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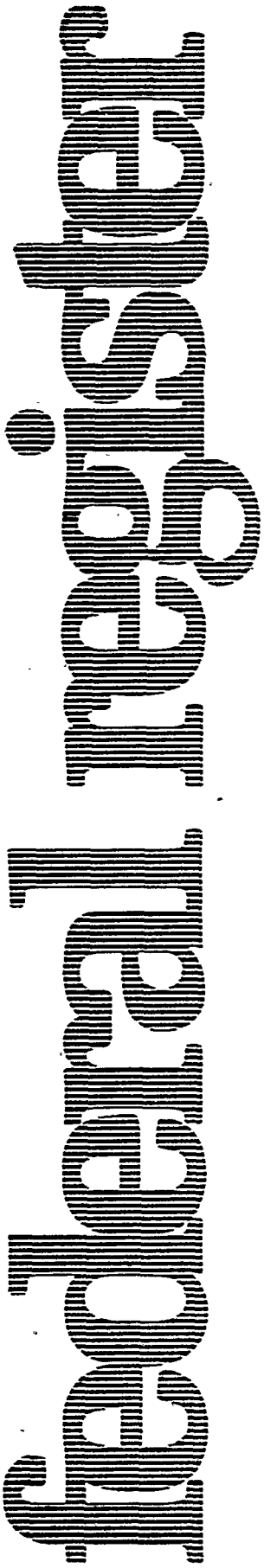

Friday
March 7, 1980

Highlights

14831 **Teacher Day, USA** Presidential proclamation

14833 **Central Intelligence Agency Retirement and Disability System** Executive order

14843 **Crude Oil Price Schedule No. 18** DOE/ERA provides for monthly increases in the ceiling prices for lower and upper tier; effective 3-1-80

14840 **Anti-Inflationary Price Standards** CWPS publishes interim final procedural rules and data requests relating to providers of insurance; effective 3-7-80; comments by 5-2-80

14838 **Anti-Inflationary Price Standards** CWPS establishes final regulations for financial institutions and providers of insurance for the second year program; effective 3-7-80

14840 **Anti-Inflationary Price Standards** CWPS issues questions and answers that are related to the standards for providers of insurance; effective 3-7-80

15080 **Federal Election Campaign** FEC simplifies recordkeeping, reporting and disclosure requirements of the Act of 1971 (Part IV of this issue)

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Highlights

14855 **The Nixon Administration** GSA provides procedures for preserving and protecting historical materials and for providing access to these materials; effective 3-7-80

14841 **Nutrition Education and Training** USDA/FNS proposes to establish April 1, 1980, as a deadline in any fiscal year for States participating in the program

15062 **Commodity Supplemental Food** USDA/FNS improves services to needy individuals by changing program requirements; effective 6-5-80 with exceptions; comments by 5-15-80 (Part III of this issue)

15152 **Comprehensive Employment and Training** Labor/ETA describes the eligibility criteria for prime sponsor designations and procedures for applying for such designations; preapplications by 4-7-80 (Part VI of this issue)

15147 **Outer Continental Shelf Facilities** Interior/GS proposes to incorporate a separate set of exemption formulas and significance levels for application; comments by 5-6-80 (Part V of this issue)

15128 **Outer Continental Shelf** Interior/GS establishes a regulatory program concerning the regulation of air emissions from oil and gas operations; effective 6-2-80 (Part V of this issue)

14854 **Lead Phase-Down** EPA amends regulations applicable to gasoline refiners by revoking specific unleaded gasoline production requirements; revocation effective 2-20-80

14899 **Lead Phase-Down** EPA proposes several alternative actions regarding the unleaded gasoline production requirements; comments by 4-7-80

14835 **Civil Service** OPM adopts rules to comply with apportionment of retirement benefits; effective 4-7-80

15156 **Civil Service Reform** Labor/Sec'y promulgates final rules on the standard of conduct for labor organizations in the Federal sector under the Act of 1978; effective 4-7-80 (Part VII of this issue)

14988 **Sunshine Act Meetings**

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15000 **Part II, Labor/ESA**
15062 **Part III, USDA, FNS**
15080 **Part IV, FEC**
15128 **Part V, Interior/GS**
15152 **Part VI, Labor/ETA**
15156 **Part VII, Labor/Sec'y**
15168 **Part VIII, Labor/W&H**

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Presidential Documents

Title 3—

The President

Proclamation 4730 of March 5, 1980

Teacher Day, USA

By the President of the United States of America

A Proclamation

The great strength of America lies in its people, educated in the most comprehensive and open system of public education the world has ever known.

We have an enormous stake in this system, and the key to it is the American teacher. The men and women who staff our schools spend countless hours inspiring, encouraging, informing, and preparing young people for the future. Their hard work is a lifelong gift. Behind every successful adult, there is usually a teacher who was an inspiration for excellence.

Sadly, there has never been a national observance of the profound debt we owe our Nation's teachers. There is no time each year when we can bestow the individual recognition, honor, and encouragement our teachers richly deserve.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate March 7, 1980, as "Teacher Day, United States of America."

I ask all Americans to communicate their personal appreciation, by word and deed, to present and former teachers who have enriched their lives.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of March, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fourth.

[FR Doc. 80-7270
Filed 3-5-80; 1:09 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12197 of March 5, 1980

Central Intelligence Agency Retirement and Disability System

By the authority vested in me as President of the United States of America by Section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), and in order to conform the Central Intelligence Agency Retirement and Disability System to certain amendments to the Civil Service Retirement and Disability System (Public Law 95-317 and Public Law 95-366), it is hereby ordered as follows:

1-101. The Director of Central Intelligence shall maintain the Central Intelligence Agency Retirement and Disability System in accordance with the following principles:

(a) The automatic restoration of the reduction in the annuity of the annuitant upon his or her remarriage shall be eliminated and the annuitant shall be allowed to elect, upon such remarriage, whether to provide a survivor annuity for the new spouse. The annuitant's election shall be irrevocable during the remarriage, and must be made in a signed writing and received by the Director within one year after the date of the remarriage. If the annuitant makes such an election, his or her annuity shall be reduced by the same percentage reduction which was in effect immediately before the dissolution of the previous marriage, and such reduction shall take effect on the first day of the month beginning one year after the date of the remarriage.

(b) The reduction in the annuity of an annuitant shall be restored when a person designated as having an insurable interest in the annuitant predeceases the annuitant. Payment of the annuity at the single-life rate shall be effective the first day of the month following the death of the individual designated as having had the insurable interest.

(c) An annuitant who was unmarried at the time of retirement but who marries after retirement shall be allowed to irrevocably elect, in a signed writing received by the Director within one year after the date of the marriage, a reduction in his or her annuity to provide a survivor annuity for his or her spouse. Such reduction shall be effective the first day of the month beginning one year after the date of marriage. An election to provide an annuity to a surviving spouse made under this provision, voids prospectively any previous election to provide a survivor annuity to an individual named as having an insurable interest in the annuitant. Since the annuity reduction for the benefit of a surviving spouse will not take effect until the first day of the first month beginning one year after the date of the marriage, any annuity reduction in effect for an insurable interest benefit will not terminate until such date.

(d) Each annuitant shall be informed, on an annual basis, of such annuitant's rights of election under this Order.

(e) Payments to an annuitant which are based upon his or her service shall be paid, in whole or in part by the CIA Retirement and Disability System to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this provision to a person bars recovery by any other person. This provision shall only apply to payments made after the date of receipt by the Director of written notice of such decree, order, or agreement, and such additional

information and documentation as the Director may prescribe. As used in this subsection "court" means any court of any State or the District of Columbia.

1–102. (a) The provisions of Section 1–101(a) are effective as of October 1, 1978, and shall apply with respect to annuities which commence before, on, or after October 1, 1978. No monetary benefit by reason of such provisions shall accrue for any period before such effective date. The provisions of Section 1–101(a) of this Order shall not affect the eligibility of any individual to a survivor annuity in the case of an annuitant who remarried before October 1, 1978, unless the annuitant notifies the Director in a signed writing received by the Director no later than December 31, 1980, that such annuitant does not desire the spouse of the annuitant to receive a survivor annuity in the event of the annuitant's death. Such notification shall take effect the first day of the first month after it is received by the Director.

(b) The provisions of Section 1–101 (b) and (c) are effective as of October 1, 1978, and shall apply with respect to annuities which commence before, on, or after October 1, 1978. No monetary benefit by reason of such provisions shall accrue for any period before such effective date.

(c) The provisions of Sections 1–101 (d) and (e) are effective immediately.

1–103. The Director of Central Intelligence is authorized to prescribe such regulations as are necessary to carry out the provisions of this Order.

Jimmy Carter

THE WHITE HOUSE,
March 5, 1980.

[FR Doc. 80–7271
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Rules and Regulations

Federal Register
Vol. 45, No. 47
Friday, March 7, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement; Apportionment From Civil Service Retirement Benefits

AGENCY: Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: The Office of Personnel Management is adopting rules to implement the September 15, 1978 amendments to the Civil Service Retirement Act, which require the Office of Personnel Management in certain circumstances, to comply with a provision dealing with apportionment of retirement benefits in a State court order, decree, or court approved property settlement agreement, in connection with the divorce, annulment of marriage, or legal separation of a Federal employee or retiree.

EFFECTIVE DATE: April 7, 1980.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, Paralegal Specialist, Office of Pay and Benefits Policy, Compensation Group, Washington, D.C. 20415, phone (202) 632-4634.

SUPPLEMENTARY INFORMATION: Proposed rules to implement Pub. L. 95-366 were published in the Federal Register on May 8, 1979 (44 FR 26885). The public was invited to send written comments. Twelve such comments were received by the designated official.

One comment pertained to survivor benefits. Pub. L. 95-366 expressly limits its own application to payments "which would otherwise be made to an employee, Member, or annuitant based upon his service." Survivor annuities and lump sum death benefits do not fall within this requirement.

One comment objected to the 30-day notice period because it might result in further litigation. We believe that due process requires that the annuitant be given notice and an opportunity to present legal objections to the apportionment.

One comment explained that §§ 831.1707 (a)(1) & (b)(1) were inaccurate because until the 30-day notice period expires, we only intended to honor the decree. Accordingly, we revised the language to correct the defect.

One comment objected to § 831.1702(e)(2), which prohibited apportionment of an annuity when the annuitant was instructed to make the payments to the former spouse. The author of that comment expressed the belief that denying payment when the individual was instructed to pay would be contrary to the court's intent. In some cases, the remaining language of the decree makes clear the court's intent that direct payment be made (e.g. after directing the former spouse to make the payment, also ordering the former spouse to execute all documents to cause the Office of Personnel Management to make direct payment). The regulations have been amended to clarify that each decree will be read as a whole to determine the court's intent. However, generally, the best indication of the court's intent is its own language. When the court specifically states that the individual is to make the payments, we have no basis, absent other language, to make payments over the annuitant's objections, but we will make direct payment when the annuitant does not object to such a procedure.

Three comments questioned § 831.1702(e)(3) which prohibited apportionment when the decree contained contingencies. In addition, that section has led to confusion over the acceptability for processing of court orders where payments are subject to termination upon remarriage of the former spouse. To eliminate these problems, (1) the proposed regulations were changed to limit the contingency restrictions of § 831.1702(e)(3) to decrees which are uncertain as to the amount to be paid to each spouse, and (2) a new paragraph was added to § 831.1704 to allow apportionment under decrees in which payments will terminate upon the occurrence of a condition subsequent after the Associate Director has received appropriate assurance that the condition has not occurred and that Associate Director will be notified if such condition does occur.

Three comments related to military pension benefits which are outside the scope of Pub. L. 95-366.

Two comments objected to Pub. L. 95-366. One sought no apportionment, while the other wanted an automatic division without the need for a court order. Both are beyond the authority of the Office of Personnel Management.

Since the publication of the proposed rules, five other changes were incorporated into these final rules to provide additional clarification in the interest of improved administration of Pub. L. 95-366. The word "community" was removed from § 831.1701. Paragraphs 831.1702(e) (2) and (3) were revised (see above) and placed in § 831.1703. The 60-day period in which to initiate suit under § 831.1708(b) has been reduced to 30 days. The restriction on payment of arrearages contained in § 831.1709(a) was clarified to explain that arrearages will not be paid "unless the court otherwise directs." Section 831.1710(a) was modified to eliminate the requirement that the former spouse be living in order to qualify for payments under this subpart, but establishment of restrictions and procedures applicable to payments after the death of the former spouse requires further public participation and will be the subject of future rulemaking.

After the publication of the Proposed Rules to implement Pub. L. 95-366, a new subpart P, Procedures for Overpayment Hearings, was promulgated; therefore, these rules have been renumbered and redesignated as subpart Q.

State laws and State courts have traditionally controlled matters of domestic relations and property rights. Questions such as an individual's obligations to a former spouse are determined by the courts on a case-by-case basis taking into consideration many factors such as the financial status of both parties, property settlements, children involved, etc.

As a result of the enactment of Pub. L. 93-647, which added section 459 to the Social Security Act (42 U.S.C. 659), for the last four years civil service retirement benefits have been subject to garnishment, attachment, or similar

legal process to enforce these obligations.

In recent years, many State courts have ruled that future retirement benefits earned during a marriage should be considered community property and subject to division in the event of a legal separation, divorce, or annulment of marriage. However, the garnishment amendments did not cover community property settlements.

Now, under Pub. L. 95–366, community property obligations, as well as support obligations, will be enforceable when a State court order, decree, or court-approved property settlement agreement determines the appropriate distribution of retirement benefits between a Federal employee (or retiree) and an estranged spouse. The Office of Personnel Management is authorized to make payments directly to the former or separated spouse in compliance with the terms of a court determination expressly providing for apportionment of retirement benefits. OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance Systems Manager.

Accordingly, the Office of Personnel Management is amending 5 CFR Part 831 by adding a new subpart Q to read as follows:

Subpart Q—Apportionment From Civil Service Retirement Benefits

Sec.

831.1701 Purpose.
831.1702 Definitions.
831.1703 Qualifying court order.
831.1704 Application to apportion retirement benefits.
831.1705 Retirement benefits—amount, when payable.
831.1706 Preliminary review.
831.1707 Notification.
831.1708 Decision.
831.1709 Effective date.
831.1710 Limitations.
831.1711 Liability.

Authority: 5 U.S.C. 8347.

Subpart Q—Apportionment From Civil Service Retirement Benefits

§ 831.1701 Purpose.

This subpart implements portions of Pub. L. 95–366 that require the Office of Personnel Management to comply with a provision for the apportionment of retirement benefits in a State court order, decree, or court-approved property settlement in connection with the divorce, annulment of marriage, or legal separation of a Federal employee or retiree. This subpart prescribes the procedures to be followed by:

(a) A former spouse when applying for apportionment of an individual's retirement benefits pursuant to section 8345(j) of title 5, United States Code.

(b) The Associate Director for Compensation in honoring the apportionment request and making payment to the former spouse.

§ 831.1702 Definitions.

In this subpart:

"Court order" means any judgment or property settlement issued by or approved by any court of a State or the District of Columbia in connection with, or incident to, the divorce, annulment of marriage, or legal separation of a Federal employee or retiree.

"Expressly provided for" means a direction by court order to divide an individual's retirement benefits and awarding all or a portion of such benefits to a former spouse.

"Former spouse" means a person who has been divorced or legally separated, or whose marriage has been annulled.

"Individual" means a separated Federal employee who has filed an application for a refund of retirement contributions or a civil service annuitant.

"Retirement benefits" means employee annuities and refunds of retirement contributions but does not include survivor annuities or lump sum payments made pursuant to section 8342 (c), (d)–(f) of title 5, United States Code.

§ 831.1703 Qualifying court order.

(a) The former spouse will be entitled to a portion of the retirement benefits only to the extent that the division of retirement benefits is expressly provided for by the court order. The order must specifically provide that the former spouse is entitled to payments from the retirement benefit.

(b) The Office of Personnel Management will review court orders as a whole to determine whether the language of the decree shows an intent by the court that the former spouse receive a portion of the individual's retirement benefits directly from the United States. Determinations as to whether an order is qualifying will be based, in part, on the following guidelines:

(1) Indications of the court's intent generally control.

(2) Absent clear indications to the contrary, an order expressly directing the individual to make payment to the former spouse is not a qualifying court order if the individual objects to direct payment to the former spouse by the Office of Personnel Management.

(3) Orders which qualify under the requirements expressed in paragraphs (a) and (c) of this section, but imply that the individual is to be the source of the payment, are qualifying court orders if, and only if, the individual does not object to the apportionment within the 30-day notice period provided for by § 831.1707(a)(3).

(c) No court order can be a qualifying court order if the amount to be paid to each spouse is not readily ascertainable from the face of the order and normal Office of Personnel Management files.

§ 831.1704 Application to apportion retirement benefits.

(a) To establish the validity of a court order the former spouse must submit to the Associate Director for Compensation:

(1) A recently certified copy of the court order;

(2) A statement that the court order has not been amended, superseded, or set aside; and

(3) Identifying information concerning the employee or retiree such as his/her full name, claim number, date of birth, and Social Security Number, if available.

(b) When payments are subject to termination upon the occurrence of a condition subsequent, no payment shall be made until the former spouse submits to the Associate Director for Compensation a statement

(1) That the condition has not occurred;

(2) That he/she will notify the Associate Director for Compensation within 15 calendar days of the occurrence of the condition subsequent; and

(3) That he/she will be personally liable for any overpayment to him/her resulting from the occurrence of the condition subsequent. The Associate Director for Compensation may subsequently require recertification of these statements.

§ 831.1705 Retirement benefits—amount, when payable.

(a) No apportionment to a former spouse shall exceed the net annuity, computed by excluding from the gross annuity the amounts which are:

(1) Owed by the individual to the United States;

(2) Deducted for health benefits premiums pursuant to section 8906 of title 5, United States Code, and §§ 891.401 and 891.402;

(3) Deducted for life insurance premiums pursuant to section 8714a(d) of title 5, United States Code;

(4) Owed due to overpayment of annuity;

(5) Deducted for Medicare premiums; or

(6) Property withheld for Federal income tax purposes, if amounts withheld are not greater than they would be if the individual claimed all dependents to which he or she was entitled.

(b) Monies held by an executive agency or the Office of Personnel Management which may be payable at some future date shall not be considered payable to the individual and subject to apportionment unless all of the conditions necessary for payment of the monies to the individual have been met, including, but not limited to:

(1) Retirement;

(2) Separation from a covered position in the Federal service;

(3) Application for payment of the monies by the individual.

(c) Waivers of annuity payments under the terms of section 8345(d) of title 5, United States Code, shall exclude the waived portion of the annuity from apportionment under section 8345(j) of title, 5, United States Code, if such waivers are postmarked before the expiration of the 30-day notice period stipulated by § 831.1707.

§ 831.1706 Preliminary review

(a) Upon receipt of a court order and necessary documentation to apportion retirement benefits, the Associate Director for Compensation will make a determination whether the court order is a qualifying court order pursuant to § 831.1703.

(b) Upon determination that the court order is a qualifying court order notifications required by § 831.1707 shall be given.

(c) Upon determination that the court order is not a qualifying court order, the former spouse shall be notified of that determination and the basis therefor.

§ 831.1707 Notification.

(a) The Associate Director for Compensation will notify the individual that a court order has been received which requires the apportionment of his/her retirement benefit and provide the individual with a copy of the court order. The notice will inform the individual:

(1) That the Office of Personnel Management intends to honor the court order;

(2) What effect it will have on the individual's retirement benefit, and

(3) That no payments will be made to the former spouse for a period of 30 days from the notice date to enable the individual to contest the court order.

(b) The former spouse will be notified:

(1) That the Office of Personnel Management intends to honor the court order;

(2) What amount that he/she is entitled to receive, and in cases which require apportionment on a percentage basis, how such amount was computed; and

(3) That payment is being delayed for a period of 30 days to give the individual an opportunity to contest the court order.

§ 831.1708 Decision

(a)(1) When the individual does not respond within the 30-day notice period provided for by § 831.1707(a)(3), the apportionment will be made in accordance with the notification.

