to a patient. Such evidence shall be made available only to a duly licensed physician designated by the appellant or his/her representative.

§ 1201.62 Admissibility.

(a) Evidence or testimony may be excluded from consideration by the presiding official if it is unduly repetitious, irrelevant, or immaterial.

(b) All evidence and testimony or, where appropriate a description thereof, offered in the hearing, but excluded by the presiding official, shall be made a part of the record.

§ 1201.63 Production of evidence by order of presiding official.

At any stage of a hearing, the presiding official may request further evidence upon an issue and require its submission.

§ 1201.64 Production of statements.

After a witness has given direct testimony in a hearing, any party may move for production of a statement of such witness, or part thereof relevant to his/her direct testimony, which has been reduced to writing and signed by the witness and is in the possession of the party calling the witness. If the party decline to furnish the statement, the testimony of the witness pertaining to the requested statement may be stricken.

§ 1201.65 Admission of facts and genuineness of documents.

(a) The presiding official may order any party to respond to the requests for the admission of the genuineness of any relevant documents identified within the request or the truth of any relevant matters of fact or law as set forth in the request.

(b) Within the time period prescribed by the presiding official, the party on whom the request is served must serve upon all parties;

(1) A sworn statement specifically denying or admitting or expressing a lack of knowledge regarding the specific matters on which an admission is requested.

(2) An objection to the request in whole or in part on the ground that the matters contained therein are priviledged, irrelevent or otherwise improper.

§ 1201.66 Stipulations.

The parties may stipulate as to any matter of fact or law except the jurisdiction of the Board. Such a stipulation will satisfy a party's burden of proving the alleged fact.

§ 1201.67 Official notice.

The presiding official on his/her own, or on motion of a party, may take official notice of matters of common knowledge or certain verification, *provided however,* that the parties must be advised and given the opportunity to oppose the propriety of taking such notice, and any notice must be noted in the record. Official notice satisfies a party's burden of proving the fact noticed.

DISCOVERY

§ 1201.71 Statement of purpose.

It is the intent of the Board that all proceedings will be conducted as expeditiously as possible with due regard to the rights of the parties. With regard to discovery these two considerations require that a careful balance be established between avoiding unproductive delay in adjudication and obtaining that information essential to perfect the record. Accordingly, the discretion of the presiding official must be carefully exercised in determining the necessity for discovery.

§ 1201.72 Scope.

Any person may be examined regarding any non-privileged matter, which is relevant to the hearing issue, including the existance, description, nature, custody, condition and location of documents or other tangible things and the identity and location of persons having knowledge of relevant facts.

§ 1201.73 Orders for discovery.

(a) *Request for order:* Motions for orders to take deposition or to respond to written interrogatories under 5 U.S.C. § 1205(b)(2)(B) shall be submitted to the presiding official.

(b) *Ruling:* Where the presiding official does not have the authority to issue the requested order, the motion shall be transmitted with a recommendation for decision to the officer on duty. This officer shall be either an administrative law judge or a Member of the Board, with authority to grant or deny such requests, and shall promptly rule on the request. Where the presiding official has the authority to do so, he/she shall rule directly on the request. This order shall include, where appropriate:

(1) Provision for notice to the party to be orally deposed as to the time and place of such deposition;

(2) Placement of any limitations on the conduct of the proceeding or the subject matter necessary to protect any party or deponent from expense, embarrassment or oppression;

(3) Placement of any limitations upon the time for deposition; submission of or answer to written interrogatories; or production of evidence; and

(4) Any other restrictions upon the discovery procedures as determined by the presiding official.

§ 1201.74 Taking of depositions.

Depositions may be taken before a presiding official, or a notary public not interested in the outcome of the proceeding.

§ 1201.75 Rules governing discovery procedures.

Because discovery in matters before the Board is intended to be of a simplified nature, procedures are not set forth in great detail. To the extent, however, that the nature of discovery in a case required further guidance, the presiding official and parties may refer to the Federal Rules of Civil Procedure. Such rules should be interpreted as being instructive rather than controlling.

SUBPENAS

§ 1201.81 Motions for subpenas.

(a) *Motions for subpena:* Motions for the issuance of subpenas requiring the attendance and testimony of witnesses or the production of documents or other evidence under 5 U.S.C. 1205(b)(2)(A) shall be submitted to the presiding official.

(b) *Form:* Motions for a subpena shall be submitted in writing, shall be served on all parties, and shall specify with particularity the books, papers and documents desired and the facts expected to be proven thereby.

(c) *Rulings:* Where the presiding official does not have the authority to issue subpenas, the motion shall be transmitted with a recommendation for decision to the officer on duty. Such officer, shall be either an administrative law judge or a Member of the Board, with authority to grant or deny such requests, and shall promptly rule on the request. Where the presiding official has the authority to do so, he/she shall rule directly on the request.

(d) All requests for subpenas shall be supported by a showing of the general relevance and reasonable scope of the evidence sought.

§ 1201.82 Motions to quash.

Any person against whom a subpena is directed may file a motion to quash or limit the subpena, setting forth the reasons why the subpena should not be complied with or why it should be limited in scope. This motion shall be filed with the presiding official and shall be processed, where appropriate, as set forth in subsection (c).

§ 1201.83 Service.

Service of subpena may be made by a United States Marshall or Deputy Marshall, by Board personnel, or by any person who is not a party to the hearing and who is over 18 years of age.

§ 1201.84 Return of service.

The service of a subpena by a person other than a United States Marshall or Deputy Marshall shall be attested to by the person making such service. The attesting affidavit shall state the date, time and method of making service.

§ 1201.85 Enforcement.

In the case of contumacy or failure to obey a subpena issued, the Board, pursuant to 5 U.S.C. 1205(c), may request enforcement of the subpena in the United States District Courts. Application for enforcement of the subpena shall be made by the General Counsel of the Board.

INTERLOCUTORY APPEALS

§ 1201.91 Interlocutory appeals.

Because of the expedited nature of the proceedings, interlocutory appeals shall not be entertained by the Board unless specifically provided for by these regulations. Objection to any ruling of a presiding official shall be noted on the record and may be raised to the Board in a petition for review.

EX PARTE COMMUNICATIONS

§ 1201.101 Definitions.

(a) *Ex parte communication:* Any written presentation made to the decision-making personnel of the Board during the course of a restricted proceeding in the absence of service on the parties to the proceeding or any oral presentation made during the course of a restricted proceeding in the absence of advance notice to the parties.

(b) *Restricted proceeding:* All adjudicative proceedings, from the time they are filed until the time they are no longer subject to review or reconsideration by the Board.

(c) *Interested persons:* Any person having a direct or indirect interest in the outcome of a restricted proceeding, including the following:

(1) Parties to the restricted proceeding.

(2) Any other person who might be aggrieved or adversely affected by the outcome of the restricted proceeding.

(3) Agents for persons who might be aggrieved or adversely affected by the outcome of the restricted proceeding, including attorneys and other representatives.

(d) *Decision-making Board personnel:* The term "decision-making personnel" includes any presiding official and his/her immediate staff or other Board employee who participates, or can reasonably be expected to participate, in the intial decision-making process on review or reconsideration.

§ 1201.102 Prohibition against ex parte communications.

No interested person shall, in a restricted proceeding, make or knowingly cause to be made, any ex parte communications to decision-making personnel which relate to the merits of any action or any facts or questions of law at issue.

§ 1201.103 Permissible ex parte communications.

The following ex parte communications shall not be considered to be ex parte communication prohibited by the provisions of this subpart:

(a) Any request for information which does not relate to the merits of an action or any facts or questions of law at issue; and

(b) Any communication from an agency of the Federal government involving classified security information.

§ 1201.104 Sanctions for prohibited ex parte communications.

(a) *Parties:* To the extent consistent with the interests of justice and the public, a party who has made an ex parte presentation may be required to show cause why his/her claim or interest in the proceeding should not be dismissed, denied, disregarded or otherwise adversely affected.

(b) *Board Personnel:* Violations of the provisions of this subpart by Board personnel will be treated in accordance with the established Standards of Conduct.

(c) *Other persons:* Such sanctions as may be appropriate under the circumstances will be imposed upon other persons who violate the provisions of this subpart.

FINAL DECISIONS

§ 1201.111 Initial decisions by presiding officials.

(a) The presiding official shall prepare an initial (or recommended) decision within 25 days of the closing of the record. Such initial decision shall be immediately transmitted to the Secretary of the Board, to the Director of OPM and to all parties to the appeal.

(b) Each initial decision shall contain:

(1) Findings of fact and conclusions, as well as the reasons or bases therefor, upon all the material issues of fact and law presented on the record;

(2) An order as to the final disposition of the case, including appropriate relief; and

(3) The date upon which the decision will become effective.

§ 1201.112 Jurisdiction of the presiding official.

The jurisdiction of the presiding official other than the Board shall cease after he/she has filed the initial decision, *provided however,* that he/she shall retain limited jurisdiction over the proceeding for the purpose of correcting the transcript and ruling on any request made by the appellant for attorney fees.

§ 1201.113 Finality of decision.

The initial decision of the presiding official shall become final 30 days after receipt.

(a) *Exceptions:* The initial decision shall not become final if any party files a petition for review or the Board reopens the case.