(2) When the individual responds to the notification, the Associate Director for Compensation will consider the response. The former spouse's claim will be denied whenever it is shown that:

(i) The court order is not a qualifying court order; or

(ii) The court order is inconsistent with a contemporaneous or subsequent court order.

(b) If the individual objects to payment based on the validity of the court order and the record contains some support for the objection, he/she will be granted 30 days to initiate legal action to determine the validity of the objection. If evidence is submitted that legal action has been started before the 30 days have expired, money will continue to be withheld, but no payment will be made to the former spouse pending judicial determination of the validity of the court order.

§ 831.1709 Effective Date

(a) The provisions of this subpart apply to any refund payable on or after September 15, 1978, and apply to any employee annuity which commenced before, on, or after September 15, 1978. The Associate Director for Compensation will not increase the amount apportioned from current retirement benefits in order to satisfy an arrearage due the former spouse unless the court otherwise directs. However, the Associate Director for Compensation will honor the terms of a new or revised court order which either increases or decreases an apportionment. These changes will be prospective only.

(b) The provisions of this subpart apply to any court order issued before, on, or after September 15, 1978; however, the former spouse will not be entitled to any payments until

(1) The individual files a claim for his/her benefit; and

(2) All submissions required by § 831.1704 have been received by the Associate Director for Compensation.

§ 831.1710 Limitations

(a) Retirement benefits are subject to apportionment by court order only while the individual is living. Payment of apportioned amounts will be made only to the former spouse and/or the children of the individual. Payment will not be made to any of the following:

(1) The heirs or legatees of the former spouse;

(2) The creditors of either the individual or the former spouse; or

(3) Other assignees of either the individual or the former spouse.

(b) The amount of any apportionment may not be less than one dollar and, in the absence of compelling circumstances, shall be in whole dollars.

(c) In honoring and complying with the court order, the Associate Director for Compensation shall not be required to disrupt the scheduled method of accruing retirement benefits or the normal timing for making such payment, despite the existence of a special schedule of accrual or payment of amounts due the former spouse.

(d) Payment of the apportionment shall be discontinued when the individual's annuity payments are suspended or terminated. If annuity payments are restored, payment of the apportionment will resume.

(e) In cases where the court order apportions a percentage of the retirement benefit, the Associate Director for Compensation will initially determine the amount of proper payment pursuant to § 831.1705. That amount will only be increased by future cost-of-living increases unless the court directs otherwise.

§ 831.1711 Liability

(a) The Office of Personnel Management shall not be liable for any payment made from retirement benefits pursuant to a court order if such payment is made in accordance with the provisions of this subpart.

(b) In the event that the Associate Director for Compensation is served with more than one court order with respect to the same retirement benefits, the benefits shall be available to satisfy the court orders on a first-come, first-served basis.

(c) Because the former spouse is entitled to payments only while the individual is living, the former spouse shall be personally liable for any payments which he/she receives after the death of the individual.

(d) The former spouse may request that an amount be withheld from the retirement benefits which is less than the amount stipulated in the court order. This lower amount will be deemed a complete fulfillment of the obligation of

the Office of Personnel Management for the period in which the request is in effect.

[FR Doc. 80-7180 Filed 3-6-80; 8:45 am]
BILLING CODE 6325-01-M

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 705

Anti-Inflation Price Standards; Financial Institutions and Providers of Insurance

AGENCY: Council on Wage and Price Stability.

ACTION: Final Standards for Financial Institutions and Providers of Insurance.

SUMMARY: On January 8, 1980, the Council issued interim final standards for financial institutions and providers of insurance for the second program year (45 FR 1817), requesting public comment. On February 4, 1980, the Council issued a correction to the dividend-limitation provision in the financial institution standard (45 FR 7535). The financial-institution standard, as corrected, is now being issued as a final standard. The standards for providers of insurance are also being issued as final, with the clarification that inland marine insurance, as a custom product, is excluded from calculations of average price changes under 705.49(a)(4) and that adjustments to allowable trend factors under the second sentence of 705.48(b) will be provided separately from gross-inequity exceptions.

DATES: The effective date for this action is March 7, 1980.

FOR FURTHER INFORMATION CONTACT: Arthur Corazzini (202) 456-7730.

SUPPLEMENTARY INFORMATION:

I. Financial Institutions Standard

The only timely filed public comment on the financial standard suggested that the 3.5-percent limitation on service-charge increases be modified so as not to prejudice banks' offering Negotiable Order of Withdrawal (NOW) accounts, on which banks may incur cost increases greater than 3.5 percent. This suggestion was not adopted since the 3.5 percent represents an average service-charge increase; individual service-charge increases in excess of 3.5 percent may be offset by correspondingly smaller increases in other service charges.

II. Insurance Standards

(1) *Medical and Dental Insurance.* The Council received one comment, which focused on the requirement in 705.48(b) that, in qualifying for a profit-limitation exception, a company should use three months of data from 1980. The commentator urged that companies be permitted to use the latest available data, without limitation as to year. However, since such a change could result in a company's moving to the profit limitation in the second program year on the basis of loss-ratio experience in the first program year, the Council declined to make this change.

(2) *Non-Medical and Dental Insurance.* The Council received two comments, pointing out that inland marine insurance was not included in 705.49(a)(4) as a custom product exempt from calculations of average price change, although it was so characterized during the first program year. The Council is clarifying the standard now by making explicit that inland marine insurance is a custom product under 705.49(a)(4).

Issued in Washington, D.C., March 3, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, Sections 705.48, 705.49, and 705.50 of Part 705 of Title 6 of the Code of Federal Regulations are hereby issued in final form to read as follows:

PART 705—ANTI-INFLATIONARY PAY AND PRICE STANDARDS

§ 705.48 Price standard for medical and dental insurance providers.

(a)(1) *Standard.* Premiums for medical and dental insurance quoted or announced after January 1, 1980, should be determined in accordance with the standard for deceleration of inflation trend factors specified in this section.

(2) The revenue-weighted average of the inflation trend factors (or each of the inflation trend factors) should be no more than

(i) 100 percent of the base-period inflation trend factor, if the base-period factor is less than 8 percent, or

(ii) 8 percent plus 80 percent of the amount by which the base-period inflation trend factor exceeds 8 percent, if the base-period factor is 8 percent or more.

(3) For purposes of this paragraph:

(i) the inflation trend factors are the numerical factors, used in determining medical and dental insurance premiums, that reflect expected increases in claim costs due to increases in the prices of health services and in utilization of such services, net of the effect of benefit changes;

(ii) base-period inflation trend factors may be computed in one of two ways: (A) as the average value of inflation trend factors in use on April 1, July 1 and October 1, 1978; or (B) the percentage increase (net of the effect of benefit changes) of per capita (insured unit) claims cost for the most recent 12-month period for which data were available as of January 1, 1980, relative to costs for the corresponding period one year earlier;

(iii) if a company can separate the price and utilization components of the base-period inflation factors and the utilization component is negative, the base-period inflation trend factors may be computed under the assumption that the utilization component is zero;

(iv) notwithstanding the definition of "compliance unit" in 705.64, a firm should treat the following types of business operations as separate units (each of which may be disaggregated further in accordance with the definition of "compliance unit" in 705.64): (A) medical and dental insurance; (B) insurance other than medical and dental insurance; (C) life insurance, including pensions, annuities, and disability insurance; and (D) all other lines of business.

(b) If a company's loss ratio (i.e. the ratio of claims to premiums) based on at least three months medical and dental claims experience during 1980 exceeds that of the same period during 1979 by 3 percentage points or more, or the company can show that it will have negative profits for the program year, it may comply with the profit limitation in 705A-6, commencing 30 days after filing supporting documentation with the Council. Alternatively, the company may request relief (in the form of adjustments to their allowable trend factors) and may use such adjusted trend factors commencing 30 days after filing supporting documentation with the Council, unless within that period the Council requests in writing that the company forestall use of such adjusted factors pending further review by the Council.

Those companies complying with the profit limitation in 705A-6 should use the following definitions:

(1) a program year of calendar 1980, and a base year of calendar 1978;

(2) the relevant years for 705.6(a)(1) are calendar 1976, 1977, and 1978;

(3) investment income is included in the definition of profit; and

(4) the physical volume adjustment is the ratio of program-year premiums at 1978 rate levels to 1978 premiums.

§ 705.49 Price standard for providers of insurance other than medical and dental insurance.

(a) *Coverage.* (1) Compliance units providing insurance other than medical

and dental insurance should comply with the price standards in Subpart A of 6 CFR Part 705, subject to the provisions of this standard.

(2) Notwithstanding the definition of "compliance unit" in Subpart D of 6 CFR Part 705, firms should treat the following types of business operations as separate segments (each of which may be disaggregated further in accordance with the definition of "compliance unit"): (i) medical and dental insurance; (ii) life insurance, including pensions, annuities, and disability insurance; (iii) insurance other than medical and dental or life insurance; and (iv) all other lines of business.

(3) The life-insurance segment, including pensions, annuities, and disability insurance, is excluded from coverage under the price standards.

(4) Revenues from the following lines of insurance are excluded from calculations of average price changes as custom products in accordance with 6 CFR 705.4(a)(10):

(i) negotiated commercial insurance coverages with annual premiums per contract of $100,000 or more;

(ii) reinsurance;

(iii) ocean marine insurance;

(iv) inland marine insurance.

(5) 6 CFR 705.5(a) (Insufficient Product Coverage) does not apply to lines of insurance subject to this standard.

(b) *Definitions.* (1) For compliance units providing insurance subject to this standard:

(i) the first program year is calendar 1979;

(ii) the second program year is calendar 1980, and

(iii) the base quarter is the last calendar quarter of 1978.

(2) For purposes of applying the profit limitation in 6 CFR 705.6(a), a compliance unit providing lines of insurance subject to this standard should use the following definitions:

(i) the base year is calendar 1978;

(ii) the relevant years for calculating the allowable second-program-year profit margin 6 CFR 705.6(a)(1) are calendar 1976, 1977, and 1978;

(iii)(A) for compliance units providing property and casualty insurance, the profit margin is the ratio of "net income after dividends to policy holders," as reported at line 18B of the property and casualty annual report required for such firms by State insurance departments, to net "premiums earned;"

(B) compliance units providing lines of insurance not covered by (A) but subject to this standard and filing comparable annual statements with the State commissions should use entries analogous to those specified in (iii)(A);

(iv) investment income is included in the definition of profits;

(v) the physical volume adjustment is the ratio of second program-year premiums at 1978 rate levels to 1978 premiums.

(c) *Administration of the Price Standard for Providers of Insurance Other than Medical and Dental Insurance.* State insurance commissions will assist the Council in monitoring insurance companies' compliance with the price standards under a plan adopted by the National Association of Insurance Commissioners (NAIC).

(d) *Insurance Brokerage.* An insurance brokerage company complies with the price standards if the average commission rate on which its revenues are based does not increase in calendar 1979 or 1980.

§ 705.50 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.

(2) *Alternative Standard.* If the financial institution cannot comply with the standard in paragraph (1), it should satisfy both the following conditions:

(i) It should limit cash dividends during the 12-month period beginning January 1, 1980, to no more than 107 percent of the dividends during the preceding 12-month period, or if subject to the alternative standard applicable during the first program year, it should limit cash dividends during the period March 15, 1980, through December 31, 1980, to no more than 91 percent of cash dividends paid during the 12-month period prior to March 15, 1979.

(ii) Its average price increase for services (other than interest charges) during the second program year should be no more than 3.5 percent.

(b) *Eligibility.* Companies for which revenues from financial-institution operations account for at least 75 percent of total revenues are subject to the standard in paragraph (a) on a fully consolidated basis, including foreign operations. Other companies should apply the standard in paragraph (a) to the consolidation of their financial subsidiaries. The nonfinancial subsidiaries should comply with the price standard in Subpart A of Part 705 or with the appropriate modified standard in Subpart C of Part 705.

(c) *Definitions.* (1) The *program year* is calendar year 1980.

(2) "Financial institution" means a bank holding company, commercial bank, savings and loan holding company, savings and loan association, mutual savings bank, credit union, consumer-finance or sales-finance company, or substantially similar institution.

(3) "Dividends" does not apply to interest dividends to shareholders/depositors of mutually owned financial associations.

(4) In calculating rates of return, commercial banks and bank holding companies should use the following definitions:

(i) Numerator. The numerator is operating income before provision for income taxes and security gains and losses with the following adjustments:

(A) 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;

(B) The Provision for loan losses is added back to income;

(C) Interest lost on nonperforming and renegotiated loans is added back to income;

(D) The difference between tax-exempt income and its pre-tax equivalent is added back to income.

(ii) 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 purchase. 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.

(5) In calculating rates of return, savings and loan associations, savings and loan holding companies, and equivalent institutions should use the following definitions.

(i) Numerator. The numerator is income before provision of income taxes with the following adjustments:

(A) The provision for losses and losses of sale of investment securities, loans, and other assets is added back to income;

(B) The profit on sale of investment securities is eliminated from income.

(ii) 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 used on month-end balances, or balances taken from the two Semiannual Financial Reports for the year in question and the previous year-end report.

(6) In calculating rates of return, mutual savings banks should use the following definitions.

(i) Numerator. The numerator is operating income before provision for income taxes and security gains and losses with the following adjustments:

(A) The provision for loan losses is added back to income;

(B) Interest loss on nonperforming and renegotiated loans is added back to income;

(C) The difference between tax-exempt income and its pre-tax equivalent is added back to income.

(ii) 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.

(7) In calculating rates of return, credit unions should use the following definitions.

(i) Numerator. The numerator is total operating income minus operating expenses and dividends plus the provision for loan losses.

(ii) 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.

(8) In calculating rates of return, consumer-finance and sales-finance companies should use the following definitions:

(i) Numerator. The numerator is income before provision for income taxes, plus provision for loan losses.

(ii) Denominator. At the company's option, the denominator may be either the average of total assets or net worth based on quarterly reports of the year in question and the previous year-end report.

[FR Doc. 80-7087 Filed 3-6-80; 8:45 am]

BILLING CODE 3175-01-M

6 CFR Part 705

Anti-Inflation Price Standards; Questions and Answers for Providers of Insurance

AGENCY: Council on Wage and Price Stability.

ACTION: Questions and Answers Related to Standards for Providers of Insurance.

SUMMARY: As part of the second-year anti-inflation program, the Council has published Questions and Answers (Q&A's) to clarify or to interpret the voluntary pay and price standards and its procedural rules. The Council has developed an additional Q&A concerning the standards for providers of insurance, and for convenience, it is now publishing both Q&A's.

DATE: The effective date for this action is March 7, 1980.

FOR FURTHER INFORMATION CONTACT: Arthur Corazzini, (202) 456-7730.

Issued in Washington, D.C., March 3, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, Questions 1 and 2 are adopted with regard to providers of insurance to read as follows:

Q1. How is the insurance standard applied by firms that also sell products or services to which the basic price limitation applies?

A1. These firms should comply separately with the standard appropriate for each segment of their business.

Q2. What is the maximum amount that the revenue-weighted average of a compliance unit's inflation-trend factor (or individual trend factors) may be under the second sentence of § 706.48(b).

A2. The percentage by which "A" (as defined in § 707.39) exceeds "B" (as defined in § 707.39) times the unadjusted trend factor.

[FR Doc. 80-7086 Filed 3-6-80; 8:45 am]

BILLING CODE 3175-01-M

6 CFR Parts 706 and 707

Procedural Rules and Data Requests; Interim Final Procedural Rules and Data Requests Relating to Providers of Insurance

AGENCY: Council on Wage and Price Stability.

ACTION: Interim final procedural rules and data requests relating to providers of insurance, with comments requested.

SUMMARY: In a separate Notice, the Council is today adopting its final standards for insurance providers, 6 CFR Sections 706.48 and 706.49. In order to facilitate administration of these standards, the Council is adopting related interim final procedural rules and data requests.

EFFECTIVE DATE: The effective date March 7, 1980; comments should be filed by May 2, 1980.

COMMENTS: Comments should be sent to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Arthur Corazzini (202) 456-7730.

Issued in Washington, D.C., March 3, 1980.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, 6 CFR Parts 706 and 707 are amended to read as follows:

1. Section 706.24 is added to read as follows:

§ 706.24 Submission by providers of medical and dental insurance.

Providers of medical and dental insurance with revenues of $250 million or more in their last complete fiscal year before October 2, 1979, should furnish the Council with inflation-trend factors or claim-cost data specified in Section 707.11 by March 31, 1980.

2. Section 706.25 is added to read as follows:

§ 706.25 Submission by insurance regulators.

Providers of insurance other than medical and dental with revenues of $250 million or more on their last complete fiscal year before October 2, 1979, should complete the quarterly price forms prepared by the National Association of Insurance Commissioners and should make such completed forms available to the Council on request. In addition, state insurance commissioners should submit a report to the National Association of Insurance Commissioners (NAIC) at the close of each quarter, listing each eligible provider of property/casualty insurance in their respective states, indicating those providers that have self-administered the profit limitation, and stating the compliance status of each listed provider. The NAIC should, in turn, submit these reports to the Council on a quarterly basis.

3. Section 706.31 is amended in paragraphs (a) and (c) to read as follows:

§ 706.31 Who should request approval.

(a) Any compliance unit or employee unit that intends to apply one or more of the exceptions specified in Section

706.32 other than the tandem exception under Section 705B–9 or the profit limitation under the first sentence of Section 705.48(b) should request a determination from the Council that the exception is warranted, if

* * * * *

(c) A compliance unit not requested to seek a determination from the Council in accordance with paragraphs (a) or (b) of this section is expected to self-administer the exceptions in a manner consistent with the standards. A compliance unit should retain all data and documents that constitute the basis for the exception in a form suitable for review by the Council. Moreover, a compliance unit that self-administers a tandem exception under Section 705B–9 for an employee unit otherwise covered under Section 706.31(a)(2) should notify the Council in writing at the time of this self-administration. A provider of property/casualty insurance that self-administers the profit limitation in accordance with the first sentence of Section 706.48(b) should notify the Insurance Commissioner of its state of domicile within 10 days of taking such action.

4. Section 707.11 is added to read as follows:

§ 707.11 Price data reports for providers of insurance.

Providers of medical or dental insurance specified in 706.24 should furnish to the Council:

(a) The inflation-trend factors in use on April 1, July 1, and October 1, 1978, or the percentage increase in claims costs used to compute the base-period inflation-trend factors as specified in 705.48(a)(ii)(B),

(b) Any changes in base-period trend factors adopted during the first program year under the provisions of 705C–5(a)(3)(ii) of the first-year standards,

(c) The trend factor(s) in effect at the beginning of the first program year and the trend factor(s) in effect on December 1, 1979,

(d) The base-period trend factors for the second program, and

(e) The trend factor(s) that will be in effect for the entire second program year, as of January 1, 1980.

5. Section 707.39 is added to read as follows:

§ 707.39 Inflation trend-factor adjustments.

A medical or dental insurance provider that requests an adjustment to its allowable trend factor under the second sentence of 705.48(b) should demonstrate that, based on at least three months actual claims experience during 1980, its loss ratio during 1980 exceeds the loss ratio for the same period during 1979 by at least three percentage points. It should also identify those medical and dental product lines for which inflation-trend-factor adjustments are being requested (or, if relief is being sought for all medical and dental lines of business, so state and thereafter employ revenue-weighted averages in all calculations). For each such product line (or the revenue-weighted average of all lines) the company should state (1) its base-period inflation-trend factors, (2) the maximum inflation-trend factors permitted during 1980 under 705.48(a), and (3) the proposed inflation-trend factors. Finally, the company should demonstrate that, for the affected product lines, the ratio of A to B exceeds 1.0, where "A" is the percentage increase (net of the effect of benefit changes) in per capita claims costs for a period in calendar 1980 of not less than three months (and ending not more than three months prior to the date of submission immediately preceding the request) over the per capita claims costs for a corresponding period one year earlier, and "B" is the percentage increase (net of the effect of benefit changes) in per capita claims costs for the corresponding period (as in "A" above) ending in 1978 over the per capita claims costs for the same calendar period one year earlier.

[FR Doc. 80-7113 Filed 3-6-80; 8:45 am]
BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 227

Nutrition Education and Training Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim Rule.

SUMMARY: This interim rule amends the Nutrition Education and Training (NET) Program regulations by establishing an April 1 deadline date for States to apply for participation in the Program in any fiscal year. Funds apportioned to nonparticipating States will be reallocated among the States participating in the Program. States eligible to receive additional funds under this interim rule must submit an amendment to the NET Program State Plan of operation.

EFFECTIVE DATE: This regulation shall become effective on March 7, 1980.

FOR FURTHER INFORMATION CONTACT: Audrey Maretzki, Director, Nutrition and Technical Services Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–9081.

AUTHORITY: Section 15, Pub. L. 95–166, 91 Stat. 1340 (42 U.S.C. 1788).

Section 19(j) of the Child Nutrition Act of 1966, as amended, requires that funds allocated to the States be based on the number of children enrolled in schools or institutions in a State. Every State is allocated a grant in proportion to its student enrollment level with the exception of those States that receive the minimum grant as provided in Section 19(j) (1) and (2) of the Child Nutrition Act of 1966, as amended. A State may choose not to participate in the Program and, therefore, does not receive its portion of the Program funds. Funds allocated to a nonparticipating State are currently held by the Department for the fiscal year. If a State does not enter the Program by the end of a fiscal year, those funds held by the Department revert to the Child Nutrition Account. The Department believes that all funds appropriated by Congress for the NET Program should be used to maximize the benefits of the Program.

In order to utilize all available NET Program funds, the Department is requesting that States notify the appropriate Food and Nutrition Service Regional Office of their intent to participate in the NET Program by April 1 of a fiscal year by submitting Form AD 623 as required in Section 227.30(b) and Section 227.5(b)(2)(i) of the NET Program regulations. If a State does not apply for the NET Program funds by April 1 of a fiscal year, the Department believes that such States should be excluded from participating in the Program for that fiscal year and that State's share of the NET Program funds will be reallocated among the States participating in the NET Program. Pursuant to Section 19(j)(2) of the Child Nutrition Act of 1966, as amended, any additional funds which become available for use in the NET Program during the fiscal year shall be allocated to the States on the same basis the original grant was made to the States.

The NET Program State Plan Guidance requires a State to submit an amendment to the State Plan should significant changes occur in the administration or operation of the Program during the fiscal year. Accordingly, States eligible to receive additional funds must submit an amendment to the State plan, including a revised budget and expanded or additional project activities.

The Department believes that it is most urgent that additional funds be

reallocated as soon as possible so that the States may benefit from the additional funds.

Therefore, the NET Program regulations shall be amended as follows:

PART 227—NUTRITION EDUCATION AND TRAINING PROGRAM

§ 227.30 [Amended]

Section 227.30 shall be amended to include paragraph (b–1) stating: "(b–1) If any State does not apply for participation in the Program, by April 1 of a fiscal year by submitting Form AD 623 as required in § 227.30(b) and § 227.5(b)(2)(i), the State's share of the funds shall be provided to the remaining States, so long as this does not take the remaining States' grants above 50 cents per child enrolled in schools or institutions, except in those States which receive a minimum grant of $75,000 for a fiscal year."

§ 227.37 [Amended]

Section 227.37 shall be amended to include paragraph (c) stating: "(c) States eligible to receive additional funds pursuant to Section 227.30(b–1) shall submit an amendment to the State plan to the Food and Nutrition Service Regional Office for prior approval."

Therefore, pursuant to 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 this interim rule are impracticable and contrary to the public interest and good cause is found for making this interim rule effective less than 30 days after publication of this document in the Federal Register.

This interim rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It was determined by D. Audrey Maretzki, Director, Nutrition and Technical Services Division that the emergency nature of this final rule warrants publication without opportunity for public comment at this time. An impact analysis statement has been prepared and is available from Audrey Maretzki, Director, Nutrition and Technical Services Division, FNS, USDA, Washington, D.C. 20250, 202–447–9081.

Dated: February 28, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80–6833 Filed 3–6–80; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 241 and 242; Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period March 9–15, 1980, and increases the quantity of such lemons that may be so shipped during the period March 2–8, 1980. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective March 9, 1980, and the amendment is effective for the period March 2–8, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are 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 available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 31, 1979. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on March 4, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and 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), and the amendment relieves restrictions on the handling of lemons. 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 times.

1. Section 910.542 is added as follows:

§ 910.542 Lemon Regulation 242.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period March 9, 1980, through March 15, 1980, is established at 240,000 cartons.

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

§ 910.541 [Amended]

2. Paragraph (a) of § 910.541 Lemon Regulation 241 (45 F.R. 13432) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period March 2, 1980, through March 8, 1980, is established at 245,000 cartons."

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

Dated: March 5, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80–7396 Filed 3–6–80; 11:44 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 78

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final Rule.

SUMMARY: These amendments add the county of Teton in Idaho, Guthrie in Iowa, and the counties of Alfalfa, Custer, and Woodward in Oklahoma, to the list of Certified Brucellosis-Free Areas and delete such counties from the list of Modified Certified Brucellosis Areas. It has been determined that these counties qualify to be designated as Certified Brucellosis-Free Areas. The effect of this action will allow for less restrictions on cattle moved interstate from these areas.

EFFECTIVE DATE: March 7, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. A. D. Robb, USDA, APHIS, VS, Room 805, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8713.

SUPPLEMENTARY INFORMATION: A complete list of brucellosis areas was published in the Federal Register (44 FR 76751–76754) effective December 28, 1979. These amendments add the county of Teton in Idaho, Guthrie in Iowa, and the counties of Alfalfa, Custer, and Woodward in Oklahoma, to the list of Certified Brucellosis-Free Areas in § 78.20 and delete such counties from the list of Modified Certified Brucellosis Areas in § 78.21, because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area contained in § 78.1(1) of the regulations. This list is updated monthly and reflects actions taken under criteria for designating areas according to brucellosis status.

Accordingly, Part 78, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

§ 78.20 [Amended].

1. In § 78.20, paragraph (a) is amended by adding: *Iowa.*

2. In § 78.20, paragraph (b) is amended by adding: *Idaho.* Teton; *Oklahoma.* Alfalfa, Custer, Woodward; and deleting *Iowa.* Adair, Adams, Allamakee, Appanoose, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cerro, Gordo, Cherokee, Chickasaw, Clarke, Clay, Clayton, Clinton, Crawford, Dallas, Davis, Decatur, Delaware, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Harrison, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Jefferson, Johnson, Jones, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Monroe, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Ringgold, Sac, Scott, Shelby, Sioux, Story, Tama, Taylor, Union, Van Buren, Wapello, Warren, Washington, Wayne, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

§ 78.21 [Amended].

3. In § 78.21, paragraph (a) is amended by deleting *Oklahoma.*

4. In § 78.21, paragraph (b) is amended by adding: *Oklahoma.* Adair, Atoka, Beaver, Beckham, Blaine, Bryan, Caddo, Canadian, Carter, Cherokee, Choctaw, Cimarron, Cleveland, Coal, Comanche, Cotton, Craig, Creek, Delaware, Dewey, Ellis, Garfield, Garvin, Grady, Grant, Greer, Harmon, Harper, Haskell, Hughes, Jackson, Jefferson, Johnson, Kay, Kingfisher, Kiowa, Latimer, Le Flore, Lincoln, Logan, Love, Major, Marshall, Mayes, McClain, McCurtain, McIntosh, Murray, Muskogee, Noble, Nowata, Okfuskee, Oklahoma, Okmulgee, Osage, Ottawa, Pawnee, Payne, Pittsburg, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Rogers, Seminole, Sequoyah, Stephens, Texas, Tillman, Tusla, Wagoner, Washington, Washita, Woods; and by deleting: *Idaho.* Teton; *Iowa.* Guthrie.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f, 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendment designating areas as Certified Brucellosis-Free Areas relieves restrictions presently imposed on cattle moved from the areas in interstate commerce.

The restrictions are no longer deemed necessary to prevent the spread of brucellosis from such areas and, therefore, the amendment should be made effective immediately in order to permit affected persons to move cattle interstate from such areas without unnecessary restrictions.

Therefore, pursuant to 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 this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the Federal Register.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Paul Becton, Director, National Brucellosis Eradication Program, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 4th day of March 1980.

J. K. Atwell,

Acting Deputy Administrator Veterinary Services.

[FR Doc. 80-7114 Filed 3-6-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

10 CFR Part 212

Adjustments to Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues Crude Oil Price Schedule No. 18 which provides for monthly increases in the ceiling prices for lower tier and upper tier crude oil to take into account the impact of inflation. This action will result in estimated first sale prices for the months of March, April, and May 1980 of $6.26, $6.30, and $6.35 per barrel (lower tier) and $14.00, $14.10, and $14.20 per barrel (upper tier), respectively.

EFFECTIVE DATE: March 1, 1980.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B110, Washington, D.C. 20461, 202–634–2170.

Charles P. Little (Crude Oil Pricing Branch), Economic Regulatory Administration, 2000 M Street NW., Room 6128, Washington, D.C. 20461, 202–254–6296.

Ben McRae (Office of General Counsel), Department of Energy, 1000 Independence Avenue SW., Room 6A–127, Washington, D.C. 20585, 202–252–6739.

SUPPLEMENTARY INFORMATION:

A. *Introduction.*

B. *Crude Oil Price Schedule No. 18.*

A. *Introduction.* On November 30, 1979, we issued Crude Oil Price Schedule No. 17 (44 FR 70121, December 6, 1979), which continued the crude oil pricing policy of permitting the prices for lower tier and upper tier crude oil to increase to adjust for the impact of inflation. We have decided to continue this policy during the period of March

1980 through September 1981 as we gradually decontrol domestic crude oil. Accordingly, we are issuing Crude Oil Price Schedule No. 18 which provides for increases in the ceiling prices for lower tier and upper tier crude oil during the months of March, April, and May 1980 to take into account the impact of inflation.

B. *Crude Oil Price Schedule No. 18.* Under Crude Oil Price Schedule No. 18 the February 1980 lower tier ceiling price (the May 15, 1973 posted price plus $2.53 per barrel, resulting in an average first sale price of approximately $6.22 per barrel), and the February 1980 upper tier ceiling price (the September 30, 1975 posted price plus $1.23, resulting in an average first sale price of approximately $13.90 per barrel), are adjusted for inflation for March, April and May 1980, based on the first revision of the GNP deflator published on February 20, 1980, which reflects an annual rate of inflation of 8.7 percent.

1. *Lower tier ceiling prices.* Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in March, April and May 1980, are determined pursuant to the following methodology:

A. ERA has computed a monthly adjustment factor of .00698 which when applied over a twelve-month period yields an effective annual rate of adjustment of 8.7 percent.

B. March 1980 adjustment=($6.22)(.00698) per barrel=$.043 per barrel rounded to $.04 per barrel.

C. April 1980 adjustment=($6.22+.04)(.00698) per barrel=$.044 per barrel rounded to $.04 per barrel.

D. May 1980 adjustment=($6.22+.04+.04)(.00698) per barrel=$.044 per barrel rounded up to $.05 per barrel (to compensate for the cumulative effect of rounding).

Based upon the monthly adjustments computed above, estimated average lower tier ceiling prices for the months of March, April and May 1980 are computed as follows:

March 1980=$6.22+$.04=$6.26.

April 1980=$6.26+$.04=$6.30.

May 1980=$6.30+$.05=$6.35.

Using an average highest posted field price on May 15, 1973 of $3.69 per barrel and the monthly adjustments as computed above, lower tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price[1]
March 1980	May 15, 1973 highest posted field price plus $2.57.	$6.26
April 1980	May 15, 1973 highest posted field price plus $2.61.	6.30
May 1980	May 15, 1973 highest posted field price plus $2.66.	6.35

[1] Estimated average first sale price.

2. *Upper tier ceiling prices.* Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in March, April, and May 1980 are determined pursuant to the following methodology:

A. Adjustment factor (explained above)=.00698.

B. March 1980 adjustment=($13.90)(.00698) per barrel=$.097 per barrel rounded to $.10 per barrel.

C. April 1980 adjustment=($13.90+.10)(.00698) per barrel=$.098 per barrel rounded to $.10 per barrel.

D. May 1980 adjustment=($13.90+.10+.10)(.00698) per barrel=$.098 per barrel rounded to $.10 per barrel.

Based upon monthly adjustments computed above, estimated average upper tier ceiling prices for the months of March, April and May 1980, are computed as follows:

March 1980=$13.90+$.10=$14.00.

April 1980=$14.00+$.10=$14.10.

May 1980=$14.10+$.10=$14.20.

Using an average highest posted field price on September 30, 1975 of $12.67 per barrel and the monthly adjustments as computed above, upper tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price[1]
March 1980	September 30, 1975 highest posted field price plus $1.33.	$14.00
April 1980	September 30, 1975 highest posted field price plus $1.43.	14.10
May 1980	September 30, 1975 highest posted field price plus $1.53.	14.20

[1] Estimated average first sale price.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95-91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective March 1, 1980.

Issued in Washington, D.C., February 29, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Section 212.77 is amended in the Appendix to add Schedule No. 18 of Monthly Price Adjustments, as follows:

§ 212.77 Adjustments to Ceiling Prices.

* * * * *

Appendix

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Schedule No. 18 of Monthly Price Adjustments— *Effective Mar. 1, 1980*

Month	Lower tier, May 15, 1973 posted price[1] (plus)	Upper tier, Sept. 30, 1975 posted price[2] (plus)
1976:		
February	1.35	−1.32
March	1.38	−1.25
April	1.41	−1.18
May	1.45	−1.11
June	1.48	−1.05
July	1.48	−1.05
August	1.48	−1.05
September	1.48	−1.05
October	1.48	−1.05
November	1.48	−1.05
December	1.48	−1.05
1977:		
January	1.48	−1.25
February	1.48	−1.25
March	1.48	−1.70
April	1.48	−1.70
May	1.48	−1.70
June	1.48	−1.70
July	1.48	−1.70
August	1.48	−1.70
September	1.51	−1.44
October	1.54	−1.18
November	1.57	−.92
December	1.59	−.87
1978:		
January	1.61	−.82
February	1.63	−.77
March	1.66	−.71
April	1.69	−.65
May	1.72	−.59
June	1.75	−.52
July	1.78	−.45
August	1.81	−.38
September	1.86	−.28
October	1.91	−.17
November	1.96	−.06
December	1.99	.01
1979:		
January	2.02	.08
February	2.05	.15
March	2.09	.23
April	2.13	.31
May	2.17	.39
June	2.21	.48
July	2.25	.57
August	2.29	.66
September	2.33	.76
October	2.37	.86
November	2.41	.96
December	2.45	1.05
1980:		
January	2.49	1.14
February	2.53	1.23
March	2.57	1.33
April	2.61	1.43
May	2.66	1.53

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).

[2] The price referred to in 10 CFR 212.74(b)(1).

This schedule of monthly price adjustments was issued by the Economic Regulatory Administration on February 29, 1980, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through February 1980, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 17 effective December 1, 1979, are further increased as indicated in this schedule, effective March 1, 1980.

This schedule is effective only through May 31, 1980.

[FR Doc. 80-7222 Filed 3-6-80; 8:45 am]
BILLING CODE 6450-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR 1214

Space Transportation Systems; the Authority of the Space Transportation Systems (STS) Commander

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This regulation sets forth the authority of the STS Commander. The commander is ultimately responsible for maintaining order and discipline and for the safety of all personnel aboard a Space Shuttle flight, as well as for the safety of the Space Shuttle itself, STS elements and payloads. Under this regulation, the commander's authority applies to all persons aboard the Space Shuttle, including those persons engaged in extravehicular activity (EVA), and it includes the right to use any reasonable and necessary means, including the use of physical force, to ensure that such responsibility is fulfilled.

DATE: March 7, 1980.

ADDRESS: Office of Space Transportation Systems, Mail Code MSP-2, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Robert T. O'Neil, 202/755-2424.

SUPPLEMENTARY INFORMATION: On August 22, 1979 NASA published a proposed rule (44 FR 49274-49275) to set forth the authority of the STS Commander. Interested parties were given 60 days following publication in the Federal Register to submit written comments. No substantive public comments were received on the proposal. However, NASA made the following change to the regulations. In § 1214.703(a), line 7, after flight conditions, the statement in parenthesis has been changed to read "(other than emergencies or when otherwise designated)." With this exception, the proposed rules are hereby adopted without change and are set forth below.

Robert A. Frosch,
Administrator.

14 CFR Part 1214 is amended by adding a new Subpart 1214.7 reading as follows:

Subpart 1214.7—The Authority of the Space Transportation System (STS) Commander

Sec.
1214.700 Scope.
1214.701 Definitions.
1214.702 Authority and responsibility of STS commander.
1214.703 Chain of command.
1214.704 Violations.

Authority: Pub. L. 85-568; 72 Stat. 426; 42 USC 2473, 2455; 18 USC 799; Art. VIII, TIAS 6347 (18 UST 2410).

Subpart 1214.7—The Authority of the Space Transportation System Commander

§ 1214.700 Scope.

This Subpart establishes the authority of the STS commander to enforce order and discipline during all flight phases of an STS flight to take whatever action in his/her judgment is necessary for the protection, safety, and well-being of all personnel and on-board equipment, including the STS elements and payloads. During the final launch countdown, following crew ingress, the STS commander has the authority to enforce order and discipline among all on-board personnel. During emergency situations prior to liftoff, the STS commander has the authority to take whatever action in his/her judgment is necessary for the protection or security, safety, and well-being of all personnel on board.

§ 1214.701 Definitions.

(a) *STS Elements* consists of the Orbiter, an External Tank, two Solid Rocket Boosters, Spacelab, Upper Stage Boosters (Solid Spinning Upper Stage and Interim Upper Stages) and others as specified in NASA Management Instruction 8040.9.

(b) The *Flight Crew* consists of the commander, pilot, and mission specialist(s).

(c) A *Flight* is the period from launch to landing of a Space Shuttle—a single round trip. (In the case of a forced landing the STS commander's authority continues until a competent authority takes over the responsibility for the Orbiter and for the persons and property aboard.)

(d) The *Flight-Phases* consist of launch, in orbit, deorbit, entry, landing, and postlanding.

(e) A *Payload* is a specific complement of instruments, space equipment, and support hardware/software carried into space to accomplish a scientific mission or discrete activity.

(f) *Personnel On Board* refers to those astronauts or other persons actually in the Orbiter or Spacelab during any flight phase of an STS flight (including any persons who may have transferred from another vehicle) and including any persons performing extra-vehicular activity associated with the mission.

§ 1214.702 Authority and responsibility of the STS commander.

(a) During all flight phases of an STS flight, the STS commander shall have the absolute authority to take whatever action is in his/her discretion necessary to (1) enforce order and discipline, (2) provide for the safety and well being of all personnel on board, and (3) provide for the protection of the STS elements and any payload carried or serviced by the STS. The commander shall have authority throughout the flight to use any reasonable and necessary means, including the use of physical force, to achieve this end.

(b) The authority of the commander extends to any and all personnel on board the Orbiter including Federal officers and employees and all other persons whether or not they are U.S. nationals.

(c) The authority of the commander extends to all STS elements and payloads.

(d) The commander may, when he/she deems such action to be necessary for the safety of the STS elements and personnel on board, subject any of the personnel on board to such restraint as the circumstances require until such time as delivery of such individual or individuals to the proper authorities is possible.

§ 1214.703 Chain of command.

(a) The *Commander* is a career NASA astronaut who has been designated to serve as commander on a particular flight, and who shall have the authority and responsibility described in section 1214.702 of this Subpart. Under normal flight conditions (other than emergencies or when otherwise designated) the STS commander is responsible to the Flight Director, Johnson Space Center, Houston, TX.

(b) The *Pilot* is a career NASA astronaut who has been designated to

serve as the pilot on a particular flight and is second in command of the flight. If the commander is unable to carry out the requirements of this Subpart, then the pilot shall succeed to the duties and authority of the commander.