(b) *Petition for review denied:* Where all petitions for review are denied by the Board, the initial deci-

sion shall become final on the date of the denial.

(c) *Petition for review granted or case reopened:* Where a petition for review is granted or the Board reopens a case the decision of the Board shall be the final decision.

§ 1201.114 Exhaustion of administrative remedies.

(a) *Petition for review denied:* Where all petitions for review have been denied, administrative remedies shall be deemed to have been exhausted on the date of denial.

(b) *Petition for review granted or case reopened:* Where a petition(s) for review has been granted or the case reopened, administrative remedies shall be deemed to have been exhausted on the date of issuance of the final decision of the Board.

(c) *Petition for review not filed, case not reopened:* Where on the 30th day after receipt of decision, no petition(s) for review has been filed and the Board has not reopened the case, administrative remedies shall be deemed to have been exhausted.

§ 1201.115 Petitions for review: contents.

The petitions for review shall contain exceptions to the decision of the presiding official. The basis for each exception shall be clearly set forth and shall include the laws, rules or regulations relied upon in support of the petition with specific reference to the record. The Board may grant a petition for review when the party requesting review submits written argument and supporting documentation tending to establish that:

(a) New and material evidence is available that despite due diligence was not available when the decision of the presiding official was issued; or

(b) The decision of the presiding official is based upon an erroneous interpretation of law, rule, or regulation, or a misapplication of established policy; or

(c) The decision of the presiding official is of a precedential nature involving new or unreviewed policy considerations that may have substantial impact on a civil service law, rule, regulation or a more Government-wide policy directive.

§ 1201.116 Filing of petition.

(a) *Who may file:* Any party to the proceeding (except for a permissive intervenor) and the Director of OPM may file a petition for review. Under 5 U.S.C. 7701(e)(2) the Director may request review of a case only if he/she is of the opinion that the decision is erroneous and will have a substantial impact on any civil service law, rule, or regulation under the jurisdiction of the Office.

(b) *Time:* A petition for review of the initial decision of the presiding official must be filed within 30 days of receipt of the decision. The date of receipt of the decision shall be deemed to be the third calendar day following the date of issuance of that decision. The Board may extend the 30 day time limit for good cause shown.

(c) *Place:* A petition for review shall be filed with the Secretary to the Merit Systems Protection Board, Washington, D.C. 20419.

§ 1201.117 Board reopening and reconsideration of case.

The Board may reopen and reconsider a decision of a presiding official on its own motion at any time, notwithstanding provisions of § 1201.114(c).

§ 1201.118 Review or reopening of initial decision by Board.

(a) In any case where the Board determines to reopen or review a case on its own motion, or on the basis of a petition, it shall inform the parties, and may:

(1) Hear oral argument;

(2) Require the filing of briefs;

(3) Remand the proceedings to the presiding official to take further testimony or evidence or to make further findings or conclusions; or

(4) Take any other action necessary for final disposition of the case.

(b) The Board may affirm, reverse, remand, modify or vacate the decision of the presiding official, in whole or in part, upon review or reconsideration. Where appropriate, the Board shall issue a final decision and order a date for compliance.

Subpart C—Hearing Procedures for Original Jurisdiction Cases

Actions Brought by the Special Counsel

§ 1201.121 Compliance with hearing procedures under Subpart B.

In cases where the Special Counsel, pursuant to statute, files a complaint or request with the Board, he/she shall comply as appropriate with the regulations set forth in subpart B, regarding hearing procedures, except as otherwise provided in this subpart.

§ 1201.122 Special Counsel complaints.

If the Special Counsel determines that any of the following actions should be taken, a written complaint setting forth with particularity the supporting facts and any alleged violations of law or regulation shall be filed in duplicate with the Office of the Secretary and served on all parties:

(a) Action to require agency to take corrective action as recommended by the Special Counsel (5 U.S.C. 1206(c)(1)(B)).

(b) Action to correct a pattern of prohibited personnel practices not otherwise appealable to the Board (5 U.S.C. 1206(h)).

(c) Action to discipline employee (5 U.S.C. 1207).

§ 1201.123 Rights of employees.

An employee against whom a complaint for disciplinary action has been presented shall have the right to:

(a) File an answer to the complaint along with affidavits and documentary evidence;

(b) represented by an attorney or other representative;

(c) A hearing upon the record before the Board or an administrative law judge; and

(d) A written decision by the Board and the reasons therefor, issued at the earliest practicable date, including a copy of any final order imposing disciplinary action.

§ 1201.124 Answer.

(a) *Filing and default:* An answer to any complaint by the Special Counsel shall be filed with the Secretary of the Board within 30 days of receipt by the agency or employee. In the absence of good cause shown, failure to file an answer by an agency shall be deemed to constitute a waiver of the right to contest the allegations of the complaint. This failure shall authorize the administrative law judge or Board to find the facts alleged in the complaint to be true and to enter an initial decision.

(b) *Content:* The answer shall conform to the following:

(1) *Allegations of the complaint which are contested:* An answer shall contain, for those allegations of a complaint which are contested:

(i) A concise statement of the facts constituting each ground of defense and any documentary evidence in support thereof;

(ii) Specific admission, denial, or explanation of each fact alleged in the complaint or, if the respondent is without knowledge thereof, a statement to that effect. Allegations of a complaint not thus answered shall be deemed to have been admitted.

(c) *Allegations of the complaint which are admitted:* For those allegations which the respondent elects not to contest, the answer shall consist of statements of admissions to the truth of each allegation. Such portions of an answer shall constitute a waiver of hearings as to those facts alleged in the complaint, and together with the complaint will provide a record basis for decision.

§ 1201.125 Final Orders of the Board.

(a) In any action seeking correction of a prohibited personnel practice, after providing an opportunity for

comment by the agency and OPM, the Board may order such corrective actions as it considers appropriate. (5 U.S.C. 1206(c)(1)(B)).

(b) In any action seeking correction of a pattern of prohibited personnel practices not otherwise appealable to the Board, the Board may order an agency or employee to take such corrective actions as the Board determines necessary. (5 U.S.C. 1206(h)).

(c) In any action to discipline an employee a final order of the Board may impose disciplinary action consisting of removal, reduction in grade, debarment, suspension, reprimand, or an assessment of a civil penalty not to exceed $1,000.00. (5 U.S.C. 1207).

(d) In any action seeking the withholding of federal funds pursuant to 5 U.S.C. 1508 where a state or local employee has engaged in prohibited political activities, the Board may order that federal funds to the affected state or local government be withheld.

§ 1201.126 Request for stay.

The Special Counsel may request the Board or a Member of the Board to order a stay of any personnel action.

(a) *Content:* The request shall be signed by the Special Counsel or his/her representative and shall clearly set forth the following:

(1) The names of the parties;

(2) The agency and officials involved;

(3) The nature of the action to be stayed;

(4) A concise statement of the facts upon which the Special Counsel has determined there are reasonable grounds to believe that the personnel action was taken or is to be taken as a result of a prohibited personnel practice;

(5) The laws or regulations alleged to have been violated or which will be violated if the stay is not issued; and

(6) A proposed order to be issued by the Board.

(b) *Place of filing:* A petiton for stay shall be filed in duplicate with the Office of the Secretary and shall be served on all parties in accordance with these rules.

(c) *Action on the request for stay:*

(1) The Board or a Member of the Board shall order a stay for 15 days unless it is determined to be not appropriate under the facts and circumstances presented. Unless denied a request for an initial 15 day stay shall be granted within three calendar days after the date of request. The stay may be extended by the Board or a Member of the Board for up to 30 additional days upon request by the Special Counsel.

(2) Upon 5 days' notice to the Special Counsel and the agency of the opportunity for oral or written comment as the Board deems appropriate, the Board pursuant to 5 U.S.C. 1208(c) may extend a stay for any period it deems appropriate.

(3) At any time, the Board or where appropriate, a Member of the Board, may request the Special Counsel to appear and present further information or explanation on a petition for a stay.

§ 1201.127 Special Counsel actions heard by Administrative Law Judge.

(a) Where an action brought by the Special Counsel is heard by an administrative law judge at the direction of the Board, the decision shall be a recommended decision to the Board in accordance with 5 U.S.C. 557.

(b) Any exceptions to the recommended decision of the adminstrative law judge shall be filed with the Board within 20 days.

§ 1201.128 Administrative Appeal.

No administrative appeal lies from an order of the Board.

ACTIONS AGAINST ADMINISTRATIVE LAW JUDGES

§ 1201.131 Procedures.

Where, pursuant to 5 U.S.C. 7521, an agency proposed to take action against an administrative law judge appointed under 5 U.S.C. 3105, the hearing shall comply with the procedures established under subpart B, except as otherwise provided.

§ 1201.132 Presiding official.

(a) The presiding official in all cases brought under this section shall be the Board or an administrative law judge;

(b) Where the presiding official is an administrative law judge, the decision shall be a recommended decision to the Board under 5 U.S.C. 557.

(c) Any exceptions to the decision of the administrative law judge shall be filed with the Board within 20 days.

§ 1201.133 Board jurisdiction.

The proposed agency actions which may be heard before the Board under this provisions are limited to:

(a) A removal;

(b) A suspension;

(c) A reduction in grade;

(d) A reduction in pay; and

(e) A furlough of 30 days or less.

§ 1201.134 Filing of complaint.