(c) Before each flight, the other flight crew members (Mission Specialists) will be designated by the Director of Flight Operations, Johnson Space Center, Houston, TX, in the order in which they will assume the responsibilities and authority of the commander under this Subpart in the event that the commander and pilot are both not able to carry out their duties.

§ 1214.704 Violations.

(a) All personnel on board an STS flight are subject to the authority of the commander and shall conform to his/her orders and direction as authorized by this Subpart.

(b) This regulation is a regulation within the meaning of 18 U.S.C. 799, and whoever willfully violates, attempts to violate, or conspires to violate any provision of this Subpart or any order or direction issued under this Subpart shall be fined not more than $5,000 or imprisoned not more than 1 year, or both.

[FR Doc. 80-7080 Filed 3-6-80; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF LABOR

Employment Standards Administration

20 CFR Part 718

Standards for Determining Coal Miners' Total Disability or Death Due to Pneumoconiosis

Correction

In FR Doc. 80-6369, published at page 13678, on Friday, February 29, 1980, on page 13678, in the first column, under "Date:", the second line should be corrected to read "effective March 31, 1980."

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 176

[Docket No. 79F-0041]

Indirect Food Additives: Components of Paper and Paperboard in Contact With Aqueous and Fatty Foods

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 9, 10-anthraquinone as a pulping aid in the manufacture of paper and paperboard for food-contact use. This action responds to a food additive petition submitted by ICI Americas, Inc.

DATES: Effective March 7, 1980; objections by April 7, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 30, 1979 (44 FR 19035), notice was published that a food additive petition (FAP 8B3414) had been filed by ICI Americas, Inc., Concord Pike and New Murphy Rd., Wilmington, DE 19897, proposing to amend § 176.170 (21 CFR 176.170) to provide for the use of 9, 10-anthraquinone as a catalyst in the alkaline pulping of lignocellulosic materials.

FDA received two comments regarding this petition. One comment, from Mobay Chemical Corp., Penn Lincoln Parkway West, Pittsburgh, PA 15205, provided specifications for anthraquinone made by three different manufacturing processes and requested that these specifications be considered, among others, in developing any regulation for this product. All three specifications meet the requirements of the regulation set forth below.

Another comment from a law firm requested that the firm's client be given the opportunity, before the final promulgation of the regulation, to provide information regarding any limitations that the regulation might place on the client's manufacturing process. The comment stated that the client's manufacturing process was described in the ICI Americas' petition (FAP 8B3414).

There is no need for the requested additional opportunity to comment because the regulation set forth below neither specifies nor places limitations on any manufacturing process. FDA has concluded that 9, 10-antraquinone produced by the processes described in FAP 8B3414 can meet the requirements of the regulation.

FDA has evaluated data in the petition and concludes that § 176.170 should be amended as set forth below to include the petitioned additive.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 176 is amended in § 176.170(a)(5) by alphabetically inserting a new item in the list of substances to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of Substances	*Limitations*
9, 10-Anthraquinone (Chemical Abstracts Service Registry No. 84-65-1) which has a purity of not less than 98 percent.	For use only as a pulping aid in the alkaline pulping of lignocellulosic material at levels not to exceed 0.1 percent by weight of the raw lignocellulosic material.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before May 7, 1980 submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective March 7, 1980.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: February 29, 1980.
William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.
[FR Doc. 80-7077 Filed 3-6-80; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Parts 520 and 522

Oral Dosage Form New Animal Drugs and Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification: Acetazolamide Sodium Soluble Powder; Sterile Sodium Acetazolamide; NAS/NRC Update

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: This document amends the regulations for acetazolamide sodium soluble powder and sterile sodium acetazolamide to indicate those conditions of use for which applications for approval of identical products need not include certain types of effectiveness data. These conditions of use were classified as effective as a result of a National Academy of Sciences—National Research Council, Drug Efficacy Study Group (NAS/NRC) evaluation of the products. Instead of certain effectiveness data, approval may require submission of bioequivalence or similar data. A previous Federal Register publication has reflected that these products are in compliance with the conclusions of the review.

EFFECTIVE DATE: March 7, 1980.

FOR FURTHER INFORMATION CONTACT: Henry C. Hewitt, Bureau of Veterinary Medicine (HFV-110), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: The NAS/NRC review of these products was published in the Federal Register of February 7, 1969 (34 FR 1839). In that document the Academy concluded, and FDA concurred, that the products were effective for treating mild congestive heart failure and for rapid reduction of intraocular pressure in dogs.

That announcement was issued to inform holders of new animal drug applications (NADA's) of the findings of the Academy and the agency, and to inform all interested persons that such articles could be marketed if they were the subject of approved NADA's and otherwise complied with the requirements of the Federal Food, Drug, and Cosmetic Act.

American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, responded to the notice by submitting a supplemental NADA (11-582V) providing current information covering manufacturing and controls and revising the labeling for the safe and effective use of the products in dogs as an aid in treating mild congestive heart failure and for rapid reduction of intraocular pressure. The supplemental application was approved by a regulation published in the Federal Register of June 12, 1973 (38 FR 15444). The regulation reflecting this approval established a new section for the drug as a soluble powder for oral use (21 CFR 135c.64, recodified at 21 CFR 520.44) and a new section for the drug in the injectable form (21 CFR 135b.51, recodified at 21 CFR 522.44). The new sections did not specify those conditions of use that were NAS/NRC approved.

This document amends the regulations to indicate those conditions of use for which applications for approval of identical products need not include certain types of effectiveness data required for approval by § 514.111(a)(5)(vi) of the new animal drug regulations. Instead of those data, approval of such products may be obtained if bioequivalency or similar data are submitted as suggested in the guideline for submitting NADA's for generic drugs reviewed by the NAS/NRC. The guideline is available from the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 520 and 522 are amended as follows:

1. In Part 520, § 520.44 is amended in paragraph (c)(1), (2), and (3) by adding after each paragraph the footnote reference 1 and by adding at the end of the section the footnote 1 to read as follows:

§ 520.44 Acetazolamide sodium soluble powder.

* * * * *

(c) *Conditions of use.* (1) * * *[1]
(2) * * *[1]
(3) * * *[1]

2. In Part 522, § 522.44 is amended in paragraphs (c)(1), (2), and (3) by adding after each paragraph the footnote reference [1] and by adding at the end of the section the footnote[1] to read as follows:

§ 522.44 Sterile sodium acetazolamide.

* * * * *

(c) *conditions of use.* (1) * * *[1]
(2) * * *[1]
(3) * * *[1]

Effective date. This regulation shall be effective March 7, 1980.

(Sec. 512(i), 82 stat. 347 (21 U.S.C. 360b(i)))

Dated: February 29, 1980
Lester M. Crawford
Director, Bureau of Veterinary Medicine.
[FR Doc. 80-7078 Filed 3-6-80; 8:45 am]
BILLING CODE 4110-03-M

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 819a

Aviation Fuel and Oil Issues to Contract, Charter, and Civil Aircraft

AGENCY: Department of the Air Force, Department of Defense.
ACTION: Final rule.

SUMMARY: The Department of the Air Force is revising Part 819a of Chapter VII, Title 32, of the Code of Federal Regulations. This revision outlines the procedures used by the Air Force for issuing fuel to contract, charter, and civil aircraft. It explains when these issues may be made on credit, at what price, and when federal excise taxes must be collected. These procedures apply to all regular Air Force, Air National Guard, and Air Force Reserve activities that refuel aircraft.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. J. A. Jones, telephone (202) 695-0461.

SUPPLEMENTARY INFORMATION: Part 819a of Subchapter B, Chapter VII, Title 32, of the Code of Federal Regulations has been revised. This revision adds references to bailed aircraft; revises definitions and surcharge procedures for charter aircraft; adds procedures for treating contract and charter aircrafts as civil aircraft in some cases; documents current and some new procedures for issuing and controlling avfuel identaplates for contract aircraft; revises credit procedures; adds provisions for emergency credit; and adds special LOGAIR billing procedures.

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

Accordingly, Title 32 of the Code of Federal Regulations is amended by revising Part 819a to read as follows:

PART 819a—AVIATION FUEL AND OIL ISSUES TO CONTRACT, CHARTER, AND CIVIL AIRCRAFT

Sec.

819a.0 Purpose.
819a.1 Explanation of terms.
819a.2 How to recognize contract, charter, and civil aircraft.
819a.3 Determination of authorized sales and price of aviation fuel and oil.
819a.4 Air Force fuel and oil sales policy for contract, charter, and civil aircraft.
819a.5 Surcharging sales to charter aircraft.
819a.6 Prices to charge.
819a.7 Establishing credit for USAF fuel and oil.
819a.8 Procedures for renewing credit.
819a.9 Emergency credit procedure.
819a.10 Credit revocation.
819a.11 Billing and collecting.
819a.12 Federal Excise Taxes (FETs).
819a.13 When to charge taxes.
819a.14 Computing taxes imposed according to 819a.13.
819a.15 HQ USAF responsibilities.
819a.16 Responsibilities of the MAJCOMs.
819a.17 Responsibilities of SA-ALC/SFRL.
819a.18 Responsibilities of Det 29, SA-ALC/SFM.
819a.19 Responsibilities of SA-ALC/ACFOA.
819a.20 Responsibilities of Base Fuels Management Office.
819a.21 Responsibilities of the Base Accounting and Finance Office.
819a.22 Special procedures for billing LOGAIR (AFLC).
819a.23 Sample authorized buyer letter.
819a.24 Sample credit extension letter.
819a.25 Emergency avfuel sales agreement.
819a.26 Sample emergency credit teletype.
819a.27 Tax exemption certificate.

Authority: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

Note.—This part is derived from Air Force Regulation 144-9, December 17, 1979.

Note.—Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 819a.0 Purpose.

This part outlines the procedure for issuing fuel to contract, charter, and civil aircraft, explains when these issues may be made on credit, and at what price. It also explains when federal excise taxes must be collected on these issues. Special procedures for billing logistics airlift (LOGAIR) contract air carriers are included. These procedures are to be used by every Air Force aviation fuels account, whether operated by an Air Force, contract, or other unit. The part applies to all regular Air Force, Air National Guard, and Air Force Reserve activities that refuel aircraft. Requests for waivers should be directed in writing to HQ USAF/LEYSF through command channels. Major commands (MAJCOMs) may issue supplements to this part, when required, to describe command-unique procedures permitted by this part. Forward command supplements to HQ USAF/LEYSF, Wash DC 20330.

§ 819a.1 Explanation of terms.

(a) *Authorized Buyer Letter.* A letter submitted by an aircraft operator (airline or other owning organization) requesting approval to buy Air Force fuel and oil on credit. See sample letter in § 819a.23.

(b) *Aviation Fuel and Oil.* Aircraft fuel and bulk oils owned by the Fuels Divisions, Air Force Stock Fund. See AFM 67-1, volume 1, part three, chapter 1 for a list of products.

(c) *Bailed Aircraft.* United States government-owned aircraft on loan to a contractor. As used here, bailed aircraft are those provided to Department of Defense (DOD) contractors as government furnished property (GFP).

(d) *Charter Aircraft.* Aircraft operating under a charter agreement with any US government agency at rates that do not include the government's furnishing fuel to the aircraft.

(e) *Contract Aircraft.* Aircraft operating under airlift contract to any US government agency, including DOD and National Aeronautics and Space Administration (NASA), at rates that include the government's furnishing fuel at standard price to the aircraft.

(f) *Federal Excise Taxes (FETs).* Taxes levied under various sections of federal law on many types of items, including aviation fuels and oils sold within the United States. See § 819a.10 for cases when exemptions from these taxes apply.

(g) *Standard Price.* DOD-established prices for issuing stock fund-owned aviation fuel. These prices are the same at all DOD locations supplied by Defense Logistics Agency's (DLA's) Defense Fuel Supply Center (DFSC).

(h) *Stock Fund.* For purposes of this part, the Fuels Division, Air Force Stock Fund (AFSF). For more information, see AFR 170-25.

(i) *Surcharge.* As used here, a charge added to the cost of fuel sold at standard price to recover all costs to the government, incident to the sale of fuel and oil.

§ 819a.2 How to recognize contract, charter, and civil aircraft.

Most DOD and NASA contract and charter aircraft carry a DD Form 1896, Jet Fuel Identaplate, 1897, AVGAS Identaplate, or AF Form 1245, USAF AVGAS Identaplate. This identaplate is configured as directed by the cognizant MAJCOM contract office. Other specific identification carried aboard these and other types of flights is described below.

Note.—Documentation may not always be available at the contract or charter origin point before refueling begins. Check with the administrative contracting (or transportation) office, who will give necessary information to the fuels management officer (FMO).

(a) Contract Aircraft-Department of Defense:

(1) Domestic flights. DOD flights carry a:

(i) Certificate of LOGAIR Operations (USAF-AFLC);

(ii) A Certificate of Quicktrans Operations (Navy);

(iii) A Certificate of Courier Service Operations (MAC); or

(iv) A Certificate of Intra-Alaska Operations (MAC).

(2) International Flights. These may be identified by MAC Form 8, Civil Aircraft Certificate-Contract.

(3) Flights Totally within an Overseas Area. Contracting officers (or overseas area transportation officers) issue identification for these flights. They will advise the base fuels management office (BFMO) at each base the flight will transit. They will describe the type of identifying papers to make sure the flight is easily identifiable as a contract flight.

(b) Contract Aircraft Operating for Other Departments of the U.S. Government:

(1) Each agency that expects its contract aircraft to need fueling service at an Air Force base will advise San Antonio ALC/SFRL, Kelly AFB TX 78241, through AF/PAXJ, at least 15 days in advance of the first scheduled landing. The agency should:

(i) Describe identifying documentation and,

(ii) State whether its contract rates are partially based on furnishing government-owned fuel at a standard price, and whether the carrier has met the agency's requirements for tax exemption.

(2) SA-ALC/SFRL will, in turn, tell each base, at least 5 days before the first scheduled landing, what price to charge for fuel and oil.

(c) Bailed (Government-Furnished Property (GFP)) Aircraft. These aircraft should carry a valid DD Form 1896, 1897, or AF Form 1245, prepared by Detachment 29, SA-ALC/SFM, Cameron Station, Alexandria VA 22314, at the request of the MAJCOM that controls the contract. (For more information see Defense Acquisition Regulation (DAR—formerly Armed Services Procurement Regulation (ASPR)).) These aircraft are

considered civil aircraft if they do not present an identaplate.

(d) Charter Aircraft—Department of Defense:

(1) Cargo Service Flights. These are identified by an SF Form 1103, US Government Bill of Lading, bearing a civil air freight movement (CAFM) number.

(2) Passenger Service Flights. These are identified by an SF Form 1169, The United States of America Transportation Request, bearing a commercial air movement (CAM) number.

Note.—The SF 1169 may not be available until passengers enter the aircraft. If the plane must be refueled before they board, get the CAM number from the aircraft commander and verify it with the base operations or transportation officer.

(3) Army and Air Force Exchange Service (AAFES) Government Charter Flights. In certain cases, AAFES may charter a cargo flight. These flights carry AAFES Form 4150-1, AAFES Purchase and Delivery Order.

(4) Military Traffic Management Command (MTMC) Charter Flights. The identification for these flights is SF 1169, U.S. Government Transportation Request, bearing a CAM number. These are short term charters that originate and terminate within CONUS. HQ MTMC will inform each base that will be transited by these flights (with information copy to SA-ALC/ACFOA) of details in advance. Each MTMC charter must carry a valid AF 181 Civil Aircraft Landing Permit. (See note under paragraph (d)(2) of this section.)

(5) Flights Totally Within an Overseas Area. For these flights, the chartering office must notify each base where the flight will land and tell what identifying papers will be available in the aircraft.

(e) Charter Aircraft, Other US Departments and Agencies. Other government agencies will advise SA-ALC/SFRL in the manner prescribed for contract flights in paragraph (b) of this section.

(f) Civil Aircraft. Any aircraft not identifiable as a military, contract, bailed, or charter aircraft will be considered civil aircraft. Civil aircraft carry an AF Form 181. Civil air patrol (CAP) aircraft on USAF-directed missions, while civil aircraft, may be furnished fuel as required under the special authority granted by Title 10, United States Code (U.S.C.), section 9441(b)(3). They may be identified by tasking documentation carried aboard the aircraft.

(g) Humanitarian Flights. AF/PAXJ may approve landing and refueling rights for certain international humanitarian flights. These flights may be under contract or charter agreement to private or international groups. Consider them civil aircraft for determining fuel issue quantities and price.

§ 819a.3 Determination of authorized sales and price of aviation fuel and oil.

Rule	A If the aircraft is operating as a	B as verified by	C then issues of fuel or oil may be made (see Note)	D and the price will be
1	contract aircraft (including bailed—GFP with identaplates).	certificate of LOGAIR, Quick-trans, courier service, or intra-Alaska operations, or MAC Form 8.	after end of flight as needed to get to nearest home station, next contract origin; or last station or point in between.	standard price. (See text for exception when contract aircraft may be deemed civil aircraft. When this occurs, price is standard plus 40% surcharge.)
2			at origin or continuation point, as needed for continuation of flight.	
3	charter aircraft	SF 1103 w/CAFM number, or SF 1169 w/CAM number, or AAFES Form 4150-1, or official notification from another source.	after flight ends, as needed to get to nearest home station, next charter origin point, last station or point in between.	standard price plus table 2 surcharge. (See text for exception when charter aircraft may be deemed civil aircraft. When this occurs, price is standard plus 40% surcharge.)
4			at unload or discharge points without commercial capability, or at origin or continuation points, as needed for continuation of flight.	
5	civil aircraft (note) (except when on USAF order—see rule 7).	AF form 181	as needed to get to next destination when on government business, or approved humanitarian mission.	standard price plus 40% surcharge.
6			as needed to get to nearest commercial refueling point when using base as a weather alternate base, or in an emergency.	
7	CAP aircraft on USAF orders	AF Form 181 orders	as needed to reach next destination on orders.	for reimbursement to stock fund by MAC, standard price.

NOTE.—All aircraft must have a valid landing permit, AF Form 181, unless making an emergency landing. Sales may be restricted by foreign government regulations, laws, practices, or international agreements.

§ 819a.4 Air Force fuel and oil sales policy for contract, charter, and civil aircraft.

Fuel and oil are not sold to these aircraft in competition with private enterprise. There are strict limits on when, how much, and at what price fuel and oil may be sold to them. (For a summary of these rules, see § 819a.3, columns a, b, c, and d.) Fuel and oil may be sold to these aircraft under the following rules:

(a) *Emergency Landings of Any Aircraft.* Issue enough fuel and oil to permit the aircraft to reach its next destination or its home station or commercial refueling point, local weather permitting, whichever is closer.

(b) *Contract Aircraft.* If they are starting or continuing a contract flight, they may be refueled normally to permit continuation of the flight. If they are completing a flight, they may be issued enough fuel (sometimes called "depositioning" fuel) to let them reach:

(1) Their nearest operating location or base, or

(2) The point where another contract flight is to begin, or

(3) The point where the contract flight began (or any point short of it). The aircraft operator will determine how much fuel or oil is needed to reach this destination.

Note.—LOGAIR contractors sometimes perform charter missions. When requested, the air terminal can confirm whether the fuel

issued is for a valid LOGAIR contract operation.)

(c) *Charter Aircraft.* Aircraft under US government charter are refueled like contract aircraft if the aircraft begins or ends a flight of at an Air Force base. That is, if a charter flight starts at a base, the aircraft may be issued fuel, as required, to perform the flight. After the flight ends, fuel quantities are limited as for depositioning of contract aircraft.

(1) If the flight ends at a facility where commercial refueling is available, it may not buy USAF fuel or oil except in an emergency.

(2) Commercial fuel is considered not available when:

(i) There is no commercial refueling capability at the origin or termination point, (for example, a regular Air Force base); or

(ii) The commercial service at a collocated Air Force-civil airfield cannot be provided because safety, economic, or other reasons will not allow the aircraft to get fuel from the commercial facility and pick up or discharge passengers or cargo at the Air Force's facilities.

(d) *Bailed Aircraft and CAP Aircraft.* When bailed aircraft carry a valid DD Form 1896, 1897, or AF Form 1245, or when a CAP aircraft operates under USAF direction, fuel may be furnished under the same quantity rules as for contract aircraft. Otherwise, consider CAP aircraft as civil aircraft.

(e) *Civil Aircraft.* Issue this type of aircraft only as much fuel as it needs to reach commercial refueling services safely. Exceptions: Issue enough fuel to let the aircraft reach its next destination if it is on official US business; is on a USAF-approved humanitarian mission; or if HQ USAF approves the exception.

§ 819a.5 Surcharging sales to charter aircraft.

Rule	If airfield is	Then accessorial charge is (percent)
1	Overseas, including Europe and Mediterranean, Alaska, Hawaii, and Central America.	[1]8.0
2	Elsewhere overseas including Thule and Labrador.	[1]9.0
3	CONUS, excluding Alaska and Hawaii, including District of Columbia (DC).	[1]5.5

[1] Unless this guidance conflicts with a foreign or international agreement, practice, law, or regulation.

§ 819a.6 Prices to charge.

Air Force sales of aviation fuels and oils are priced to avoid competition between the government and private industry and to recover government costs. When the government pays or reimburses an air carrier for the cost of fuel, the sale will be at standard price.

(a) *Contract Aircraft.* Sell fuel to these aircraft at standard price if the carrier is operating within the contract's terms. If the carrier is supposed to land and refuel at a civil airfield and is diverting to a base to get fuel and oil, however, sell the aircraft fuel and oil at the civil aircraft price (paragraph (c) of this section).

(b) *Charter Aircraft.* Sell fuel and oil to these aircraft at standard price plus the surcharge shown in § 819a.5. If the aircraft, however, is diverting to a base from its charter origin or termination point at a civil airfield just to buy government fuel, consider it a civil aircraft and charge accordingly (paragraph (c) of this section).

(c) *Civil Aircraft.* Sell fuel and oil to these aircraft at standard price, plus a surcharge of 40 percent.

(d) CAP and GFP or bailed aircraft with proper identification (see § 819a.4(d)). Provide fuel and oil to these aircraft at standard price.

§ 819a.7 Establishing credit for USAF fuel and oil.

Air carriers or operators may establish credit to avoid large cash payments for fuel and oil when government business requires or allows government refueling. See § 819a.9 for how to establish credit in emergencies.

(a) *Authorized Buyer Letters.* An air carrier or operator who requires credit must submit an "Authorized Buyer Letter" (original and two copies) to HQ USAF/PAXJ, Wash DC 20330. (See required format in § 819a.23.)

(1) HQ USAF/PAXJ will:

(i) Annotate the AF Form 181 that the authorized buyer letter has been submitted.

(ii) Forward a copy of the landing permit and the authorized buyer letter to SA-ALC/SFRL, Kelly AFB TX 78241, and to SA-ALC/ACFOA, Kelly AFB TX 78241.

(2) SA-ALC/ACFOA will advise SA-ALC/SFRL whether:

(i) The carrier has a good payment record, if any, and

(ii) The applicant's company appears either on the US Army Finance and Accounting Center (USAFAC) or DAR "hold up" list (reference AFM 177-102 and DAR Appendix E-518.2).

(3) SA-ALC/ACFOA and SFRL will use this information and other available credit information to determine whether the carrier is creditworthy. SA-ALC/SFRL will then:

(i) Inform the carrier (with information copy to the contracting or chartering office, SA-ALC/ACFOA, and HQ USAF/PAXJ) of the government's decision to extend or deny credit.

(ii) Publish the names, approval numbers, and expiration dates of air carrier credit approvals via controlled multiple address letters (CMAL's).

(4) Carriers denied credit will also be cited in the CMAL. The CMAL will be revised at least quarterly, with message updates when required.

(5) In all but emergency situations, the CMAL, not the identaplate, is the sole authority for issuing fuel on credit. Carriers will not be denied credit or fueling service when they fail to show a valid identaplate. At the same time, however, credit will not be allowed, except in an emergency (see § 819a.8) unless the carrier appears in the CMAL as approved for credit, even if an identaplate is presented.

(b) *Credit for USAF Contract and Charter Aircraft Missions.* The MAJCOM responsible for the contract or charter agreement will issue controlled avfuel identaplates (DD Forms 1896, 1897 or AF Form 1245) after credit approval.

(1) Identaplates are embossed as prescribed in AFM 67-1, volume 1, part three, chapter 1. They must show an expiration date of 12 months from the date of issue or, if the fuel requirement is based on a contract or charter arrangement, the date the arrangement or contract expires. Exception: MTMC charter aircraft are one-time single-flight charter arrangements. If credit is approved, obtain billing data for these charters from the carrier's agent or the crew chief or pilot.

(2) If a USAF contract or charter aircraft requests refueling on credit and does not have an identaplate, use the AF Form 181 (jointly with the authorized buyer CMAL) to verify credit authority and obtain a billing address. If identaplates required by this part are not made available for refueling or are not aboard the aircraft, ask the MAJCOM office that controls the identaplate to follow up with the carrier to locate the lost identaplate.

(3) If the office responsible for controlling the identaplate requests the base to reissue one, obtain a new control number from the responsible office. Provide the new number and old, invalid number to SA-ALC/SFRL within 2 workdays. SA-ALC/SFRL will amend the CMAL.

(c) *Identaplates for Civil Aircraft Operators or Missions.* SA-ALC/SFRL will determine whether to issue an identaplate for this type of carrier or mission. If the aircraft has recurring refueling needs that will last more than 90 days, or if the mission requires special information best obtained from

an identaplate, SA-ALC/SFRL will direct its preparation.

§ 819a.8 Procedures for renewing credit.

(a) At least 90 days before a carrier's credit expires, SA-ALC/ACFOA (and, if required, SA-ALC/SFRL) will determine whether credit should or should not be renewed. Reasons for not renewing credit would include failure of the carrier to pay on time, the carrier's entry onto a "hold up" list, expiration of the carrier's need for USAF fuel, etc.

(b) If the credit record is satisfactory, SA-ALC/ACFOA will advise the cognizant office that credit will expire unless an extension is requested.

(c) The cognizant office will ask the carrier to validate the need for extending credit by requesting the carrier to return a form letter (see format § 819a.24). For contract and charter arrangements, the cognizant MAJCOM may adjust this procedure as needed to conform with the terms of the contracts being administered. The MAJCOM, however, must publish a supplement to this part and forward a copy to HQ USAF/LEYSF, Wash DC 20330.

(d) MAJCOMs or other offices exercising cognizance over contract or charter air carriers must inform SA-ALC/SFRL and ACFOA whenever actions they or their carriers take change a carrier's credit rating, expiration date, etc.

(e) When credit is extended, the responsible office will issue the required number of new identaplates, showing the new expiration dates. The office directing identaplate preparation will inform SA-ALC/SFRL at least 45 workdays prior to effective date, of new identaplate control numbers and expiration dates.

(f) SA-ALC/SFRL will update the authorized buyer CMAL at least 20 days prior to effective date.

§ 819a.9 Emergency credit procedure.

If a civil air carrier makes an emergency landing, needs refueling, and cannot pay cash, the base commander may authorize emergency one-time credit when all of the following conditions are met:

(a) The carrier is registered as a commercial carrier, and

(b) The aircraft commander provides the proper billing information, and

(c) Base accounting and finance cannot find the carrier listed on any "hold up" list, and

(d) One of the following types of credit agreements is made:

(1) The aircraft commander or other crew member is authorized to sign and signs a reimbursement agreement in the format of § 819a.25, or

(2) An authorized representative of the air carrier agrees orally, and will confirm by teletype, within 24 hours (see format, § 819a.26), to reimburse the Air Force Stock Fund. If this arragement is used, obtain billing information from the official agreeing to the reimbursement.

Note.—When an emergency credit sale is made according to this section, report it to SA-ALC/ACFOA and SA-ALC/SFRL within 2 workdays.

§ 819a.10 Credit revocation

When a carrier does not comply with terms under which credit has been extended, the following procedures apply:

(a) SA-ALC/ACFOA will advise AFAFC/TCB. If AFAFC/TCB determines that collection cannot be made that credit should be revoked, that office will ask AF/PAXJ to cancel credit.

(b) AF/PAXJ will notify SA-ALC/ACFOA and SFRL, with information copies to AF/LEYSF and AFAFC/TCB, that credit should be revoked.

(c) SA-ALC/SFRL will immediately amend the authorized buyer CMAL.

§ 819a.11 Billing and collecting.

Use the normal billing procedures prescribed in AFM 177-206 for billing aviation fuel sales to non-DOD customers. Each carrier or operator that has been granted credit must comply with the authorized buyer letter (estimated consumption payments), when applicable.

§ 819a.12 Federal Excise Taxes (FETs).

Most Federal excise taxes are computed and collected by SA-ALC/ACFOA (credit sales). Use the following guidance at base level in computing FET on a cash sale that must be collected by the BFMO:

(a) Federal law imposes taxes on the sale of various types of petroleum products in the United States (CONUS, Alaska, DC, and Hawaii). The rules are complex, so §§ 819a.13 and 819a.14 have been provided to help determine when and how much tax must be added to sales of fuel and oil to contract, charter, bailed, and civil aircraft. (For reference, the applicable laws in Title 26, U.S.C., are: Chapter 31, section 4041; chapter 32, section 4081, 4091, 4221, and 4293.)

(b) Depending on circumstances, the Air Force must collect from contract, charter, bailed, and civil aircraft one or two types of FET, except when complete tax exemptions apply. The basic rules are as follows:

(1) Air Force must collect a retail FET on sales to aircraft engaged in noncommercial aviation. This term relates strictly to tax laws and is defined (26 U.S.C. 4041) basically as "any use of an aircraft, other than use in a business of transporting persons or property for compensation or hire by air * * *." Generally, these noncommercial aircraft are private or company planes and aircraft of research groups who are performing government studies.

(2) In order for an aircraft operator to be exempted from any retail FET, the carrier must file a. Tax Exemption Certificate (in the format of § 819a.27) with SA-ALC/ACFOA, Kelly AFB TX 78241. The carrier may also present (and surrender) a copy of this certificate at time of refueling. When certifying for an exemption from retail FET, the carrier must cite the number of its "Certificate of Registry." This certificate is filed with Internal Revenue Service (IRS-Form 637a.)

(3) Foreign and domestic military aircraft do not need to present tax exemption certificates.

(4) Retail FET will not be charged on sales of fuel and oil to the following types of aircraft when their operators have filed a Tax Exemption Certificate, as reflected in the authorized buyer CMAL, or when an aircraft operator presents a certificate at the time of refueling:

(i) Aircraft of state, local, or DC governments.

(ii) Aircraft operated by nonprofit educational institutions.

(iii) Aircraft using fuel for farming purposes.

(iv) Civil aircraft engaged in foreign trade or trade between the United States and its possessions (determined at base level from aircraft's last departure point, next destination or, for contract flights, contract flight termination point: That is, an international origin or destination).

(v) Aircraft owned by aircraft museums and operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

(vi) Other US government aircraft, if the exemption is approved by the Secretary of the Treasury; if in doubt, contact SA-ALC/ACFOA.

(5) The Air Force must also collect a manufacturer's FET on sales of aviation gasoline and all lubricating oils sold for commercial and noncommercial aviation, unless an exemption applies. Military aircraft are excluded.

(i) The exemptions from this tax apply to sales of fuel and oil to all aircraft described in paragraphs (b)(4)(i), (ii), (iv), and (vi) of this section.

(ii) An aircraft operator desiring an exemption must file a Tax Exemption Certificate at least once every 3 years with SA-ALC/ACFOA. A certificate (or valid copy) may also be presented (and surrendered) at time of refueling.

Certificates presented at refueling should be retained by BFMOs for 4 years.

(iii) Registry with the IRS is not necessary for exemption from manufacturer's FET. Omit reference to the Certificate of Registry number if a tax exemption certificate will be filed only for manufacturer's FET exemption.

(6) Retain all tax-related documents, wherever filed, for 4 years.

(7) See §§ 819a.13 and 819a.14 for amounts of taxes.

(8) The BFMO will collect taxes on cash sales and deposit the money to the clearing account 57F1052.001 S504300 (SA–ALC). When credit sales are made, the billing office will collect the taxes. (Refueling personnel must mark fuel issue slips clearly according to the type of aircraft being refueled and its tax status.)

(9) The Air Force does not collect state and local taxes; but, if requested to do so by local officials, the Air Force will report the sale of aviation fuel or oil to contract, charter, bailed, and civil aircraft. Each sale to contract aircraft must be annotated as "Contract," since local taxes do not apply to these sales.

§ 819a.13 When to charge taxes.

Rule.	A If aircraft is	B and is	C and has exemption certificate	D then the tax rate is as in table 4, rule:
1	commercial or noncommercial	on any business	no	1
2	noncommercial	owned by a state, local or DC Government	yes	2
3	noncommercial [1]	owned by a nonprofit-educational agency	yes	2
4	commercial or noncommercial	used for farming	yes	3
5	commercial or noncommercial	engaged in foreign trade or trade between US and possessions.	yes	2
6	noncommercial	owned by aircraft museum	yes	3
7	noncommercial	owned by another federal agency	[2] yes	2
8	commercial	on any commercial business not specifically exempted above.	yes	3
9	other		yes	3

[1] A commercial aircraft operating with an approved exemption certificate based on 26 U.S.C. 501c would also be exempt from manufacturer's FET.

[2] These exemptions must be approved for each agency by the Secretary of the Treasury (26 U.S.C. 4293). An exemption certificate would provide evidence to the Air Force of such exemption.

NOTE.—A tax exemption certificate, showing that the carrier is registered with IRS for tax-free sales, is required for exemption from the retail FET. A certificate may be filed for periods up to 1 year, if the carrier believes 90 or more percent of its fuel use during that period will not be for other than noncommercial aviation; otherwise, certificates must be presented for each sale. Certificates filed with Air Force for exemption from manufacturer's FET are valid for up to 12 quarters (3 years).

§ 819a.14 Computing taxes imposed according to § 819a.13.

Rules	A If type of tax is	B then taxes per gallon are Jet	C Avg	D Oil
	Retailer's	.07	.03	0
1	Manufacturer's	0	.04	.06
	Total due	.07	.07	.06
2	Retailer's	0	0	0
	Manufacturer's	0	0	0
	Total due	0	0	0
3	Retailer's	0	0	0
	Manufacturer's	0	.04	.06
	Total due	0	.04	.06

§ 819a.15 HQ USAF responsibilities.

(a) AF/LEYSF is responsible for sales and pricing policy.

(b) AF/PAXJ is responsible for processing air carrier requests for approval to land at Air Force bases (see Part 855 of this chapter) and for forwarding authorized buyer letters to SA–ALC/ACFOA and SFRL. AF/PAXJ will also forward tax exemption certificates to SA–ALC/ACFOA, if received.

§ 819a.16 Responsibilities of the MAJCOMs.

Each major command will comply with the rules for identaplate issuance and control for any contract or charter aircraft operations under its cognizance.

(a) If the MAJCOM deals with contract, charter, bailed, or civil aircraft, it will make sure that air carriers and operators understand and know about this part.

(b) Identaplates prepared for GFP (bailed) aircraft under AFLC or AFSC/ASD contracts will be issued and controlled by Det 29, SA–ALC/SFM, Cameron Station, Alexandria VA 22314, according to Air Force DAR (ASPR) Supplement (2).

(c) MAJCOMs will also insure compliance with the sale policies of this part at their bases.

§ 819a.17 Responsibilities of SA–ALC/SFRL.

This office will work with SA–ALC/ACFOA in determining whether to extend credit to an air carrier that submits an authorized buyer letter and in notifying the carrier and others of SA–ALCs credit determination. This office will also:

(a) Prepare and dispatch a quarterly CMAL, listing carriers that have approved credit with the date their credit expires and their tax exempt status. The CMAL will list control numbers of lost or otherwise invalid identaplates.

(b) Issue and control identaplates for civil aircraft, as required.

§ 819a.18 Responsibilities of Det 29, SA–ALC/SFM.

This detachment prepares and controls identaplates for bailed (GFP) aircraft, per Air Force DAR (ASPR) Supplement (2).

§ 819a.19 Responsibilities of SA–ALC/ACFOA.

This office will assist SA–ALC/SFRL in determining the credit record of carriers requesting credit. It will also monitor and report any changes in the expiration dates of credit approvals and tax exemption certificates. It will bill and collect issues to contract, charter, and civil aircraft (except cash and international sales).

§ 819a.20 Responsibilities of Base Fuels Management Office.

These offices will:

(a) Implement the guidance in this part and make sure that refueling personnel know how to identify contract, charter, and civil aircraft; how to determine their authority to buy on credit and their tax status (cash sales); and how to complete issue slips

properly (AF Form 1995, Fuels Issue/Defuel Document (non-DOD)).

(b) Work with base accounting and finance office to set up procedures for collecting, protecting, and depositing cash, company checks, or money orders obtained from cash sales. (See AFM 177–101, part four, chapter 8, and AFM 177–108, chapter 1.)

§ 819a.21 Responsibilities of the Base Accounting and Finance Office.

These offices will assist in making cash collections and depositing receipts. They will also help process billings, using the procedures in AFMs 177–206 and 177–376.

§ 819a.22 Special procedures for billing LOGAIR (AFLC).

To reduce overall costs to the government, AFLC LOGAIR contract carriers may purchase Air Force-owned fuel. Procedures for estimating, determining, and billing these fuel costs for LOGAIR are as follows:

(a) Contract carriers deduct estimated fuel uplifted from their weekly voucher for services performed as follows:

(1) The formula used is miles flown, times the estimated gallons per mile, times the contract fuel base price. The result of this computation is estimated fuel cost.

(2) The base price is the price of fuel used in establishing contract prices for LOGAIR service.

(3) AFLC deducts this cost from the total airlift contract cost and pays the contractor.

(b) SA–ALC/ACFOA bills AFLC/LOTSL (Directorate for Transportation) for the actual fuel uplifted at the standard price each month, citing type of aircraft and other LOGAIR contract data.

(c) AFLC/LOTSL and LOGAIR contractors reconcile monthly, beginning with the 3d month, by comparing the actual fuel billed by SA–ALC/ACFOA against the funds previously deducted from the contractor's weekly vouchers for estimated fuel purchased.

§ 819a.23 Sample authorized buyer letter.

ABC Airlines, Inc., Metropolitan International Airport, Majortown, U.S.A.

HQ USAF/PAXJ
Washington DC 20330

Subject: Credit Purchases of Air Force Aviation Fuel and Oil.

Gentlemen: ABC Airlines, Inc., wishes to purchase Air Force-owned aviation fuel and oil required in performance of ———— (see note 1) on credit. In consideration of your authorization of credit, we agree to pay within 15 days of billing date, all amounts due for purchase of aviation fuel and oil from the Air Force.

(See note 2 about this paragraph.) We require ——— DD Form 1896 Jet Fuel Identaplate DD Form 1897 AVGAS identaplate or AF Form 1245, USAF AVGAS identaplate in performance of the missions cited above. Billing address to be embossed on the identaplates is:

ABC Airlines, Inc., Metropolitan IAP, box 123, Majortown, USA 12345.

Types of aircraft and tail numbers are: L188 Nos 123456 and 234678; L100 No 876543.

(See note 2 about this sentence.) We agree to present an identaplate when requesting fuel at a USAF base. We will promptly pay to the Accounting and Finance Office, Kelly AFB TX 78241, amounts due for actual or estimated issues of aviation fuel and oil furnished our aircraft during a given monthly or semi-monthly period.

a. We will compute the required payment for any given period by multiplying actual or estimated usage of aviation fuel and oil (based on issues slips received and other evidence) by the current Defense Fuel Supply Center standard price plus applicable taxes and related charges.

b. If the estimated payment for any month is less than $100,000, we will remit such payment monthly, on or before the 10th day of the month following the month in which such issues were made.

c. If the estimated payment for a given month is $100,000 or more, we will remit such payment twice a month. The first payment will cover issues made during the first 15 days of a given month and will be remitted on or before the 25th day of that month. The second estimated payment will cover issues made during the period from the 16th day until the end of the given month, and will be remitted on or before the 10th day of the month following the month in which such issues were made.