Any action against an administrative law judge shall be initiated by the filing of a complaint by the agency setting forth with particularity the facts in support of the proposed action.

§ 1201.135 Procedure.

The administrative law judge against whom the complaint is filed shall file an answer to the complaint in compliance with § 1201.124 of this subpart.

§ 1201.136 Showing required.

Proposed agency actions under this section are sustainable only for good cause shown.

REMOVAL FROM THE SENIOR EXECUTIVE SERVICE

§ 1201.14 Entitlement to hearing.

In the case of removal of a career appointee from the Senior Executive Service to a civil service position outside the Senior Executive Service pursuant to 5 U.S.C. 3592, when such action is based on less than fully successful performance as determined under subchapter II of Chapter 43 of title 5, United States Code, the career appointee shall, at least 15 days before the effective date of the removal, be entitled, upon request, to an informal hearing before an official appointed by the Board.

§ 1201.142 Hearing procedures.

In an informal hearing before the Board or its designee as provided for in this section, the appointee may appear and present arguments on the record but shall not be entitled to any other procedural rights.

§ 1201.143 Right to appeal.

No right to appeal from this action shall be available uner 5 U.S.C. § 7701, nor shall the removal action be delayed as a result of this hearing.

Subpart D—Procedures for Cases Involving Allegations of Discrimination

§ 1201.151 Scope and policy.

(a) *Scope.*

(1) The rules in this subpart implement 5 U.S.C. 7702. They apply to actions otherwise appealable to the Board where an employee or applicant for employment alleges that the basis for the action, in whole or in part, was probited discrimination.

(2) "Prohibited discrimination" as used in this subpart means that discrimination prohibited by:

(i) Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16c);

(ii) Section 6(d) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(d));

(iii) Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791);

(iv) Sections 12 and 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 631a); or

(v) Any rule, regulation or policy directive prescribed under any provision of law described in (i) through (iv) above.

(b) *Policy.* It is the policy of the Board to make every effort to fairly and thoroughly adjudicate issues

raised under this subpart in the course of an action brought before the Board. Particular emphasis is to be placed on providing appellants the opportunity to raise allegations of discrimination in the appeals process and developing the evidentiary record as to the veracity thereof.

§ 1201.152 Compliance with procedures under subpart B.

All actions involving allegations of prohibited discrimination shall comply with the provisions of subpart B of these regulations except as otherwise provided in this subpart.

§ 1201.153 Petition.

(a) *Content:* A petition for appeal raising issues of prohibited discrimination under this subpart shall comply with the provisions of § 1201.24 with the following exceptions:

(1) The petition shall state with particularity the basis for the allegation of discrimination. This statement shall not simply allege that there was discrimination, but must, by examples or otherwise, indicate how the appellant was discriminated against; and

(2) The petition shall state whether the appellant has filed a discrimination complaint with his/her agency or any other agency, the date of filing such a complaint and the action (if any) taken.

(b) *Use of Form:* Completion of the form in Appendix II to these regulations, including Questions 19A and B, shall constitute compliance with the provisions in (a) above.

(c) *Time for Filing:* A petition raising issues of prohibited discrimination shall be filed in accordance with the following schedule:

(1) Where the appellant has filed a complaint of discrimination or grievance with the agency, a petition must be filed within 20 days following agency resolution or final decision on the discrimination issue.

(2) Where the appellant has filed a complaint of discrimination or grievance with the agency, but the agency has taken no action on the complaint within 120 days, a petition may be filed anytime after the lapse of the 120 day period.

(3) Where the appellant has been subjected to an action appealable to the Board, he/she must either file a complaint of discrimination with the agency or appeal to the Board within the time prescribed by § 1201.22(b).

§ 1201.154 Allegations of discrimination not raised in petition.

(1) *Timeliness:* Failure of an appellant to raise an allegation of prohibited discrimination in a petition for appeal shall not be a basis for exclusion of the issue(s) from consideration. Exclusion of the issue from consideration shall be made only upon a showing by the agency that to consider the issue(s) would prejudice the rights of the agency and unduly delay the proceedings.

(2) *Effect:* Where an appellant raises an allegation of prohibited discrimination in the course of proceeding which was not raised before the agency prior to appeal, the presiding official shall use his/her authority under § 1201.41 of these regulations and particularly subsection (h) of that section, to develop the record sufficiently to make a determination on the issue. The presiding official is not required to remand the issue to the agency for determination *provided however,* that he/she may do so upon written agreement of both parties submitted for the record. If the issue is so remanded the appeal shall be dismissed without prejudice.

(3) *Agency answer:* Where an appellant alleges prohibited discrimination during the course of the proceeding, the agency shall be given a reasonable opportunity to refute the allegation through a responsive pleading, testimony or production of documents or as otherwise permitted by the presiding official.

§ 1201.155 Time for processing appeals involving discrimination.

(a) *Issue raised in petition:* Where an appellant alleges prohibited discrimination in the petition for appeal, the Board shall decide both the issue of discrimination and the appellable action within 120 days of the filing of the appeal.

(b) *Issue not raised in petition:* Where an appellant has not alleged prohibited discrimination in the petition for appeal, but raises the issue subsequently in the proceeding, the Board shall, decide both the issue of discrimination and the appealable action within 120 days after the issue is raised.

§ 1201.156 Presiding official.

An appeal from a final decision or order under 5 U.S.C. 7121 or 7122 by an arbitrator or the Authority shall be heard by an administrative law judge or the Board.

§ 1201.157 Final decision.

Any final decision of the Board shall notify the appellant of his/her rights to petition the Equal Employment Opportunity Commission to consider the Board's decision or to file a civil action in an appropriate United States District Court.

§ 1201.158 Action by the Commission.

(a) In cases where an appellant petitions the Commission for consideration under 5 U.S.C. 7701(b)(2) the Commission shall determine, within 30 days after the date of petition, whether to consider the Board's decision.

(b) Where the Commission determines to consider the Board's decision, within 60 days after making such determination, it shall complete its consideration and either—

(1) Concur in the decision of the Board; or

(2) Issue in writing another decision which differs from the decision of the Board to the extent that the Commission finds that, as a matter of law—

(i) The decision of the Board constitutes an incorrect interpretation of any provision of any law, rule, regulation, or policy directive relating to prohibited discrimination; or

(ii) The decision involving such provision is not supported by the evidence in the record as a whole.

(iii) *Transmittal of record:* The Board shall transmit a copy of its record to the Commission upon request.

(iv) *Development of additional evidence:* When requested by the Commission, the Board shall develop additional evidence necessary to supplement the record.

§ 1201.159 Board action on the Commission decision.

(a) Within 30 days after receipt of a decision of the Commission issued under § 1201.155, the Board shall consider the decision and—

(1) Concur and adopt in whole the decision of the Commission; or

(2) To the extent that the Board finds that, as a matter of law, (i) the Commission decision constitutes an incorrect interpretation of any provision of any civil service law, rule, regulation, policy directive, or (ii) the Commission decision involving such provision is not supported by the evidence in the record as a whole—

(A) Reaffirm the decision of the Board; or

(B) Reaffirm the decision of the Board with such revisions as it determines appropriate.

SPECIAL PANEL

§ 1201.160 Referral of case to special panel.

If the Board reaffirms its decision, with or without modification, under § 1201.156, the matter shall be immediately certified to the special panel established pursuant to 5 U.S.C. 7702(d). Upon certification, the Board shall, within 5 days (excluding Saturdays, Sundays, and Federal holidays), transmit to the special panel the administrative record in the proceeding, including—

(a) The factual record compiled under this section;

(b) The decisions issued by the Board and the Commission under this section; and

(c) Any transcript of oral arguments made, or legal brief filed, before the Board or the Commission.

§ 1201.161 Action by special panel.

The special panel, convened pursuant to 5 U.S.C. 7702(d)(2)(A), shall review the administrative record transmitted to it, and, on the basis of the record, issue a final decision within 45 days of certification of a matter to it under § 1201.159. The Board shall, upon receipt of the decision of the special panel, order the agency concerned to take any action appropriate to carry out the decision of the panel.

Subpart E—Compliance Enforcement

§ 1201.171 Enforcement of Board orders.

(a) *Notice to show cause.* The Board may, on petition or its own motion, issue a notice to show cause to any Federal employee, as to why he/she has failed to comply with the order of the Board. Such notice may require the employee or his/her representative to appear before the Board within a reasonable time period under the circumstance or may permit the employee to respond to the order in writing.

(b) *Hearing.* If the Board determines to hold a hearing on a notice to show cause, it shall be on the record.

(c) *Certification to the Comptroller General.* Where appropriate, following hearing the Board may, pursuant to 5 U.S.C. 1205(d)(2), certify to the Comptroller General of the United States that no payment shall be made to the employee failing to comply with the Board's order, other than a Presidential appointee subject to confirmation by the Senate.

PART 1202—STATUTORY REVIEW BOARDS

§ 1202.1 Designation of Chair of Statutory Review Boards.

Upon written request by the agency—

(a) The Chair of the Board shall designate a hearing officer of the Board to serve as Chair of the Boards of Review, established by the Secretary of Transportation pursuant to 5 U.S.C. 3383(b) for review of certain actions to remove air traffic controllers.