We understand that within approximately 90 days after the close of the month cited, the Air Force will provide us with an invoice showing the actual amount that we owe, and payments that we may have made for that month. We will remit to the office named above, in paragraph 1, any unpaid balance for that given month within 10 days following receipt of the invoice. If the invoice discloses an overpayment, such credit will be applied to the next payment due, or refunded to us, if required.

We understand that failure to comply with these credit arrangements will be grounds for the Department of the Air Force to cancel any credit extended as a result of this request. In the event we do not comply with the reimbursement requirements of this agreement, we understand that the Air Force is entitled to withhold funds from amounts due under contracts for services furnished to the government. Any amounts withheld will be equal to the value of debts not paid under this agreement (see note 3).

It is understood that this agreement may be cancelled voluntarily by either party upon receipt of notice of intent to cancel 30 days prior to the date of such cancellation. Cancellation, however, does not cancel any indebtedness already incurred or that may yet arise out of actual fuel and oil purchases made.

Note 1: Include the type of business you are conducting (for example, contract, charter, or civil aircraft operations). Be specific: cite contract numbers, charter agreements, specific type of civil operations, etc. Insufficient information may delay credit approval or result in disapproval.

Note 2: The text of this paragraph or sentence should fit the specific situation. Give the types of aircraft and tail numbers only if the applicant does not provide this information through other channels, for example, contracting or chartering office of the Air Force. Also indicate if several aircraft of one or more types will use a single identaplate. Applicants not under contract or charter agreement may omit this paragraph or sentence and furnish the information only upon request.

Note 3: If the applicant is not under contract to the government, include only the first sentence of this paragraph.

§ 819a.24 Sample credit extension letter.

ABC Airlines, Inc., Metropolitan International Airport, Majortown, U.S.A. 00000

San Antonio ALC/ACFOA
Kelly AFB, TX 78241

Subject: Credit Extension.

Re: Your letter, September nth, 1984.

Gentlemen: This is to advise that we continue to require credit on the terms of our original application.

(Optional notes)

We will not need credit after December nth, 1988. (note 1)

We need an additional ———— identaplates for aircraft tail numbers as follows: (note 2)

Note 1: SA–ALC need not ask for an expiration unless it will come sooner than the normal 90-day extension run-out.

Note 2: If aircraft tail number control is used, or when any other data supplied by the carrier is required, it may be requested and obtained in this update.

§ 819a.25 Emergency avfuel sales agreement.

[1] 1. a. I certify that I am authorized to purchase aviation fuel on an emergency basis for (name of airline/company) ———— and that (name of airline/company) ———— will reimburse the Air Force.

OR:

b. I certify that I received the aviation fuel listed below and that I will reimburse the US Air Force.

2. Payment will be made within 15 days to the Accounting and Finance Officer, (name of base making sale) ————.

Our address is: (complete address) ————.

3. Expenses were incurred for (type of aircraft) ——— (aircraft number) ———. and payment in the amount shown below shall be made in accordance with this agreement:

a. List fuel issued, unit cost and total cost.

b. List administrative and handling surcharge, if applicable.

c. List applicable taxes.

d. List total of a, b, and c.

[1] When the purchase is made by the pilot or crew member on behalf of an airline or company, use paragraph 1a. When the purchase is made for a privately-owned aircraft, use paragraph 1b.

Signature (Pilot/Crew Member)
Typed Name
Note: Obtain complete address of the company/person making purchase.

§ 819a.26 Sample emergency credit teletype.

To: SA-ALC Kelly AFB TX/ACFOA/SFRL

Subject: Emergency Credit Agreement.

1. ABC Airlines, 1234 Big Boulevard, Majortown, USA 00000 agrees to reimburse the United States Air Force within 15 days of being billed for all fuel and oil purchased under emergency landing conditions on September nth, 1984, at Pacific AFB.

2. We understand that the billing includes a civil aircraft surcharge of 40 percent and any applicable taxes. We further understand that this agreement does not entitle ABC Airlines to purchase fuel on credit at any other time.

3. Billing for this purchase should be sent to the above address, Attn: (whatever department (or name of responsible agent)).

§ 819a.27 Tax exemption certificate.

(Date) ————

The undersigned certifies that he or she, or the (name of purchaser if other than undersigned) ———— of which he or she is (title) ————, holds certificate of registry number —— [1] and the fuel delivered into a supply tank of his or her aircraft may be purchased free of tax because such fuel will be used ————.

The undersigned understands that if the fuel is used otherwise than as stated as above and for a purpose taxable under the Internal Revenue Code, he or she will be liable for the tax upon such use.

The undersigned understands that a fraudulent use of this certificate to secure exemption will subject him or her and all guilty parties to a penalty equivalent to the amount of tax due on the sale of fuel, and on conviction to a fine of no more than $10,000, or to imprisonment for no more than 5 years, or both, together with the costs of prosecution. The purchaser also understands that he or she must be prepared to establish by satisfactory evidence the purpose for which the fuel purchased under this certificate was used.

(Signature) ————

[1] Omit reference to certificate of Registry number if Certificate is being filed for an exemption from Manufacturer's FET on gasoline and lubricating oils.

Box 3001, Oakland International Airport, Oakland, CA 94615.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-7105 Filed 3-6-80; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Everglades National Park, Fishing and Boating Regulations; Correction

AGENCY: National Park Service, Interior.

ACTION: Correction of Final Rule.

SUMMARY: On February 15, 1980, the National Park Service published in the Federal Register (45 FR 10350), final regulations governing fishing and boating activities in Everglades National Park. Paragraph (h) entitled *Prohibition of Commercial Fishing* was inadvertently omitted from the first column of page 10355, following paragraph (g)(6).

EFFECTIVE DATE: March 17, 1980.

FOR FURTHER INFORMATION CONTACT: Richard H. Dawson, Resources Management Specialist, Everglades National Park, Telephone: (305) 247-6211.

SUPPLEMENTARY INFORMATION: Final regulations governing fishing and boating activities at Everglades National Park were published in the Federal Register on February 15, 1980 (45 FR 10350). Paragraph (h) entitled *Prohibition of Commercial Fishing* was inadvertently omitted. Since the prohibition of commercial fishing was previously published as a proposed rule on September 14, 1979 (44 FR 53541) and was discussed in the preamble of the Federal Register published on February 15, 1980, public notice and comment is not considered necessary.

Therefore, in consideration of the foregoing, on page 10355 of FR Doc. 80-5186 dated February 15, 1980, add to the first column following (g)(6) a new paragraph (h) to read as follows:

(h) *Prohibition of Commercial Fishing.* (1) As of December 31, 1985, all commercial fishing will be prohibited in waters of the Park. When this provision becomes effective, the following regulations will no longer be in effect: f(5), (7), (8), (10), and (14).

(Section 3 of the Act of August 25, 1916, (39 Stat. 535, as amended, 16 U.S.C. 3); 245 DM 1 (27 FR 6395) as amended); and National Park Service Order 77 (38 FR 7478, as amended)

Daniel J. Tobin, Jr.,

Associate Director, Management and Operations.

[FR Doc. 80-7076 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-70-M

Heritage Conservation and Recreation Service

36 CFR Part 1212

National Natural Landmarks Program

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Interim regulation; extension of comment period.

SUMMARY: This notice extends the comment period for 36 CFR Part 1212 which was published as an interim regulation in the Federal Register on November 20, 1979, pages 66599-66602. The Heritage Conservation and Recreation Service will receive comments on the interim regulation until April 30, 1980.

DATE: The period for comment is extended to April 30, 1980.

ADDRESS: Comments on the interim regulation should be sent to the Director, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243 (Attn: Division of State Heritage Programs).

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Ritsch, Acting Associate Director for Natural Programs, Heritage Conservation and Recreation Service, Washington, D.C. 20243 (202-343-4243).

Dated: February 29, 1980.

Chris Therral Delaporte,

Director.

[FR Doc. 80-7182 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL-14256]

Controls Applicable to Gasoline Refiners; Lead Phase-Down Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends the lead phase-down regulations applicable to

gasoline refiners (40 CFR 80.20) by revoking the unleaded gasoline production requirements associated with the optional 0.8 gram per gallon (gpg) standard for the quarter beginning January 1, 1980, and ending March 31, 1980. The data indicates that adequate supplies of unleaded gas will likely be available in this quarter without the imposition of the 6%/45% production requirement. The requirements applicable to the quarters beginning April 1, 1980, and July 1, 1980, will remain in effect unless altered as discussed in a Notice of Proposed Rulemaking published elsewhere in this issue of the Federal Register.

DATES: The revocation of the unleaded gasoline production requirement is effective February 20, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Summerhayes, Fuels Section, Field Operations and Support Division (EN-340), 401 M Street, S.W., Washington, D.C. 20460 at (202) 472-9367.

SUPPLEMENTARY INFORMATION: On September 12, 1979, EPA published amended regulations which relaxed for one year the lead phase-down standard of 0.5 gpg effective October 1, 1979, to 0.8 gpg conditioned upon an increase in quarterly unleaded gasoline production of six percentage points over the previous year, or an unleaded gasoline production of at least 45% of total gasoline. EPA relaxed the lead standard to enable refiners to produce more total gasoline. The unleaded gasoline production requirement was included to insure that sufficient supplies of unleaded gasoline would be produced to help protect against increased fuel switching due to shortages of gasoline, particularly unleaded gasoline. Alternatively, refiners were provided the option of complying with the 0.5 gpg requirement on October 1, 1979, as originally promulgated, in which case they would not be required to produce a minimum percentage of unleaded gasoline.

The 6%/45% unleaded gasoline production percentages were based on the historical growth of unleaded gasoline demand. But EPA noted in the preamble of the September 1979 amendments that it would "continue to monitor unleaded gasoline demand. If demand does not grow by at least the historical rate, EPA will take appropriate actions to avoid the unnecessary over-production of unleaded gasoline." EPA has recently received reports indicating that demand has not continued to increase at the historical rate and that some overproduction of unleaded gasoline may have occurred during the October-December 1979 quarter. In addition, these reports indicate that the imbalance could become more serious during the first quarter of calendar year 1980 because of high year end inventories produced to comply with the requirements of the previous quarter.

Some refiners have reported unusual difficulties in trading excess unleaded gasoline for leaded gasoline. EPA has also noted that cargo trading differentials on the inter-refinery spot market, which normally reflect a 2-3 cent per gallon premium for unleaded gasoline, have dropped to zero cents per gallon in some areas. Recent unleaded gasoline sales show a smaller than 6 percentage points increase in unleaded gasoline demand during fiscal year 1980. This change in the growth rate of unleaded gasoline has been attributed to both the declining sales of new unleaded vehicles and the trend towards the use of smaller, more fuel efficient cars. While the data are not completely dispositive, it is sufficient to indicate that adequate supplies of unleaded gasoline (relative to leaded) will likely be available for the current quarter without the imposition of the 6%/45% production requirement.

Because of EPA's desire to avoid any unnecessary loss of energy from the overproduction of unleaded gasoline, it is amending the regulation to remove the production requirement for the current quarter. This should allow the market to absorb any excess unleaded gasoline that refiners produced the last quarter of 1979. The production requirement is being eliminated for only the current quarter, since EPA does not yet have enough data to appropriately assess the demand and supply for the next two quarters. (See: "Controls Applicable to Gasoline Refiners Lead Phase-down Regulations: Notice of Proposed Rulemaking", elsewhere in this issue.)

Because this amendment to the lead phase-down rule is published in response to changes in the facts used to establish the unleaded gasoline production requirement, i.e., a change in the growth rate of unleaded gasoline, because of the short-term effect of this amendment, because this change will have no adverse impact on the regulated industry or the environment, and because relief, to be effective in preventing any unwarranted waste of energy, must be made available immediately, EPA finds good cause to publish this amendment as a final rule effective immediately, pursuant to the exemptions in 5 USC 553(b)(3)(B) and (d).

Because this rule results in a relaxation of an existing regulatory control, EPA has determined that this document does not contain a major proposal requiring an Economic Impact Analysis under Executive Orders 11821, 11949, 12044, and section 317 of the Clean Air Act, as amended.

Dated: February 20, 1980.

Douglas M. Costle,

Administrator.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

Accordingly, notice is hereby given that 40 CFR Part 80 is amended as follows:

1. In § 80.20, by amending paragraph (a)(7) to read as follows:

§ 80.20 Controls applicable to gasoline refiners.

(a) * * *

(7) In the manufacture of gasoline, no gasoline refiner who has submitted a valid registration form for refineries in accordance with paragraph (a)(6) of this section, shall, in aggregate, at those registered refineries, produce unleaded gasoline as a percentage of total gasoline for the quarters beginning October 1, 1979, April 1, 1980, and July 1, 1980, or for any of these quarters for which a valid registration form has been submitted, that is less than that percentage in the comparable quarters beginning October 1, 1978, April 1, 1979, and July 1, 1979, plus six (6) percentage points unless the production of unleaded gasoline as a percentage of total gasoline produced by the refiner in aggregate at registered refineries is greater than 45%.

(Secs. 211, 301, Clean Air Act, as amended, 42 U.S.C. 7545, 7601)

[FR Doc. 80-7216 Filed 3-6-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105-63

[ADM 7900.6 Chge 3]

Preservation and Protection of and Access to the Presidential Historical Materials of the Nixon Administration; Revisions to Public Access Regulations

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This rule provides procedures for preserving and protecting the Presidential historical materials of the Nixon administration and for providing access to these materials. The

Administrator of General Services is required by law to issue these regulations.

EFFECTIVE DATE: March 7, 1980.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Chief Counsel for Records and Archives, General Services Administration, 18th and F Streets, N.W., Washington, DC 20405. 202–566–1460.

SUPPLEMENTARY INFORMATION:

On December 16, 1977, the Administrator published in the Federal Register (42 FR 63626) public access regulations implementing Section 104 of the Presidential Recordings and Materials Preservation Act (Pub. L. 93–526; 88 Stat. 1695; 44 U.S.C. 2107 note). Subsequently, the constitutionality of certain of these regulations was challenged in the United States District Court for the District of Columbia (*Nixon v. Solomon,* Civil Action No. 77–1395). Except for those issues which remain in litigation, these amended regulations reflect an agreement reached by the parties in that litigation and accepted by the court as a partial settlement of the lawsuit. Also, in accordance with Subsection 104(b)(3) of the Act, these amended regulations have lain before the Congress for 90 legislative days, neither House of Congress having adopted a resolution disapproving any of these amendments. Because the proposed amendments represent an agreement reached by parties in litigation, and because they were available for public review and comment while they lay before the Congress, the General Counsel of GSA has determined that they may be published as effective without an additional waiting period of 60 days for public comment, as provided in E.O. 12044 of March 23, 1978.

1. The table of contents for Part 105–63 is amended by adding one entry, as follows.

Sec.
105–63.407 Freedom of Information requests.

Subpart 105-63.1—General Provisions

2. Section 105–63.104 is revised to read as follows:

§ 105-63.104 Definitions.

For the purposes of this Part 105–63, the following terms have the meaning ascribed to them in this § 105–63.104.

(a) *Presidential historical materials.* The term "Presidential historical materials" (also referred to as "historical materials" and "materials") shall mean all papers, correspondence, documents, pamphlets, books, photographs, films, motion pictures, sound and video recordings, machine-readable media, plats, maps, models, pictures, works of art, and other objects or materials made or received by former President Richard M. Nixon or by members of his staff in connection with his constitutional or statutory powers or duties as President and retained or appropriate for retention as evidence of or information about these powers or duties. Included in this definition are materials relating to the political activities of former President Nixon or members of his staff, but only when those activities directly relate to or have a direct effect upon the carrying out of constitutional or statutory powers or duties. Excluded from this definition are documentary materials of any type that are determined to be the official records of an agency of the Government; private or personal materials; stocks of publications, processed documents, and stationery; and extra copies of documents produced only for convenience of reference, when they are clearly so identified.

(b) *Private or personal materials.* The term "private or personal materials" shall mean those papers and other documentary or commemorative materials in any physical form relating solely to a person's family or other non-governmental activities, including private political associations, and having no connection with his constitutional or statutory powers or duties as President or as a member of the President's staff.

(c) *Abuses of governmental power popularly identified under the generic term "Watergate".* The term "abuses of governmental power popularly identified under the generic term 'Watergate' " (also referred to as "abuses of governmental power"), shall mean those alleged acts, whether or not corroborated by judicial, administrative or legislative proceedings, which allegedly were conducted, directed or approved by Richard M. Nixon, his staff or persons associated with him in his constitutional or statutory functions as President, or as political activities directly relating to or having a direct effect upon those functions, and which (1) were within the purview of the charters of the Senate Select Committee on Presidential Campaign Activities or the Watergate Special Prosecution Force; or (2) are circumscribed in the Articles of Impeachment adopted by the House Committee on the Judiciary and reported to the House of Representatives for consideration in House Report No. 93–1305.

(d) *General historical significance.* The term "general historical significance" shall mean having administrative, legal, research or other historical value as evidence of or information about the constitutional or statutory powers or duties of the President, which an archivist has determined is of a quality sufficient to warrant the retention by the United States of materials so designated.

(e) *Archivist.* The term "archivist" shall mean an employee of the General Services Administration who, by education or experience, is specially trained in archival science.

(f) *Agency.* The term "agency" shall mean an executive department, military department, independent regulatory or nonregulatory agency, Government corporation, Government-controlled corporation, or other establishment in the exeuctive branch of the Government, including the Executive Office of the President. For purposes of § 105–63.302 only, the term "agency" shall also include the White House Office.

(g) *Administrator.* The term "Administrator" shall mean the Administrator of the General Services, or his delegate as provided herein or by separate instrument.

(h) *Initial archival processing.* The term "initial archival processing" shall mean the following generic acts performed by archivist with respect to the Presidential historical materials: Shelving boxes of documents in chronological, alphabetical, numerical or other sequence; surveying and developing a location register and cross-index of the boxes; arranging materials; reboxing the documents and affixing labels; producing finding aids such as folder title lists, cross-indexes, and subject lists; reproducing and transcribing tape recordings; reviewing the materials to identify items that appear subject to restriction; identifying items in poor physical condition and assuring their preservation; and identifying materials requiring further processing.

(i) *Staff.* The term "staff" shall mean those persons whose salaries were paid fully or partially from appropriations to the White House Office or Domestic Council, or who were detailed on a nonreimbursable basis to the White House Office or Domestic Council from any other Federal activity; or those persons who were otherwise designated as assistants to the President, in connection with their service in that capacity; or any persons whose files were sent to the White House Central Files Unit or Special Files Unit, for purposes of those files.

(j) *National security classified information.* The term "national security classified information" shall mean any matter which is security classified under

existing law, and has been or should be designated as such.

3. Subpart 105–63.4 is revised to read as follows:

Subpart 105–63.4—Access by the Public

§ 105–63.400 Scope of the subpart.

This subpart sets forth policies and procedures concerning public access to the Presidential historical materials of Richard M. Nixon.

§ 105–63.401 Processing period; notice of proposed opening.

(a) The Administrator will commence the initial archival processing of the materials. In processing the materials, the archivists will give priority to segregating private or personal materials and transferring them to their proprietary or commemorative owner in accordance with § 105–63.401–3, below. As soon thereafter as possible, the Administrator will open for public access all of the materials in the Administrator's custody and control which are neither restricted pursuant to § 105–63.402 nor subject to outstanding claims or petitions seeking such restriction. The Administrator will open for public access each integral file segment of the materials upon completion of initial archival processing on that segment. Insofar as practicable, the Administrator will give priority in such initial archival processing to materials relating to abuses of governmental power as defined in § 105–63.104(c).

(b) At least 30 calendar days prior to the opening to public access of any integral file segment of the materials, the Administrator will publish notice in the Federal Register of the proposed opening. The notice will reasonably identify the material to be opened and will include a reference to the right of any interested person to file a claim or petition in accordance with § 105–63.401–1. Copies of the notice will be sent to the incumbent President of the United States or his designated agent and by first-class mail to the last known address of: Mr. Nixon, or his designated agent or heirs; any former staff member reasonably identifiable as the individual responsible for creating or maintaining the file segment proposed to be opened; any individual named in material which the Administrator may not restrict in accordance with § 105–63.402–1(b) because the material is essential to an understanding of an abuse of governmental power; and any persons named in the materials who are registered with the General Services Administration in accordance with § 105–63.401(c), below.

(c) The Administrator will maintain a registry which shall contain the names and mailing addresses of persons who wish to receive personal notice of the proposed opening of integral file segments of the materials when those segments contain references about them. To be included in the registry, a person must submit his/her name and mailing address to the General Services Administration (NLN), Washington, D.C. 20408. Both the envelope and letter should be prominently marked, "Nixon Materials Registry." By submitting his/her name for inclusion in the registry, a person agrees to reimburse the United States for the cost of first-class postage for each instance of personal notice received.

§ 105–63.401–1 Rights and privileges; right to a fair trial.

(a) Within 30 days following publication of the notice prescribed in § 105–63.401(b), any person claiming a legal or constitutional right or privilege which would prevent or limit public access to any of the materials shall notify the Administrator in writing of the claimed right or privilege and the specific materials to which it relates. Unless the claim states that particular materials are private or personal (see paragraph (d), below), the Administrator will notify the claimant by certified mail, return receipt requested, of his decision regarding public access to the pertinent materials. If that decision is adverse to the claimant, the Administrator will refrain from providing public access to the pertinent materials for at least 30 calendar days from receipt by the claimant of such notice.

(b) Within 30 days following publication of the notice prescribed in § 105–63.401(b), officers of any Federal, State, or local court and other persons who believe that public access to any of the materials may jeopardize an individual's right to a fair and impartial trial should petition the Administrator setting forth the relevant circumstances that warrant witholding specified materials. The Administrator will notify the petitioner by certified mail, return receipt requested, of his decision regarding public access to the pertinent materials. If that decision is adverse to the petitioner, the Administrator will refrain from providing public access to the pertinent materials for at least 30 calendar days from receipt by the petitioner of such notice.

(c) In reaching decisions required by paragraphs (a) and (b) of this subsection, the Administrator may consult with other appropriate Federal agencies. If these consultations require the transfer of copies of the materials to Federal officials in agencies other than the General Services Administration, the Administrator will transfer these copies in accordance with the procedures prescribed in §§ 105–63.204 and 105–63.302.

(d) Within 30 days following publication of the notice prescribed in § 105–63.401(b), any person claiming that materials proposed for public access are in fact private or personal, as defined in § 105–63.104(b), and that he or she is the proprietary or commemorative owner of those materials shall notify the Administrator in writing. The claim shall describe the specific materials to which it refers, and the claimant's basis for concluding that these materials are private or personal. Upon receipt of such a claim, the Administrator will transmit it to the Presidential Materials Review Board for its consideration and determination in accordance with § 105–63.401–2(i). The Administrator will refrain from providing public access to the pertinent materials or from returning them to the claimant for at least 30 calendar days from receipt by the claimant or any intervening parties of the Board's determination.

§ 105–63.401–2 Segregation and review; Senior Archival Panel; Presidential Materials Review Board.

(a) During the processing period described in § 105–63.401(a), the Administrator will assign archivists to segregate private or personal materials, as defined in § 105–63.104(b). The archivists shall have sole responsibility for the initial review and determination of private or personal materials. At all times when the archivists or other authorized officials have access to the materials in accordance with these regulations, they shall take all reasonable steps to minimize the degree of intrusion into private or personal materials. Except as provided in these regulations, the archivists or other authorized officials shall not disclose to any person private or personal or otherwise restricted information learned as a result of their activities under these regulations.

(b) During the processing period described in § 105–63.401(a), the Administrator will assign archivists to segregate materials neither relating to abuses of governmental power, as defined in § 105–63.104(c), nor otherwise having general historical significance, as defined in § 105–63.104(d). The archivists shall have sole responsibility for the initial review and determination of those materials which are not related

to abuses of governmental power and do not otherwise have general historical significance.

(c) During the processing period described in § 105–63.401(a), the Administrator will assign archivists to segregate materials subject to restriction, as prescribed in § 105–63.402. The archivists shall have sole responsibility for the initial review and determination of materials that should be restricted. The archivists shall insert a notification of withdrawal at the front of the file folder or container affected by the removal of restricted material. The notification shall include a brief description of the restricted material and the basis for the restriction as prescribed in § 105–63.402.

(d) If the archivists are unable to make a determination required in paragraphs (a), (b), or (c) of this subsection, or if the archivists conclude that the required determination raises significant issues involving interpretation of these regulations or will have far-reaching precedential value, the archivists shall submit the pertinent materials, or representative examples of them, to a panel of senior archivists selected by the Archivist of the United States. The Panel shall then have the sole responsibility for the initial determination required in paragraphs (a), (b), or (c) of this subsection.

(e) If the Senior Archival Panel is unable to make a determination required in paragraph (d) of this subsection, or if the panel concludes that the required determination raises significant issues involving interpretation of these regulations or will have far-reaching precedential value, the Panel shall certify the matter and submit the pertinent materials, or representative examples of them, to the Presidential Materials Review Board.

(f) The Presidential Materials Review Board ("Board") shall consist of the Archivist of the United States, who shall serve as Chairman, and the following additional members:

(1) The Assistant Archivist for the Office of the National Archives;

(2) The Assistant Archivist for the Office of the Presidential Libraries;

(3) The General Counsel of the General Services Administration; and

(4) A person, distinguished in archival science, history or political science, who shall not otherwise be a Federal employee or official, nominated by the Council of the Society of American Archivists.

The Board shall meet at the call of the Chairman. Three members of the Board shall constitute a quorum for the conduct of the Board's business, although each member of the Board may participate in all of the Board's decisions. Members of the Board may be represented by their delegates on those occasions when they are unable to attend the meetings of the Board. The Board may consult with officials of interested Federal agencies in formulating its decisions. To the extent these consultations require the transfer of copies of materials to Federal officials outside the General Services Administration, the Board shall comply with the requirements of §§ 105–63.204 and 105–63.302.

(g) When the matter certified to the Board by the Senior Archival Panel involves a determination required in paragraphs (a) or (b) of this subsection, the Board shall prepare a final written decision, together with dissenting and concurring opinions, of the proper categorization and disposition of the pertinent materials. The Board's decision will be the final administrative determination.

(h) When the matter certified to the Board by the Senior Archival Panel involves a determination required in paragraph (c) of this subsection, the Board shall recommend an initial determination to the Senior Archival Panel, which shall retain the sole responsibility for the initial determination.

(i) When the Board considers a matter referred to it by the Administrator as provided in § 105–63.401–1(d), it shall follow these procedures:

(1) The Board will notify the claimant of its consideration of the claim, and invite the claimant to supplement at his discretion the basis for the claim.

(2) The Board will publish notice in the Federal Register, advising the public of its consideration of the claim, and describing the materials in question as fully as reasonably possible without disclosing arguably private or personal information. The notice will further advise that any member of the public may petition the Board within 15 calendar days of the publication of notice, setting forth the intervenor's views concerning the public or private nature of the materials.

(3) The Board shall take into account the positions maintained by the claimant and any intervenors in reaching its decision. The Board shall issue its decision, including dissenting and concurring opinions, no sooner than 20 days nor later than 60 days from the publication of notice in the Federal Register provided in subparagraph (2), above. The Board's decision shall be the final administrative determination. The Administrator will notify the claimant and any intervenors of the Board's decision by certified mail, return receipt requested, and shall refrain from acting upon that decision for 30 calendar days as provided in § 105–63.401–1(d).

§ 105–63.401–3 Transfer of materials.

(a) The Administrator will transfer sole custody and use of those materials determined to be private or personal, or to be neither related to abuses of governmental power nor otherwise of general historical significance, to former President Nixon or his heirs or, when appropriate and after notifying Mr. Nixon or his designated agent, to the former staff member having primary proprietary or commemorative interest in the materials.

(b) Materials determined to be neither related to abuses of governmental power nor otherwise of general historical significance, and transferred pursuant to paragraph (a) of this subsection, shall upon such transfer no longer be deemed Presidential historical materials as defined in § 105–63.104(a).

§ 105–63.402 Restrictions.

§ 105–63.402–1 Materials related to abuses of governmental power.

(a) The Administrator will restrict access to materials determined during the processing period to relate to abuses of governmental power, as defined in § 105–63.104(c), when:

(1) The Administrator, in accordance with § 105–63.401–1, is in the process of reviewing or has determined the validity of a claim by any person of a legal or constitutional right or privilege; or

(2) The Administrator, in accordance with § 105–63.401–1, is in the process of reviewing or has determined the validity of a petition by any person of the need to protect an individual's right to a fair and impartial trial; or

(3) The release of the materials would violate a Federal statute; or

(4) The materials are authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy, provided that any question as to whether materials are in fact properly classified or are properly subject to classification shall be resolved in accordance with the applicable Executive order or as otherwise provided by law. However, the Administrator may waive this restriction when:

(i)(A) The requester is engaged in a historical research project; or (B) the requester is a former Federal official who had been appointed by the President to a policymaking position and who seeks access only to those classified materials which he originated,

reviewed, signed or received while in public office; and

(ii) The requester has a security clearance equivalent to the highest degree of national security classification that may be applicable to any of the materials to be examined; and

(iii) The Administrator has determined that the heads of agencies having subject matter interest in the material do not object to the granting of access to the materials; and

(iv) The requester has signed a statement, which declares that the requester will not publish, disclose, or otherwise compromise the classified material to be examined and that the requester has been made aware of Federal criminal statutes which prohibit the compromise or disclosure of this information.

(b) The Administrator will restrict access to any portion of materials determined to relate to abuses of governmental power when the release of those portions would constitute a clearly unwarranted invasion of personal privacy or constitute libel of a living person: *Provided,* That if material related to an abuse of governmental power refers to, involves or incorporates such personal information, the Administrator will make available such personal information, or portions thereof, if such personal information, or portions thereof, is essential to an understanding of the abuses of governmental power.

§ 105-63.402-2 Materials of general historical significance unrelated to abuses of governmental power.

(a) The Administrator will restrict access to materials determined during the processing period to be of general historical significance, but not related to abuses of governmental power, under one or more of the circumstances specified in § 105-63.402-1(a).

(b) The Administrator will restrict access to materials of general historical significance, but not related to abuses of governmental power, when the release of these materials would:

(1) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential; or

(2) Constitute a clearly unwarranted invasion of personal privacy or constitute libel of a living person; or

(3) Disclose investigatory materials compiled for law enforcement purposes, but only when the disclosure of such records would:

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source, and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures, or;

(vi) Endanger the life or physical safety of law enforcement personnel.

§ 105-63.402-3 Periodic review of restrictions.

The Administrator periodically will assign archivists to review materials placed under restriction by § 105-63.402 and to make available for public access those materials which, with the passage of time or other circumstances, no longer require restriction. If the archivists are unable to determine whether certain materials should remain restricted, the archivists shall submit the pertinent materials, or representative examples of them, to the Senior Archival Panel described in § 105-63.401-2(d), which shall then have the responsibility for determining if the materials should remain restricted. The Senior Archival Panel may seek the recommendations of the Presidential Materials Review Board, in the manner prescribed in paragraphs (e) and (h) of § 105-63.401-2, in making its determination. Before opening previously restricted materials, the Administrator will comply with the notice requirements of § 105-63.401(b).

§ 105-63.402-4 Appeal of restrictions.

Upon petition of any researcher who claims in writing to the Administrator that the restriction of specified materials is inappropriate and should be removed, the archivists shall submit the pertinent materials, or representative examples of them, to the Presidential Materials Review Board described in § 105-63.401-2(f). The Board shall review the restricted materials, and consult with interested Federal agencies as necessary. To the extent these consultations require the transfer of copies of materials to Federal officials outside the General Services Administration, the Board shall comply with the requirements of §§ 105-63.204 and 105-63.302. As necessary and practicable, the Board shall also seek the views of any person, including former President Nixon, whose rights or privileges might be adversely affected by a decision to open the materials. The Board shall prepare a final written decision, including dissenting and concurring opinions, as to the continued restriction of all or part of the pertinent materials. The Board's decision shall be the final administrative determination. The Administrator will notify the petitioner and other interested persons of the final administrative determination within 60 calendar days following receipt of such petition. If the Board's decision is to open previously restricted materials, the Administrator will comply with the notice requirements of § 105-63.401(b).

§ 105-63.402-5 Deletion of restricted portions.

The Administrator will provide a requester any reasonably segregable portions of otherwise restricted materials after the deletion of the portions which are restricted under this § 105-63.402.

§ 105-63.402-6 Requests for declassification.

Challenges to the classification and requests for the declassification of national security classified materials shall be governed by the provisions of § 105-61.104, as that may be amended from time to time.

§ 105-63.403 Reference room locations, hours, and rules.

The Administrator shall, from time to time, separately prescribe the precise location or locations where the materials shall be available for public reference, and the hours of operation and rules governing the conduct of researchers using such facilities. This information may be obtained by writing to: Office of Presidential Libraries (NL), The National Archives, Washington, D.C. 20408.

§ 105-63.404 Reproduction of tape recordings of Presidential conversations.

(a) To ensure the preservation of original tape recordings of conversations which were recorded or caused to be recorded by any officer or employee of the Federal Government and which;

(1) Involve former President Richard M. Nixon or other individuals who, at the time of the conversation, were employed by the Federal Government; and

(2) Were recorded in the White House or in the office of the President in the Executive Office Buildings located in Washington, District of Columbia; Camp David, Md.; Key Biscayne, Fla.; or San Clemente, Calif.; and

(3) Were recorded during the period beginning January 20, 1969, and ending August 9, 1974,

the Administrator will produce duplicate copies of such tape recordings in his custody for public and official reference

use. The original tape recordings shall not be available for public access.

(b) Since the original tape recordings may contain information which is subject to restriction in accordance with § 105–63.402, the archivists shall review the tapes and delete restricted portions from copies for public and official reference use.

(c) Researchers may listen to reference copies of the tape recordings described in paragraph (a) in the National Archives Building in Washington, D.C. and at other reference locations established by the Administrator in accordance with § 105–63.403.

§ 105–63.405 Reproduction and authentication of other materials.

(a) The copying for researchers of materials other than tape recordings described in § 105–63.404 normally will be done by personnel of the General Services Administration using Government equipment. With the permission of the Administrator or his designated agent, a researcher may use his own copying equipment. Permission shall be based on the determination that such use will not harm the materials or disrupt reference activities. Equipment shall be used under the supervision of GSA personnel.

(b) The Administrator may authenticate and attest copies of materials when necessary for the purpose of the research.

(c) The fees for reproduction and authentication of materials under this section shall be those prescribed in the schedule set forth in Subpart 105–61.52 or pertinent successor regulation, as that schedule is amended from time to time.

§ 105–63.406 Amendment of regulations.

The Administrator may from time to time amend the regulations of this Subpart 105–63.4 in accordance with the applicable law concerning such amendments.

§ 105–63.407 Freedom of information requests.

(a) The Administrator will process Freedom of Information Act requests for access to only those materials within the Presidential historical materials which are identifiable by an archivist as records of an agency as defined in § 105–63.104(f). The Administrator will process these requests in accordance with the Freedom of Information regulations set forth in Part 105–61, or pertinent successor regulations.

(b) In order to allow GSA archivists to devote as much time and effort as possible to the processing of materials for general public access, the Administrator will not process those Freedom of Information requests where the requester can reasonably obtain the same materials through a request directed to an agency (as defined in § 105–63.104(f)), unless the requester demonstrates that he or she has unsuccessfully sought access from that agency or its successor in law or function.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); secs. 103 and 104 of Pub. L. 93–526; 88 Stat. 1695 (44 U.S.C. 2107 note))

Dated: February 28, 1980.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80–7104 Filed 3–6–80; 8:45 am]

BILLING CODE 6820–38–M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[General Order 16; Amdt. 34]

Rules of Practice and Procedure; Expenses on Failure To Admit

AGENCY: Federal Maritime Commission.

ACTION: Final Rule.

SUMMARY: Rule 208 of the Commission's Rules of Practice authorizes the issuance by the presiding officer of an order requiring a party to pay expenses incurred in making proof. This amendment clearly requires an application for such an order to be made to the presiding officer before issuance of the initial decision. This clarification will enhance orderly procedure and is necessary because of current lack of clarity on this point.

EFFECTIVE DATE: March 7, 1980.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION: Rule 208 (46 CFR 502.208) of the Commission's Rules of Practice and Procedure provides for use of requests for admission as a means of discovery in Commission proceedings. Paragraph (c) of this rule provides:

> (c) *Expenses on failure to admit.* If a party fails to admit the genuineness of any document or the truth of any matter as requested under § 502.208(a), and if the party requesting the admission thereafter proves the genuineness of the document or the truth of the matter, he may apply to the presiding officer for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The presiding officer shall make the order unless he finds that (1) the request was held objectionable pursuant to § 502.208(a), or (2) the admission sought was of no substantial importance, or (3) the party failing to admit had reasonable ground to believe that he might prevail on the matter, or (4) there was other good reason for the failure to admit.

The rule does not expressly limit the time for applying for an order requiring payment of expenses, but does say it must be to the *presiding officer.* We recently determined in an order interpreting this rule that it follows that such application must be made while the matter is pending before the presiding officer.[1] Orderly procedure and reasonable agency practice mandate such a requirement.

Rule 208 was patterned directly after Rule 37 of the Federal Rules of Civil Procedure. Section 27 of the Shipping Act states that the Commission's discovery procedures shall, to the extent practicable, be in conformity with the Federal Procedures. The case law interpreting Rule 37 of the Federal Rules clearly supports the notion that such motions for payment of expenses must be made prior to judgment and appeal. See *Popeil Bros. Inc.* v. *Shick Electric Inc.*, 516 F2d 772 (7th Cir. 1975) and *G & M Inc.* v. *Newbern*, 488 F2d 742 (9th Cir. 1973).

In order to avoid future confusion on this matter, we have determined to clarify Rule 208 to explicitly state that such applications must be made to the presiding officer prior to issuance of the initial decision. Other minor changes have been made to eliminate gender specific references found in the current rule.

PART 502—RULES OF PRACTICE AND PROCEDURE

Therefore, pursuant to Title 5 U.S.C. 553 and sections 27 and 43 of the Shipping Act, 1916 (46 U.S.C. 826, 841(a)), section 502.208(c) of Title 46 CFR is revised to read as follows:

§ 502.208 Requests for admission.

(a) * * *

(b) * * *

(c) *Expenses on failure to admit.* If a party fails to admit the genuineness of any document or the truth of any matter as requested under § 502.208(a), and if the party requesting the admission thereafter proves the genuineness of the document or the truth of the matter, that party may apply to the presiding officer for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. Such application must

[1] See order served February 6, 1980 in Docket 78–2, *Organic Chemicals* v. *Atlanttrafik Express Service.*

be made to the presiding officer before issuance of the initial decision in the proceeding. The presiding officer shall make the order unless it is found that (1) the request was held objectionable pursuant to § 502.208(a), or (2) the admission sought was of no substantial importance, or (3) the party failing to admit had reasonable ground to believe that it might prevail on the matter, or (4) there was other good reason for the failure to admit. [Rule 208]

Notice, opportunity to comment, and delayed effective date are not necessary for this amendment because it merely clarifies an existing requirement and imposes no additional restrictions.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-7075 Filed 3-6-80; 8:45 am]

BILLING CODE 6730-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. 1409; Amdt. 2]

Burlington Northern Inc. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Fairfield, Iowa; Decision Amending Order

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1409.

SUMMARY: Amends Service Order No. 1409 which authorizes the Burlington Northern Inc. to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at Fairfield, Iowa, and provides for the continuation of service to shippers which would otherwise be deprived of essential railroad services.