(b) The Board shall designate qualified employees of the Board to serve as chairs of performance rating review boards which may be required to be established pursuant to 5 U.S.C. 4302(b) of the Act as in effect immediately before the effective date of the Act until such time that all reviews of performance ratings pending on the effective date of the Act have been disposed of.

APPENDIX I—MERIT SYSTEMS PROTECTION BOARD APPEAL FORM

The purpose of this form is to facilitate your filing an appeal with the Merit Systems Protection Board ("the Board") from an action or determination which was taken against you or made by a Federal agency. You are *not* required to use this form or to limit yourself to answering the questions on the form. If you do, however, it will make it easier for you to provide the information to the Board which it needs to decide your case. If you don't use this form, your petition for appeal must otherwise comply with the Board's regulations which can be found at Part 1200 of Title 5 of the Code of Federal Regulations or Volume——page——of the FEDERAL REGISTER (June , 1979). Your personnel office will assist you in obtaining these regulations and the Board advises you to review them.

Privacy Act Statement: This form requests personal information which is relevant and necessary to reach a decision in your appeal. The Merit Systems Protection Board collects this information in order to process appeals under its statutory and regulatory authority. Since your appeal is a voluntary action you are *not* required to provide any personal information in connection with it. However, failure to supply the Merit Systems Protection Board with all the information essential to reach a decision in your case could result in the rejection of your appeal.

The decisions of the Merit Systems Protection Board on appeal are final administrative decisions and, as such are available to the public under the provisions of the Freedom of Information Act. Some information about your appeal will also be used in depersonalized form as a data base for program statistics. If there is a need to disclose information from your appeal file for reasons other than these, or those cited in the Privacy Act (5 U.S.C. 552a(b)) or as required by the Freedom of Information Act (5 U.S.C. 552a), your prior written consent will be obtained.

SECTION I: GENERAL [1]

Last First Middle

1. Your Name:
2. Your Social Security Number:
3. Your Present Address:
Street No.:
City:
State and Zip Code:
4. Home Phone: ( ).
5. Office Phone: ( ).
6. Agency Taking Action:
7. Bureau Within Agency:
8. Location of Agency:
(Street, City, State)
9. Position Title:
10. Grade and Salary:
11. Veteran: Yes ( ) No ( ).
12. Type of Appointment:
(a) Temporary ( ) Permanent ( ) Applicant ( ) Term ( ).
(b) Competitive ( ) Excepted ( ).
(c) Length of Government Service:
(d) Length of Service with Agency in Item 6:
(e) If Annuitant, Date of Retirement:
(f) Were you serving a probationary or trial period on the date of the action appealed? Yes ( ) No ( ).

SECTION II. ACTION TAKEN

13. What was the date you received the proposed notice to take this action?
(Day, Month, Year) / /
Attach copy of notice.
14. What was the date you received notice of the decision to take this action (or date determination was received)?
(Date, Month, Year) / /
Attach copy of notice.
15. What is (was) the effective date of this action or determination?
(Date, Month, Year) / /
16. What was the action (or determination) (for example: removal, suspension, denial or retirement benefits) taken by the agency? Explain briefly and attach any relevant documents.
17. Why do you think the agency was wrong in taking this action? Explain briefly and attach any relevant documents.
18. Have you, or anyone on your behalf, filed an appeal, a grievance, or a complaint with your agency or any other agency concerning this matter?
Yes —— No ——
If yes, when (date) ——————
Where or with whom ——————

Basis for appeal, grievance or complaint

Has a decision been issued? Yes —— No ——

If so, when——————
By whom —————— Title ——————

Attach copy.

19. (A) If you believe that the action of the agency was based on prohibited discrimination because of your race, color, religion, sex, national origin, marital status, political affiliation, handicapping condition or age, indicate so and explain why you believe this to be true. It is not sufficient to just state that there was discrimination. You must by examples or otherwise, indicate how you were discriminated against.

[1] In filling out this form, wherever the space provided is insufficient you may add additional pages. If you do so, please put your name and Social Security number at the top of the page, and indicate which number question you are answering.

19. (B) Have you filed a discrimination complaint with your agency or any other agency?

Date filed: _____
Place of filing: _____

Has there been a decision? Yes ( ) No ( )

If "yes" attach copy.

20. What action would you like the Board to take in this case?

SECTION III. REDUCTION-IN-FORCE

Fill out this Section only if you are appealing from a reduction-in-force

21. Tenure Sub-Group

22. Service Computation Date

23. Has your agency offered you another position in lieu of separation? Yes ( ) No ( )

If your answer is "Yes," please give the following information:

(A) Title of position offered to you _____
(B) Grade and salary of position offered to you _____
(C) Location of position offered _____

(D) Did you accept this position? Yes ( ) No ( )

24. Please answer the questions below if they are relevant to the basis for your appeal. For those boxes checked, please give us as much information as possible to substantiate your claim:

a. Agency made an error in computing my service computation date. Explain:

b. I was placed in the wrong tenure sub-group. Explain:

c. My competitive area is too narrow. Explain and identify each position you believe should have been included in your competitive level:

d. My competitive level is too narrow (or broad). Explain:

e. I believe that I was improperly reached for separation from my competitive level. Explain:

f. An exception to the regular order of selection was made in my case. I was not given sufficient reasons to explain why employees with lower retention were retained. Explain:

g. I was not given full 30-day notice. Explain:

h. I believe that I am qualified to "bump" a person or persons in lower tenure sub-group. (For each such person, give name, title of position, and grade.) Explain:

i. (Other) Explain:

SECTION IV: HEARING

25. You have a right to a hearing on this appeal. If you do not want to have a hearing the Board will make its decision on the basis of the documents which you and the agency submit. Do you want a hearing? Yes ( ) No ( ) If you choose to have a hearing the Board will notify you when and where it is to be held.

26. You have the right to designate someone to represent you on this appeal if he/she agrees to do so and has the necessary time. This person does not have to be an attorney. You may change this designation at a later date if you so desire, but must notify all the parties and the Board of this change. Please provide the name of this representative:

Name: Last First Middle

Employer:

Address: (Street, City, State, Zip):

27. You may be permitted to call witnesses at a hearing upon the approval of the presiding official. If you intend to do so, provide their names and a brief statement of their relationship to the case. You will be permitted to request other interests later if you do not list them now.

(1) Name:
Relationship to case:
(2) Name:
Relationship to case:
(3) Name:
Relationship to case:

27. Additional comments or information you would like to supply.

Your Signature: _____
Date: _____
Signature of Representative (if any): _____
Date: _____

You or your representative are required to file two (2) copies of this form and attachments with the Board's field office as specified in the decision notice provided by the agency. Additionally, you must provide one (1) copy of this form to the agency representative identified in that notice. This must be done each time you file something with the Board.

You may provide a copy of your appeal to the agency representative by mail or personal delivery. If you do so by mail, you must put it in a public mailbox after filling out Form A below which should be attached to your appeal. If you deliver it personally you must take it to the business office of the agency representative and leave it with the representative or someone in his/her office (e. g., a secretary) after filling out and attaching Form B below.

FORM A

CERTIFICATE OF SERVICE (BY MAIL)

I hereby certify that I have mailed a copy of this petition this day in the City of _____, state of _____, by depositing it in a mailbox of the United States Postal Service. This copy was addressed to: Name _____ at Address _____.

Signed: _____
Date: _____
Address: _____

APPENDIX II—APPROPRIATE FIELD OFFICE FOR FILING APPEALS

All submissions shall be addressed to the Chief Appeals Officer, Merit Systems Protection Board at the below-listed addresses, according to geographic region of employing agency.

Address of Appropriate Field Office and Area where Agency is Located

1. 1340 Spring Street, Atlanta, Georgia 30309—Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.

2. 100 Summer Street, Room 1736, Boston, Massachusetts 02110—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

3. Federal Office Building, 31st Floor, 230 South Dearborn Street, Chicago, Illinois 60604—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.

4. 1100 Commerce Street, Dallas, Texas 75242—Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Swan Island.

5. Building 46, Denver Federal Center, Box 25025, Denver, Colorado 80225—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.

6. New Federal Building, 26 Federal Plaza, New York, New York 10007—New Jersey, New York, Puerto Rico, Virgin Islands.

7. U.S. Customhouse, Rm. 501, Second and Chestnut Streets, Philadelphia, Pennsylvania 19106—Delaware, Maryland, Pennsylvania, Virginia, West Virginia.

8. 525 Market Street, San Francisco, California 94105—Arizona, California, Hawaii, Nevada, Pacific Ocean area.

9. Federal Building, 26th Floor, 915 Second Avenue, Seattle, Washington 98174—Alaska, Idaho, Oregon, Washington.

10. 1256 Federal Building, 1520 Market Street, St. Louis, Missouri 63103—Iowa, Kansas, Missouri, Nebraska.

11. Washington Field Office, 1717 H Street, Washington, D.C. 20419—Washington, D.C. Metropolitan area, all overseas areas not otherwise covered.

[FR Doc. 79-9093 Filed 3-22-79; 8:45 am]

federal register

FRIDAY, MARCH 23, 1979

PART XII

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

■

FOOD STAMP PROGRAM

Voluntary Quit Provision

[3410-30-M]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—FOOD STAMP PROGRAM

[Amdt. No. 137]

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final Rule.

SUMMARY: This final rulemaking sets forth procedures for implementing the work registration voluntary quit provision mandated by the Food Stamp Act of 1977.

EFFECTIVE DATE: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Deputy Administrator, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250, 202-447-8982.

SUPPLEMENTARY INFORMATION: On November 21, 1978 (43 FR 54253-54254) the Department published a proposal to implement the "voluntary quit" provisions (section 6(d)(1)(iii)) of the Food Stamp Act of 1977 (the Act). Based on the Act, the proposal disqualified from participation for a period of two months those applicant households in which the primary wage earner voluntarily quit employment without good cause.

One-hundred and twenty-two letters with approximately 235 comments were received from organizations and persons regarding the proposal.

It was apparent from the comments that there was some confusion regarding the interaction of the regular work registration requirements and the voluntary quit provision. The voluntary quit provision is applicable to only those individuals required to register for employment under the general work requirements specified in § 273.7(a) (43 FR47898-47899). Individuals listed as work exempt in § 273.7(b) (43 FR 47899), such as persons physically or mentally unfit for employment or parents or other household members responsible for the care of a dependent child under age of 12 or an incapacitated person will not be subject to the penalties provided in the voluntary quit provison even if he/she voluntarily quit employment without good cause. Individuals who are subject to the voluntary quit provision but are not disqualified, because the quit was for good cause, must continue to register for employment under § 273.7(a).

Most of the commenters supported the voluntary quit provision but usually with some suggested changes. The most frequently commented on areas for revision covered: the application of the voluntary quit provision to current program participants, the status of strikers and students under the provision, the definition of "unemployment" as employed less than 20 hours per week, the period of disqualification, changes in the list of good cause criteria, and the use of employers as sources of verification. These areas of concern and others are discussed in more detail under specific headings.

Commenters who opposed the provision usually did so because they objected to the provision philosophically and felt that there was a faulty presumption that individuals quit employment mainly to obtain food stamp benefits. The *House Report* (Report No. 95-464; June 24, 1977) makes clear that the purpose of the voluntary quit provision was to close a gap in current program rules which require that work registrants continue the employment to which they have been referred by the employment service or else face disqualification from food stamp participation. However, no such prohibition against quitting existed for individuals quitting employment to become eligible for the Food Stamp Program in the first place. Hence, the *House Report* notes that the Food Stamp Act addressed this situation through the voluntary quit provision.

Application Form

One commenter pointed out that a question on voluntarily leaving employment should be included on the application form. Copies of the application form sent to State agencies on December 18, 1978, included a question on leaving employment.

Application of the Provision to Current Participants

Eight commenters expressed concern over the application of this provision solely to persons not certified at the time of the quit. This aspect of the regulation is required by section 6(d)(1)(iii) of the Act which provides for application of the voluntary quit provision, "unless the household was certified for benefits under this Act immediately prior to such enemployment." The *House Report* notes that the main concern was to deter persons from quitting in order to gain food stamp eligibility.

Status of Strikers

Eleven comments were received on the status of strikers under the voluntary quit provision. All but one (which sought only that striker status be specified in the final regulations) wanted strikers disqualified as having voluntarily quit employment. The *House Report* clearly indicates that the Committee did not intent the voluntary quit provision to apply to persons on strike. Similarly, the Senate Committee and the full Senate rejected amendments to bar food stamps for strikers. In general, persons on strike are not considered to have quit employment. Therefore, proposals to include strikers as subject to voluntary quit penalties have not been adopted. However, it was not considered necessary to specifically state in the voluntary quit regulatory language that strikers are not included in the voluntary quit provision. That issue is addressed through reference to other sections of the regulations.

Status of Students

A small number of commenters were concerned about the status of students regarding the voluntary quit provision. The Food Stamp Act of 1977 provides, in part, that heads of household are subject to the voluntary quit provisions, unless exempted by the provisions of section (6)(d)(2) of the Act. That section specifically lists as an exemption to the voluntary quit provision bona fide students enrolled at least half time in any recognized school, training program or institution of higher education. Therefore, generally students are not subject to the provisions of the voluntary quit regulations. Furthermore, because of statutory construction, students registering for 20 hours employment by virtue of 6(e) of the Act are also exempt from voluntary quit penalties.

Definition of Unemployment as 20 Hours or Less

Five commenters proposed that we increase the 20 hour employment criterion to 30 hours to comport with other work registration provisions. Two commenters suggested that we define employment as involving the receipt of earnings equivalent to the Federal minimum wage multiplied by 20 hours, particularly since the provision appeared to be more directly aimed at a loss of earnings that rendered the household eligible for food stamp benefits rather than at the loss of any employment regardless of the amount of earnings involved. As stated in the preamble in the November 21, 1978 proposal on voluntary quit, the Department was concerned about individuals in marginal or irregular employment being penalized because of

voluntary quit provisions. In considering what employment should not subject the household to voluntary quit penalties, various criteria were reviewed. While a 30 hour employment provision more closely comports with other sections of the work registration requirement, the Department is concerned that going beyond the proposed 20 hour standard would go beyond the intent of excluding only marginal or irregular employment from the requirements. Thirty hours weekly is almost full time employment. The 20 hour standard is retained in this final rulemaking.

However, to enhance the deterrent effect of the regulations, the Department concurs with the comments in support of a wage criterion in addition to the hours worked criterion and has reflected that change in the regulation. Moreover, it would seem inappropriate or difficult to distinguish between the two approaches in terms of eligibility for the Food Stamp Program.

Period of Disqualification

Fourteen commenters urged that households be disqualified from program participation indefinitely rather than a limited 60 day period for quitting a job without good cause. Three commenters felt that the period should be reduced to 30 days. Also, one State agency felt that the two month disqualification should begin with the month following the month of the quit. Finally, a few commenters felt that the proposed two month disqualification period was in conflict with the statutory language which provides that the "period of ineligibility shall be sixty days from the time of the voluntary quit." Based on the statutory language, comments recommending an indefinite period or a 30 day standard were not followed.

With regard to the consideration of the 60 day statutory period as two months, it was felt that rounding to the two month period, because eligibility is on a monthly basis, would be proper and administratively more convenient. The *House Report* indicates that work registration penalties were viewed in a monthly framework. In developing the proposed rulemaking the Department considered beginning the disqualification period the month after the quit. However, eligibility during the month of the quit might not comport with the statutory provision that the penalty run "from the time of the voluntary quit." Alternatively, to disqualify the household for the month of the quit and the next two months would result in a longer period of disqualification than contemplated by the statute.

Household Disqualification

Ten commenters viewed the provision requiring disqualification of the entire household rather than only the primary wage earner as too punitive. However, the Food Stamp Act of 1977 specifically requires disqualification of the individual voluntarily leaving employment and also of the household of which he/she was a member.

In discussing the disqualification of the entire household in the work registration provision in general, the *House Report* notes that an attempt to change the disqualification to only the noncomplying individual was rejected by the Committee. Therefore, disqualification of the entire household remains as proposed.

Definition of Primary Wage Earner

Six commenters opposed the substitution of the term "primary wage earner" in lieu of "head of household".

For purposes of the voluntary quit provision, head of household was redefined in the May 2, 1977 (43 FR 18874-18958) proposed rules as that household member responsible for acquiring the greatest amount of earned income within the previous sixty days. However, most comments to that proposal opposed that definition as it would allow, in some cases, a minor to be considered the household head and also could cause frequent changes in the person identified as the household head. In response to those concerns, the final rules published October 17, 1978 allowed States to designate the head of household for recordkeeping purposes. As noted in that proposal, "a definition of primary wage earner will be proposed in subsequent rulemaking in order to implement the voluntary quit provision." These regulations continue to define "primary wage earner" as "head of household" for voluntary quit purposes. However, the definition of primary wage earner has been expanded to make more explicit the manner in which the incomes of various household members will be compared in order to determine the primary wage earner.

A few commenters felt that the term "child not under the parental control of another household member" should be deleted because if that child is under 18 years of age he/she would be exempt by virtue of the work registration exceptions under § 273.7(b). The Department concurs and has deleted the phrase in question. The definition of primary wage earner is now applicable only to household members 18 years of age or older.

Pending the Application

One commenter requested that for households making application for food stamp benefits in the last month of the disqualification period, the State agency accept the application and certify the household for the following month if all other eligibility criteria are met, rather than denying the application as proposed, and directing the household to reapply the following month.

Section 273.10(a)(3) of the October 17, 1978 regulations (43 FR 47907) provides that in circumstances where a household is ineligible for the month of application but eligible for a subsequent month, the State agency shall use the same application for the denial and approval months. To avoid needless reapplication, the Department has revised this regulation to allow for the same procedure for households applying in the last month of the disqualification period. Applications made in the first month of disqualification will continue to be denied with the household advised of its right to a fair hearing and/or reapplication at the end of the disqualification period.

Fair Hearing Rights

Two commenters requested that where households are denied because of the voluntary quit provision that the household be advised of its right to a fair hearing.

To ensure that persons are advised of their fair hearing rights, this comment has been adopted and reflected in the final regulations.

Good Cause Criteria

A mixture of comments were received on good cause provisions. Five wanted all good cause criteria eliminated, four wanted them to be more flexible, one commenter suggested that they be tightened, and a number of commenters suggested additional criteria.

Good cause criteria cannot be eliminated as the Act specifically provides that disqualification only be imposed if the quit was without good cause. Likewise, the *House Report* refers to good cause as being defined by the Secretary of Agriculture. Additional good cause criteria, such as a loss of day care or moving from job site to job site while maintaining a fixed residence, were posed by other commenters.

Since the Act has a dependent care work registration exemption for children under 12 and for incapacitated persons, individuals who need day care would not usually be subject to work registration and, therefore, not included in the voluntary quit provision. For this reason, the Department did not adopt the proposal of a loss of day care as good cause for voluntarily leaving employment.

With regard to the proposal on moving from job site to job site while maintaining a fixed residence, the Department has explicitly revised the regulations to include as good cause leaving a job in connection with patterns of employment in which workers frequently move from one employer to another, such as construction work or migrant farm labor. This is an extension of the rationale noted in the November 21, 1978 proposal: "the intent of the voluntary quit provision was aimed at [the] work drop-out [*House Report*] and not those who move from one area to maintain employment, [therefore] it is proposed that good cause also include leaving a job to follow types of employment that require the household to move from area to area."

Additionally, a few commenters were concerned about good cause criteria relating to the primary wage earner or spouse ceasing employment to accept education or training opportunities. In response to the concerns, and to allow persons an opportunity for training preparatory to seeking better jobs, the final regulations have been revised to include "enrollment" in training/education programs preparatory to employment and to recognize that there may be a temporary gap between the end of employment and the actual start of the training or education which should not result in a disqualification. The regulation no longer requires that the primary wage earner "move" in order to have the training or education accepted as good cause. Moreover, good cause is expanded to include moves required for the employment, or work training or education of other household members, rather than just the spouse. Thus, the regulation no longer requires households to split up when members other than the spouse, such as a parent or sibling, accept a job or work-training which necessitates a move.

One commenter was concerned about the necessity to list retirement as good cause to quit since most retirees are age 60 or over and not subject to normal work registration provisions. To avoid confusion, the final regulations specify that the provision is applicable to retirees under the age of sixty.

During the comment analysis an issue was raised concerning individuals who leave one job to accept another job but the latter does not materialize or results in employment of less than 20 hours per week because of circumstances beyond the control of the individual. The Department has therefore added this circumstance to the list of good cause criteria.

Finally, commenters were concerned that the term "area" was too vague as used regarding the acceptance by the primary wage earner or the spouse of employment (or training or education preparatory to employment) in another "area" such that the household was required to move. This provision has been modified and in circumstances where the "area" rule applies, "area" has been defined as a county or similar political subdivision.

Use of Employers as a Verification Source

With regard to using employers as a source of verification, six commenters felt this was an unrealistic approach as employers may, for whatever reason, not always provide accurate circumstances surrounding the quit. However, the proposed and final regulations list the employer as only one possible source of verification and list other sources such as employee associations, union representatives, grievance committees and other organizations. The Department in no way intends for employer contact to be the only or final source of verification as evidenced by listing other possible sources in the proposal. Additionally, in the final regulations, the Department, as requested by one commenter, has explicitly clarified that collateral contacts are a possible source of verification.

Implementation Date

Four State agencies opposed the implementation date on the voluntary quit provision stating that it was too short a timeframe. Implementation of this provision affects only households initially applying for food stamp benefits and does not require State agencies to repeat the desk review process. Likewise, as a question on voluntarily ceasing employment has already been provided on the application form, States need only make instructional changes to implement the voluntary quit provisions.

Therefore, the Department encourages States to implement this provision as soon as possible. However, for States where the implementation of the voluntary quit provision would interfere with their schedule for implementing the October 17, 1978 program changes, the Department is increasing the mandatory implementation date for the voluntary quit provision to no later than 90 days following the effective date.

A new paragraph (2) is hereby added to § 272.1(g) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.*

* * * * *

(2) *Amendment 137.* Program changes required by amendment 137 to the food stamp regulations shall be implemented for all households initially applying for food stamp benefits no later than 90 days following the publication of this amendment.

(91 Stat. 958 (7 U.S.C. 2011-2027))

2. A new paragraph (c) is hereby added to § 273.7 to read as follows:

§ 273.7 Work registration requirements.

* * * * *

(c) *Voluntary quit.* No applicant household whose primary wage earner voluntarily quit his/her most recent job without good cause shall be eligible for participation in the Program as specified below.

(1) *Application Processing.* (i) When a household files an application, the State agency shall determine if any currently unemployed (i.e., employed less than 20 hours per week or receiving less than weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) household member who is required to register for full time work has quit his/her most recent job (i.e., employment involving 20 hours or more per week or having received weekly earnings equivalent to the Federal minimum wage multiplied by 20 hours) without good cause within the last 60 days. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer will not be considered as a voluntary quit for purpose of this subsection.

(ii) If a determination of voluntary quit is established, the State agency shall then determine if that member is the household's primary wage earner. For purposes of this section, the primary wage earner shall be that household member age 18 or over who was acquiring the greatest amount of earned financial support for the household at the time of the quit. The primary wage earner is determined by comparing the projected earnings of the member who quit employment in the month the voluntary quit occurred as if he/she had not ceased employment against the actual or, if not available, the projected earnings of the remaining household members.

(iii) Upon a determination that the primary wage earner voluntarily quit employment, the State agency shall determine if the voluntary quit was with good cause as defined in paragraph (3) of this section. If the voluntary quit was not for good cause, the household's application for participation shall be denied for a period of two months beginning with the month of

the quit. The household shall be advised of the reason for the denial and of its rights to reapply and/or request a fair hearing.

(iv) If an application for participation in the Program is filed in the second month of disqualification, the State agency shall in accord with § 273.10(a)(3) use the same application for the denial of benefits in the remaining month of disqualification and certification for any subsequent month(s) if all other eligibility criteria are met.

(2) *Exemptions from voluntary quit provisions.* The following persons are exempt from voluntary quit provisions:

(i) Primary wage earners in households certified for the Program at the time of the quit.

(ii) Persons exempt from the full time work registration provisions as stated in § 273.7(b).

(3) *Good cause.* Good cause for leaving employment includes the good cause provisions found in § 273.7(g), and resigning from a job that does not meet the suitability criteria specified in § 273.7(i). Good cause for leaving employment shall also include:

(i) Discrimination by an employer based on age, race, sex, color, handicap, religious beliefs, national origin or political beliefs;

(ii) Work demands or conditions that render continued employment unreasonable, such as working without being paid on schedule;

(iii) Acceptance by the primary wage earner of employment, or enrollment of at least half-time in any recognized school, training program or institution of higher education, that requires the primary wage earner to leave employment;

(iv) Acceptance by any other household member of employment or enrollment at least half-time in any recognized school, training program or institution of higher education in another county or similar political subdivision which requires the household to move and thereby requires the primary wage earner to leave employment;

(v) Resignations by persons under the age of 60 which are recognized by the employer as retirement;

(vi) Employment which becomes unsuitable by not meeting the criteria specified in § 273.7(i) after the acceptance of such employment;

(vii) Acceptance of a bona fide offer of employment of more than 20 hours a week or in which the weekly earnings are equivalent to the Federal minimum wage multiplied by 20 hours which, because of circumstances beyond the control of the primary wage earner, subsequently either does not materialize or results in employment of less than 20 hours a week or weekly earnings of less than the Federal minimum wage multiplied by 20 hours; and

(viii) Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another such as migrant farm labor or construction work. There may be some circumstances where households will apply for food stamp benefits between jobs particularly in cases where work may not yet be available at the new job site. Even though employment at the new site has not actually begun, the quitting of the previous employment shall be considered as with good cause if part of the pattern of that type of employment.

(4) *Verification.* (1) To the extent that the information given by the household is questionable, as defined in § 273.2(f)(2), State agencies shall request verification of the household's statements. The primary responsibility for providing verification as provided in § 273.2(f)(5) rests with the household. If it is difficult or impossible for the household to obtain documentary evidence in a timely manner the State agency shall offer assistance to the household to obtain the needed verification. Acceptable sources of verification include but are not limited to the previous employer, employee associations, union representatives and grievance committees or organizations. Whenever documentary evidence cannot be obtained, the State agency shall substitute a collateral contact. The State agency is responsible for obtaining verification from acceptable collateral contacts provided by the household.

(ii) If the household and State agency are unable to obtain requested verification from these or other sources because the cause for the quit resulted from circumstances that for good reason cannot be verified, such as a resignation from employment due to discrimination practices or unreasonable demands by an employer or because the employer cannot be located, the household will not be denied access to the Program.

(91 Stat. 958 (7 U.S.C. 2011-2027).)

NOTE.—The Food and Nutrition Service has prepared a Final Impact Statement that is available by contacting Nancy Snyder, Deputy Administrator, the United States Department of Agriculture, Food and Nutrition Service, Office of the Deputy Administrator, Family Nutrition Progams, 500 12th Street, S.W., Washington, DC 20250.

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: March 19, 1979.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc. 79-8897 Filed 3-22-79; 8:45 am]

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FRIDAY, MARCH 23, 1979

PART XIII

DEPARTMENT OF COMMERCE

Industry and Trade Administration

■

REVISION TO THE COMMODITY CONTROL LIST CONCERNING CERTAIN NUCLEAR-RELATED COMMODITIES AND CERTAIN TECHNICAL DATA

[3510-25-M]

Title 15—Commerce and Foreign Trade

CHAPTER III—INDUSTRY AND TRADE ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

REVISION TO THE COMMODITY CONTROL LIST CONCERNING CERTAIN NUCLEAR-RELATED COMMODITIES AND CERTAIN TECHNICAL DATA RELATED THERETO

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

ACTION: Interim Final Rule.

SUMMARY: This revision places certain inverters, converters, frequency changers, generators, valves, measuring equipment, uranium hexafluoride purification equipment, corrosion-resistant sensing elements, and cylindrical tubing, rings and discs under validated license control to all destinations, including Canada. Technical data relating to certain inverters, converters, frequency changers, uranium hexafluoride purification equipment and cylindrical tubing and rings also are placed under validated license control to all destinations, including Canada. Exports of these commodities and technical data are also excluded from General License *GLV* or *GTDR*, all other general licenses, and all special licensing procedures.

EFFECTIVE DATE OF ACTION: March 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Jeanne C. Nelson, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202-377-4275).

SUPPLEMENTARY INFORMATION: The procedures of Department of Commerce Administrative Order 218-7 (44 FR 2082 *et seq.*, January 9, 1979) and Appendix E thereof (Industry and Trade Administration Administrative Instructions 1-6, 44 FR 2093 *et seq.*, January 9, 1979) regarding public participation in the development of these regulations could not be followed because the continued export of these commodities and technical data without prior review would be contrary to the national security and foreign policy interests of the United States. (Industry and Trade Administration Administrative Instructions 1-6, Sections 2.02.b. and 8.05.) The signer of this regulation is responsible for this determination. Although these requlations are effective on (date of publication) there will be a 60-day public comment period after which they will be republished in final form after public comments have been considered and appropriate modifications, if any, made. Written comments should be sent to Stanley J. Marcuss, Senior Deputy Assistant Secretary for Industry and Trade, U.S. Department of Commerce, Post Office Box 7138, Ben Franklin Station, Washington, D.C. 20044.

In order to implement the policies and objectives of the Nuclear Non-Proliferation Act of 1978 (Public Law 95-242, March 10, 1978) regarding effective controls by the United States over exports of nuclear-related materials and equipment and related technical data, certain items previously under validated license control for export to Country Groups S and Z are now placed under validated license control for export to all destinations, including Canada. Certain related technical data, previously available for export to Country Groups T and V and Canada under general license, are also placed under validated license control to all destinations, including Canada. One entry on the Commodity Control List which imposes validated license control to all destinations is revised, and technical data related to that item are placed under validated license control.

These controls are being imposed for national security and foreign policy purposes under the authority of the Export Administration Act of 1969, as amended (50 U.S.C. App. 2401 *et seq.*). The affected entries are as follows:

Entry numbers 3127A and 4127B include certain valves which were previously classified as ECCN 6199G.

Entry numbers 4569B and 4592B include certain inverters, converters, generators, frequency changers, and pressure-measuring instruments which were previously classified as ECCN 6599G.

Entry numbers 4675B, 4676B, 4677B and 4678B include certain types of cylindrical tubing, rings and discs, and corrosion-resistant sensing elements made of certain metals, which were previously classified as ECCN 6699G.

ECCN 3323B is revised to include purification equipment and to reduce all GLV values to 0.

These items and certain related technical data will require a validated license to all destinations, including Canada. Exports of these items and certain related technical data will not be permitted under General Licenses *GLV* or *GTDR*, nor under any of the other general licenses or special licensing procedures.

Although these regulatory revisions are "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instructions 1-6 (44 FR 2093 *et seq.*, January 9, 1979), both of which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations," it has been determined that regulatory analysis of these regulations is not required, because they are not expected to have potential major economic consequences for the general economy, for individual industries, geographic regions, levels of government, or specific elements of the population.

Accordingly, the *Export Administration Regulations* (15 CFR Part 368 *et seq.*) are revised as follows:

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

1. Section 370.3(a)(1)(iv) is revised, and new (a)(1)(vi) and (vii) are added to read as follows:

§ 370.3 Prohibited exports.

(a) * * *

(1) * * *

(iv) Electronic, mechanical, or other devices, as described in § 376.13(c), primarily useful for surreptitious interception of wire or oral communications;

(v) * * *

(vi) Inverters, converters, generators and frequency changers having a multiphase electrical power output within the range of 600 to 2000 hertz; and

(vii) Valves, measuring equipment, uranium hexafluoride purification equipment, corrosion-resistant sensing elements, and cylindrical tubing, rings and discs as listed in Supplement No. 2 to Part 378.

* * * * *

PART 371—GENERAL LICENSES

2. Section 371.2(c)(6) is revised and renumbered as (c)(7), (c) (7), (8), (9), and (10) are renumbered (c) (8), (9), (10), and (11) respectively, and new (c)(6) and (c)(12) are added to read as follows:

§ 371.2 General provisions.

* * * * *

(c) * * *

(6) The commodities are set forth in Supplement No. 2 to Part 378, Special Nuclear Controls;

(7) The commodities are related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as

described in §§378.3 and 378.4, or the technical data to be exported is related to any of these activities, as described in § 379.4(c)(1), unless the technical data may be exported under the provisons of General License *GTDA;*

* * * * *

(12) The technical data is related to commodities listed in § 379.4(c) (5), (6), (7), and (8).

* * * * *

§ 371.17 [Amended]

3. Section 371.17(f)(1)(iv) is amended by deleting "§§ 378.2 and 378.3" and inserting in lieu thereof "§§ 378.3 and 378.4".

§ 371.22 [Amended]

4. Section 371.22(c)(2)(i) is amended by deleting "§ 378.1" and insertng in lieu thereof "§§ 378.3 and 378.4".

PART 373—SPECIAL LICENSING PROCEDURES

5. Part 373 is amended as follows:

§ 373.2 [Amended]

a. Section 373.2(b)(2) is amended by deleting "§ 378.1" and inserting in lieu thereof "§§ 378.3 and 378.4".

b. Section 373.2 (b)(3) is amended by deleting "§§ 378.2 and 378.3" and inserting in lieu thereof "§§ 378.3 and 378.4".

c. Section 373.2(b)(4) is amended by inserting before the semicolon "or other nuclear-related commodities as listed in §§ 379.4(c) (5), (6), (7), and (8)".

§ 373.3 [Amended]

d. Section 373.3(b)(1) is amended by deleting "§§ 378.2 and 378.3" and inserting in lieu thereof "§§ 378.3 and 378.4".

§ 373.7 [Amended]

e. Section 373.7(b)(1) is amended by deleting "§§ 378.2 and 378.3" and inserting in lieu thereof "§§ 378.3 and 378.4".

SUPPLEMENT NO. 1—[AMENDED]

6. Supplement No. 1 to Part 373, COMMODITIES EXCLUDED FROM CERTAIN SPECIAL LICENSE PROCEDURES, is amended as follows:

a. By adding purification equipment to entry number 3323 to read as follows:

3323 Plants specially designed for the production of uranium hexafluoride (UF_6), including purification equipment, and specially designed parts and accessories therefor.

b. By adding the following entries in sequence:

3127 Valves, 3 cm or greater in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel, either manually or automatically operated; and specially designed parts and accessories therefor.

4127 Valves, 0.5 cm to 3 cm in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel.

4569 Inverters, converters, frequency changers, and generators having a multiphase electrical power output within the range of 600 to 2000 hertz.

4592 Equipment for measuring pressures to 100 Torr or less having corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel or aluminum.

4675 Cylindrical tubing, raw, semifabricated, or finished forms, made of aluminum alloy (7000 series) or maraging steel having all of the following characteristics:
(a) Wall thickness of ½ inch, or less;
(b) Diameter of 3 to 8 inches inclusive;
(c) Length equal to or greater than 3 times the diameter.

4676 Cylindrical rings, or single convolution bellows, made of high-strength steels having all of the following characteristics:
(a) Tensile strength of 150,000 psi;
(b) Wall thickness of 1 millimeter or less;
(c) Diameter of 3 to 8 inches inclusive;
(d) Length of 2 to 8 inches inclusive.

4677 Cylindrical discs, in raw, semifabricated, or finished form, having all of the following characteristics:
(a) Having a ½ to 2 inch peripheral lip;
(b) Having a diameter of 3 to 8 inches inclusive;
(c) Made of maraging steel or aluminum alloy (7000 series).

4678 Corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel, or aluminum specially designed for use with equipment which measures pressures to 100 Torr or less.

PART 378—SPECIAL NUCLEAR CONTROLS

7. Part 378 is amended as follows:

§§ 378.2 through 378.6 [Renumbered]

§§ 378.3 through 378.7 [Designated]

a. Sections 378.2, 378.3, 378.4, 378.5, and 378.6 are renumbered §§ 378.3, 378.4, 378.5, 378.6, and 378.7, respectively.

b. A new § 378.2 is added to read as follows:

§ 378.2 Nuclear-related commodities and technology.

A validated license is required for export to all destinations, including Canada, of the commodities listed in Supplement No. 2 to this Part 378. A validated license also is required for export to all destinations, including Canada, of certain related technical data, as listed in §§ 379.4(c) (5), (6), (7), and (8). Applications for the export of these commodities and technical data will be processed in accordance with the procedures established under section 309(c) of the Nuclear Non-Proliferation Act of 1978 as set forth in 43 FR 25330 (June 9, 1978) (Part F).

§ 378.3 [Amended]

c. The last sentence of § 378.3(c) is amended by deleting "§ 378.2" and "§ 378.2(c)" and inserting in lieu thereof "§ 378.3" and "§ 378.3(c)" respectively.

§ 378.5 [Amended]

d. The first sentence of § 378.5 is amended by deleting "§ 378.2 or § 378.3" each time it occurs and inserting in lieu thereof "§ 378.3 or § 378.4".

§ 378.6 [Amended]

e. The introductory paragraph of § 378.6 is amended by deleting "§ 378.2 or § 378.3" and inserting in lieu thereof "§ 378.3 or § 378.4".

f. § 378.6(d) is amended by deleting "§ 378.2 or § 378.3" and inserting in lieu thereof "§ 378.3 or § 378.4".

g. § 378.6(e) is amended by deleting "§ 378.2" and "§ 378.3" and inserting in lieu thereof "§378.3" and "§ 378.4" respectively.

h. A new Supplement No. 2 is added to read as follows:

SUPPLEMENT NO. 2—NUCLEAR-RELATED COMMODITIES

3127 Valves, 3 cm or greater in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel, either manually or automatically operated; and specially designed parts and accessories therefor.

4127 Valves, 0.5 cm to 3 cm in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel.

3323 [1] Plants specially designed for the production of uranium hexafluoride (UF_6), including purification equipment, and specially designed parts and accessories therefor.

4569 [1] Inverters, converters, frequency changers, and generators having a multiphase electrical power output within the range of 600 to 2000 hertz.

4592 Equipment for measuring pressures to 100 Torr or less having corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel or aluminum.

4675 [1] Cylindrincal tubing, raw, semifabricated, or finished forms, made of aluminum alloy (7000 series) or maraging steel having all of the following characteristics:
(a) Wall thickness of ½ inch, or less;
(b) Diameter of 3 to 8 inches inclusive;
(c) Length equal to or greater than 3 times the diameter.

4676 [1] Cylindrical rings, or single convolution bellows, made of high-strength steels having all of the following characteristics:
(a) Tensile strength of 150,000 psi;
(b) Wall thickness of 1 millimeter or less;
(c) Diameter of 3 to 8 inches inclusive;

[1] For exports of technical data related to these commodities, see §§ 379.4(c)(5), (6), (7), and (8).

(d) Length of 2 to 8 inches inclusive.

4677 Cylindrical discs, in raw, semifabricated, or finished form, having all of the following characteristics:

(a) Having a ½ to 2 inch peripheral lip;
(b) Having a diameter of 3 to 8 inches inclusive;
(c) Made of maraging steel or aluminum alloy (7000 series).

4678 Corrosion-resistent sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel, or aluminum specially designed for use with equipment which measures pressures to 100 Torr or less.

PART 379—TECHNICAL DATA

§ 379.4 [Amended]

8. Section 379.4(c)(1) is amended by deleting "§ 378.2" and "§ 378.3" and inserting in lieu thereof "§ 378.3" and "§ 378.4" respectively.

§ 379.4 [Amended]

9. Section 379.4(c) is amended by deleting the final "and" of § 379.4(c)(3), deleting the period in § 379.4(c)(4) and inserting a semicolon in lieu thereof, and adding (c) (5), (6), (7), and (8) to read as follows:

§ 379.4 General license GTDR: Technical data under restriction.

* * * * *

(c) * * *

(5) Plants specially designed for the production of uranium hexafluoride (UF_6), including purification equipment, and specially designed parts and accessories therefor;

(6) Inverters, converters, frequency changers, and generators having a multiphase electrical power output within the range of 600 to 2000 hertz;

(7) Cylindrical tubing, raw, semifabricated, or finished forms, made of aluminum alloy (7000 series) or maraging steel having all of the following characteristics;

(i) Wall thickness of ½ inch, or less;
(ii) Diameter of 3 to 8 inches inclusive;
(iii) Length equal to or greater than 3 times the diameter; and

(8) Cylindrical rings, or single convolution bellows, made of high-strength steels having all of the following characteristics:

(i) Tensile strength of 150,000 psi;
(ii) Wall thickness of 1 millimeter or less;
(iii) Diameter of 3 to 8 inches inclusive;
(iv) Length of 2 to 8 inches inclusive.

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

10. The last sentence of § 385.6 is amended by relettering (b) and (c) as (c) and (d) respectively, revising (a), and inserting a new (b) to read as follows:

§ 385.6 Canada.

* * * * *

(a) the commodity is set forth in Supplement No. 2 to Part 378, Special Nuclear Controls, or the technical data are described in § 379.4(c) or § 379.5(e);

(b) the commodity is related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as described in §§ 378.3 and 378.4, or the technical data to be exported are related to any of these activities, as described in § 379.4(c)(1), unless the technical data may be exported under the provisions of General License *GTDA;*

* * * * *

PART 387—ENFORCEMENT

§ 387.11 [Amended].

11. The second sentence of § 387.11(c) is amended by deleting "§ 378.2" and inserting in lieu thereof "§ 378.5".

PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

12. The Commodity Control List, incorporated by reference at 15 CFR 399.1, is amended as follows:

a. By renumbering § 399.1(f)(3)(ii) and (iii) as (iii) and (iv) respectively, revising (i), and inserting a new (ii) to read as follows:

§ 399.1 The Commodity Control List and how to use it.

* * * * *

(f) * * *
(3) * * *
(i) The commodity is set forth in Supplement No. 2 to Part 378, Special Nuclear Controls.

(ii) The commodity is related to nuclear weapons, nuclear explosive devices, nuclear testing, the chemical processing of irradiated special nuclear or source material, the production of heavy water, the separation of isotopes of source and special nuclear material, or the fabrication of nuclear reactor fuel containing plutonium, as described in §§ 378.3 and 378.4, or the technical data are related to any of these activities, as described in § 379.4(c)(1), unless the technical data may be exported under the provisions of General License *GTDA.*

* * * * *

b. By adding purification equipment to entry number 3323A and revising the GLV values to read as follows:

Export Control Commodity Number and Commodity Description	Unit	Processing Code	Validated License Required	GLV $ Value Limits T	V	Q
3323A Plants specially designed for the production of uranium hexafluoride (UF_6), including purification equipment, and specially designed parts and accessories therefor.	--	MG	QSTVWYZ and Canada	0	0	0

c. By adding the following entries in sequence:

3127A Valves, 3 cm or greater in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel, either manually or automatically operated; and specially designed parts and accessories therefor.	--	MG	QSTVWYZ and Canada	0	0	0
4127B Valves, 0.5 cm to 3 cm in diameter, with bellows seal, wholly made of or lined with aluminum, nickel, or alloy containing 60 percent or more nickel.	--	MG	QSTVWYZ and Canada	0	0	0
4569B Inverters, converters, frequency changers, and generators having a multiphase electrical power output within the range of 600 to 2000 hertz.	--	EE	QSTVWYZ and Canada	0	0	0
4592B Equipment for measuring pressures to 100 Torr or less having corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel, or aluminum.	--	MG	QSTVWYZ and Canada	0	0	0
4675B Cylindrical tubing, raw, semi-fabricated, or finished forms, made of aluminum alloy (7000 series) or maraging steel having all of the following characteristics: (a) Wall thickness of 1/2 inch, or less; (b) Diameter of 3 to 8 inches inclusive; (c) Length equal to or greater than 3 times the diameter.	--	MG	QSTVWYZ and Canada	0	0	
4676B Cylindrical rings, or single convolution bellows, made of high-strength steels having all of the following characteristics: (a) Tensile strength of 150,000 psi; (b) Wall thickness of 1 millimeter or less; (c) Diameter of 3 to 8 inches inclusive; (d) Length of 2 to 8 inches inclusive.	--	MG	QSTVWYZ and Canada	0	0	0
4677B Cylindrical discs, in raw, semi-fabricated, or finished form, having all of the following characteristics: (a) Having a 1/2 to 2 inch peripheral lip; (b) Having a diameter of 3 to 8 inches inclusive; (c) Made of maraging steel or aluminum alloy (7000	--	MG	QSTVWYZ and Canada	0		
4678B Corrosion-resistant sensing elements of nickel, nickel alloys, phosphor bronze, stainless steel, or alum specially designed for use with equipment which m pressures to 100 Torr or less.	--	MG	QSTVWYZ and Canada	0		

[3510-25-M]

d. By amending the footnote to entries 5091D, 6099G, 6199G, 6299G, 5391D, 6399G, 5406D, 5431D, 5485D, 6490F, 6499G, 5568D, 5585D, 5595D, 5596D, 6599G, 5635D, 5673D, 6699G, 5715D, 5780E, 5799D, 6799G, 6899G, and 6999G to read as follows:

A validated license also is required for export to the Republic of South Africa and Namibia if intended for delivery to or for use by or for military or police entities in these destinations or for use in servicing equipment owned, controlled, or used by or for these entities. See § 371.2(c)(11) and § 385.4(a).

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

STANLEY J. MARCUSS,
Senior Deputy Assistant Secretary for Industry and Trade.

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