EFFECTIVE DATE: 11:59 p.m., March 2, 1980, and continuing in effect until 11:59 p.m., March 23, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

Decided February 27, 1980.

Upon further consideration of Service Order No. 1409 (44 FR 72159 and 70475), and good cause appearing therefor:

It is ordered that § *1033.1409, Service Order No. 1409, Burlington Northern Inc. authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Fairfield, Iowa* is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 23, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 2, 1980.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7143 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[S.O. 1412; Amdt. 1]

Chicago, Milwaukee, St. Paul and Pacific Railroad Co. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Washington, Iowa; Decision Amending Order

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1412.

SUMMARY: Amends Service Order No. 1412 which authorizes the Chicago, Milwaukee, St. Paul and Pacific Railroad Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at Washington, Iowa, and provides for the continuation of service to shippers which would otherwise be deprived of essential railroad services.

EFFECTIVE DATE: 11:59 p.m., March 2, 1980, and continuing in effect until 11:59 p.m., March 23, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840

Decided February 27, 1980.

Upon further consideration of Service Order No. 1412 (44 FR 71829), and good cause appearing therefor:

It is ordered, that § *1033.1412 Service Order No. 1412, Chicago, Milwaukee, St. Paul and Pacific Railroad Company Authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Wasington, Iowa* is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 23, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall be come effective at 11:59 p.m., March 2, 1980.

(49 U.S.C. (10304-10305 and 11121-11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7145 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[S.O. 1410; Amdt. 2]

The Denver and Rio Grande Western Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Roswell and Colorado Springs, Colo.; Decision Amending Order

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1410.

SUMMARY: Amends Service Order No. 1410 which authorizes the Denver and Rio Grande Western Railroad Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at Roswell and Colorado Springs, CO, and provides for the continuation of service to shippers which would otherwise be deprived of essential railroad services.

EFFECTIVE DATE: 11:59 p.m., March 2, 1980, and continuing in effect until 11:59 p.m., March 23, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

Decided February 27, 1980.

Upon further consideration of Service Order No. 1410, (44 FR 70477 and 70475), and good cause appearing therefor:

It is ordered that § *1033.1410, Service Order No. 1410, The Denver and Rio Grande Western Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Roswell and Colorado Springs, Colorado* is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 23, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 2, 1980.

(49 U.S.C. (10304–10305 and 11121–11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7144 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[S.O. 1387-A]

Missouri Pacific Railroad Co. Authorized To Operate Over Tracks of Missouri-Kansas-Texas Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1387–A.

SUMMARY: Vacates Service Order No. 1387, which authorized the Missouri Pacific Railroad Company to operate over tracks of the Missouri-Kansas-Texas Railroad Company. Since permanent authority has been granted, an emergency no longer exists and Service Order No. 1387 is vacated.

DATES: Effective 11:59 p.m., February 29, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided February 27, 1980.

Upon further consideration of Service Order No. 1387 (44 F.R. 42699), and good cause appearing therefor:

It is ordered, that § *1033.1387 Service Order No. 1387 Missouri Pacific Railroad Company authorized to operate over tracks of Missouri-Kansas-Texas Railroad Company* is vacated effective 11:59 p.m., February 29, 1980.

(49 U.S.C. (10304–10305 and 11121–11126).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7148 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[S.O. 1421; Amdt. 1]

St. Louis-San Francisco Railway Co., Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Hobart, Okla.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1421.

SUMMARY: Amends Service Order No. 1421 which authorizes the St. Louis-San Francisco Railway Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at Hobart, Oklahoma, and provides for the continuation of service to shippers which would otherwise be deprived of essential railroad services.

DATE: Effective 11:59 p.m., March 2, 1980, and continuing in effect until 11:59 p.m., March 23, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided February 27, 1980.

Upon further consideration of Service Order No. 1421, (45 F.R. 2656), and good cause appearing therefor:

It is ordered: That, § *1033.1421 Service Order No. 1421, St. Louis-San Francisco Railway Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Hobart, Oklahoma,* is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 23, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 2, 1980.

(49 U.S.C. (10304–10305 and 11121–11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7147 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[S.O. 1413; Amdt. 1]

St. Louis Southwestern Railway Co. Authorized to Operate Over Tracks of Chicago, Rock Island And Pacific Railroad Co. at Camden, Ark.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1413.

SUMMARY: Amends Service Order No. 1413 which authorizes the St. Louis Southwestern Railway Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at Camden, Arkansas, and provides for the continuation of service to shippers which would otherwise be deprived of essential railroad services.

EFFECTIVE DATE: 11:59 p.m., March 2, 1980, and continuing in effect until 11:59 p.m., March 23, 1980

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided February 27, 1980.

Upon further consideration of Service Order No. 1413, (44 FR 71830), and good cause appearing therefor:

It is ordered, that § *1033.1413 Service Order No. 1413, St. Louis Southwestern Railway Company Authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Camden, Arkansas* is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 23, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 2, 1980.

(49 U.S.C. (10304–10305 and 11121–11126).)

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7146 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[S.O. 1389; Amdt. 1]

Transkentucky Transportation Railroad, Inc., Authorized To Operate Over Tracks Abandoned by Louisville & Nashville Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1389.

SUMMARY: Amends Service Order No. 1389, by instituting an expiration date of 11:59 p.m., May 31, 1980. Service Order No. 1389 authorized the emergency operation of the Transkentucky Transportation Railroad, Inc., (TTI) over tracks abandoned by the Louisville and Nashville Railroad Company pending its application to the Commission for certification of public convenience and necessity and permanent authority.

EFFECTIVE DATE: 11:59 p.m., February 29, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decision—Amdt. No. 1 to Service Order No. 1389

Transkentucky Transportation Railroad, Inc., Authorized To Operate Over Tracks Abandoned by Louisville & Nashville Railroad Co.

Decided February 27, 1980.

Upon further consideration of Service Order No. 1389, and good cause appearing therefor:

It is ordered, § *1033.1389 Service Order No. 1389,* § *1033.1389 Transkentucky Transportation Railroad, Inc., authorized to operate over tracks abandoned by the Louisville and Nashville Railroad Company* is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., May 31, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., February 29, 1980.

(49 U.S.C. (10304–10305 and 11121–11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7149 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[S.O. No. 1401, Amdt. 2]

Car Service: Burlington Northern Inc. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co., at Burlington, Iowa

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1401.

SUMMARY: Amends Service Order No. 1401 which authorizes the Burlington Northern Inc. to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at Burlington, Iowa, and provides for the continuation of service to shippers, which would otherwise be deprived of essential railroad services.

EFFECTIVE DATE: 11:59 p.m., March 2, 1980, and continuing in effect until 11:59 p.m., March 23, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275–7840.

Decided: February 27, 1980.

Upon further consideration of Service Order No. 1401, (44 FR 60999 and 70477), and good cause appearing therefor:

It is ordered: § 1033.1401 Service Order No. 1401 Burlington Northern Inc. Authorization to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Burlington, Iowa) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 23, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 2, 1980.

(49 U.S.C. (10304–10305 and 11121–11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7137 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Amdt. No. 2 to S.O. No. 1402]

Car Service; Atchison, Topeka & Santa Fe Railway Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Dodge City, Kans.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1402.

SUMMARY: Amends Service Order No. 1402 which authorizes the Atchison, Topeka and Santa Fe Railway Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at Dodge City, Kansas, and provides for the continuation of service to shippers which would otherwise be deprived of essential railroad services.

EFFECTIVE DATE: 11:59 p.m., March 2, 1980, and continuing in effect until 11:59 p.m., March 23, 1980.

FOR FURTHER INFORMATION CONTACT:
J. Kenneth Carter (202) 275–7840.

Decided: February 27, 1980.

Upon further consideration of Service Order No. 1402, (44 FR 62286 and 70477), and good cause appearing therefor:

It is ordered: § 1033.1402 Service Order No. 1402 (The Atchison, Topeka and Santa Fe Railway Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Dodge City, Kansas) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 23, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 2, 1980.

(49 U.S.C. (10304–10305 and 11121–11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-7138 Filed 3-6-80; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Amdt. No. 2 to S.O. No. 1403]

Car Service; Union Pacific Railroad Co. Authorized To Operate Over Tracks of Chicago, Rock Island & Pacific Railroad Co. at Beatrice, Neb.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1403.

SUMMARY: Amends Service Order No. 1403 which authorizes the Union Pacific Railroad Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at Beatrice, Nebraska, and provides for the continuation of service to shippers which would otherwise be deprived of essential railroad services.

EFFECTIVE DATE: 11:59 p.m., March 2, 1980, and continuing in effect until 11:59 p.m., March 23, 1980.

FOR FURTHER INFORMATION CONTACT:
J. Kenneth Carter (202) 275–7840.

Decided: February 27, 1980.

Upon further consideration of Service Order No. 1403, (44 FR 62287 and 70476), and good cause appearing therefor:

It is ordered: § 1033.1403 Service Order No. 1403 (Union Pacific Railroad Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Beatrice, Nebraska) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 23, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 2, 1980.

(49 U.S.C. (10304–10305 and 11121–11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-7139 Filed 3-6-80; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1033

[Amdt. No. 1 to S.O. No. 1416]

Car Service; Burlington Northern Inc. Authorized To Operate Over Tracks of Chicago, Rock Island & Pacific Railroad Co. at Ottumwa, Iowa

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 1 to Service Order No. 1416.

SUMMARY: Amends Service Order No. 1416 which authorizes the Burlington Northern Inc. to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at Ottumwa, Iowa, and provides for the continuation of service to shippers which would otherwise be deprived of essential railroad services.

EFFECTIVE DATE: 11:59 p.m., March 2, 1980, and continuing in effect until 11:59 p.m., March 23, 1980.

FOR FURTHER INFORMATION CONTACT:
J. Kenneth Carter (202) 275–7840.

Decided: February 27, 1980.

Upon further consideration of Service Order No. 1416, (44 FR 75165), and good cause appearing therefor:

It is ordered: § 1033.1416 Service Order No. 1416 (Burlington Northern Inc. authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Ottumwa, Iowa) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 23, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 2, 1980.

(49 U.S.C. (10304–10305 and 11121–11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad

Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7140 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Amdt. No. 2 to S.O. No. 1407]

Car Service; Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Rock Island & Pacific Railroad Co. at Worthington, Minn.

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1407.

SUMMARY: Amends Service Order No. 1407 which authorizes the Chicago and North Western Transportation Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at Worthington, Minnesota, and provides for the continuation of service to shippers which would otherwise be deprived of essential railroad services.

EFFECTIVE DATE: 11:59 p.m., March 2, 1980, and continuing in effect until 11:59 p.m., March 23, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

Decided: February 27, 1980.

Upon further consideration of Service Order No. 1407 (44 FR 65400 and 70476), and good cause appearing therefor:

It is ordered: § 1033.1407 Service Order No. 1407 (Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Worthington, Minnesota) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 23, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 2, 1980.

(49 U.S.C. (10304-10305 and 11121-11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7141 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1033

[Amdt. No. 2 to S.O. No. 1408]

Car Service; Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Co. at Sibley, Iowa

AGENCY: Interstate Commerce Commission.

ACTION: Amendment No. 2 to Service Order No. 1408.

SUMMARY: Amends Service Order No. 1408 which authorizes the Chicago and North Western Transportation Company to operate over tracks of Chicago, Rock Island and Pacific Railroad Company (RI) at Sibley, Iowa, and provides for the continuation of service to shippers which would otherwise be deprived of essential railroad services.

EFFECTIVE DATE: 11:59 p.m., March 2, 1980 and continuing in effect until 11:59 p.m., March 23, 1980.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

Decided: February 27, 1980.

Upon further consideration of Service Order No. 1408, (44 FR 67989 and 70475), and good cause appearing therefor:

It is ordered: § 1033.1408 Service Order No. 1408 (Chicago and North Western Transportation Company authorized to operate over tracks of Chicago, Rock Island and Pacific Railroad Company at Sibley, Iowa) is amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 23, 1980, unless otherwise modified, amended or vacated by order of this Commission.

Effective date. This amendment shall become effective at 11:59 p.m., March 2, 1980.

(49 U.S.C. (10304-10305 and 11121-11126))

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. Notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7142 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Opening of Cedar Creek Ponds, Lacreek National Wildlife Refuge, S. Dak. to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge to public fishing is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will supply additional recreational opportunities to the public. These special regulations describe the conditions under which sport fishing will be permitted on portions of Lacreek National Wildlife Refuge.

DATES: April 15, 1980 through October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Refuge Manager, Lacreek National Wildlife Refuge, Martin, SD 57551 or telephone 605-685-6508.

SUPPLEMENTARY INFORMATION:

General

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer this area for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not

inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that such recreational use will not interfere with the primary purpose for which the area was established, and (2) that funds are available for the development, operation, and maintenance of permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purpose for which the Lacreek National Wildlife Refuge was established. This determination is based upon consideration of the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

PART 33—SPORT FISHING

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

Sport fishing, which includes frogging, is permitted on Cedar Creek Ponds #1, 2, and 3, Lacreek National Wildlife Refuge, only on those areas designated by public fishing signs as being open to fishing. These areas are delineated on maps available at Refuge Headquarters. Sport fishing and frogging shall be in accordance with all applicable State regulations subject to the following conditions:

1. Fisherman must use designated parking areas.
2. The use of boats is prohibited.
3. The use of live minnows as bait is prohibited.
4. The taking of frogs is limited to the State season.
5. Public fishing on Lacreek National Wildlife Refuge may be closed by the manager whenever access roads are impassable, refuge wildlife needs further protection from disturbances, or good refuge management dictates that the area be closed to the public.

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

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

Rolf H. Kraft,

Refuge Manager, Lacreek National Wildlife Refuge, Martin, S. Dak.

February 6, 1980.

[FR Doc. 80-7081 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 33

Opening of Pool 10 Lacreek National Wildlife Refuge, South Dakota to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge to public fishing is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will supply additional recreational opportunities to the public. These special regulations describe the conditions under which sport fishing will be permitted on portions of Lacreek National Wildlife Refuge.

DATES: April 1, 1980 through March 31, 1981.

FOR FURTHER INFORMATION CONTACT: Refuge Manager, Lacreek National Wildlife Refuge, Martin, SD 57551 or telephone 605-685-6508.

SUPPLEMENTARY INFORMATION:

General

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

The recreational use authorized by these regulations will not interfere with the primary purpose for which the Lacreek National Wildlife Refuge was established. This determination is based upon consideration of the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

PART 33—SPORT FISHING

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

Sport fishing, which includes frogging, is permitted on Pool 10 and adjacent streams, Lacreek National Wildlife Refuge, only on those areas designated by public fishing signs as being open to fishing. These areas comprising about 600 acres are delineated on maps available at Refuge Headquarters. Sport fishing and frogging shall be in accordance with all applicable State regulations subject to the following conditions:

1. Fishermen must use designated parking areas and/or boat landings.
2. No motors may be used on boats or canoes in the Refuge.
3. The taking of frogs is limited to the State season.
4. Public fishing on Lacreek National Wildlife Refuge may be closed by the manager whenever access roads are impassable, refuge wildlife need further protection from disturbances, or good refuge management dictates that the area be closed to the public.

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

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

Rolf H. Kraft,

Refuge Manager, Lacreek National Wildlife Refuge, Martin, South Dakota.

February 6, 1980.

[FR Doc. 80-7082 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 47
Friday, March 7, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1032, 1050, 1062

Milk in the Southern Illinois, Central Illinois, and St. Louis-Ozarks Marketing Areas; Proposed Termination of Certain Provisions of the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed termination of rules.

SUMMARY: This notice invites written comments on proposals to terminate order provisions providing for seasonal payment plans (Louisville plans) in the Southern Illinois, Central Illinois, and St. Louis-Ozarks milk orders. The plan in each order provides for withholding from the total amount handlers pay for milk 15 cents per hundredweight during March and July and 25 cents per hundredweight during April, May, and June for distribution to producers during September through December. The payment plans are used to encourage more level production throughout the year.

DATE: Comments are due not later than March 24, 1980.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-4824.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.)*, the termination of the following provisions of the orders regulating the handling of Proposed Termination—Southern Illinois, Central Illinois, St. Louis-Ozarks milk in the Southern Illinois, Central Illinois, and St. Louis-Ozarks marketing areas is being considered:

1. In 7 CFR Part 1032 (Southern Illinois) that part of § 1032.61(e) which reads ", except for the months specified below, shall be", and the provisions contained in § 1032.61(f) through (j) in their entirety.

2. In 7 CFR Part 1050 (Central Illinois) that part of § 1050.61(e) which reads ", except for the months specified below, shall be", and the provisions contained in § 1050.61(f) through (j) in their entirety.

3. In 7 CFR Part 1062 (St. Louis-Ozarks) the provisions contained in § 1062.61(f) through (j) in their entirety and that part of § 1062.61(1) that reads "Subtract not less than 4 cents nor more than 5 cents per hundredweight".

All persons who desire to submit written data, views, or arguments in connection with the proposed termination should file the same with the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, on or before March 24, 1980. All documents filed should be in duplicate.

The comments that are sent will be made available for public inspection in the Hearing Clerk's office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed termination would delete those provisions of 7 CFR Parts 1032, 1050, and 1062 that provide for the accumulation and disbursement of money due producers with the intent of encouraging seasonal adjustments in milk production. Under such provisions (the "takeout-payback" or "Louisville" plan), money withheld from the pool during March through July (15 cents per Proposed Termination—Southern Illinois, Central Illinois, St. Louis-Ozarks hundredweight during March and July and 25 cents per hundredweight during April, May and June) is paid out to producers for deliveries of milk during September through December (20 percent in September and December and 30 percent in October and November).

The termination of these provisions in the three orders has been expressly requested or supported by cooperative associations representing a majority of the producers supplying each of the three markets.

In supporting their request, the cooperatives claim that the seasonal payments plans are no longer resulting in orderly marketing conditions for producers regularly associated with these markets. They contend that milk supplies normally associated with other markets are often shifted to the three markets in question to take advantage of the higher uniform prices that result from the operation of the Louisville plan during the fall "payback" months. Then, during the spring "takeout" months, such milk supplies are shifted back to the market from which the milk originated. Cooperatives assert that such shifting of milk supplies works to the disadvantage of producers who are regularly associated with the three markets. They claim that as a consequence of such shifting, a portion of the producer returns contributed by the "regular" producers during the spring months is distributed during the fall months to dairy farmers who are normally associated with other markets during the remainder of the year.

Cooperatives also point out that the current payment plans reduce the blend prices in the three markets during the spring months below the competitive pay prices in overlapping milksheds of other Federal order markets where no seasonal payment plans are used. Under these circumstances, the cooperatives note, there has been a tendency for the milk supplies in the three markets to Proposed Termination—Southern Illinois, Central Illinois, St. Louis-Ozarks shift to markets that do not have seasonal production incentive plans. The cooperatives claim that this loss of milk supplies to other markets is causing a disruption in the availability of milk supplies for the three markets.

Signed at Washington, D.C., on March 3, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-7115 Filed 3-6-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 985

[Docket No. F & V AO-79-1]

Spearmint Oil Produced in the Far West; Decision and Referendum Order on Proposed Marketing Agreement and Order

Correction

In FR Doc. 80-6283 appearing at page 13096 in the issue of Thursday, February 28, 1980, make the follow corrections:

1. On page 13097, in the third column, in the eighth line of the first full paragraph the words "establish a tital" should read "establish a total".

2. Also on page 13097, in the table at the bottom of the page, in the eighth line down the number "1998" should read "1898".

3. On page 13101, in the third column, in the seventh line of paragraph (b), § 985.51, the words "quantity be increases" should read "quantity be increased".

4. On page 13102, in the second column, the eleventh line of paragraph (2), § 985.53, the words "which the acreage is locate:" should read "which the acreage is located:".

5. Also on page 13102, in the third column, the tenth line of paragraph (a), of § 985.54, the words "of oil by the applicable percentage." should read "of oil by the applicable allotment percentage."

6. On page 13103, in the second column the second line of paragraph (4), § 985.57, the words "additional oil is neded" should read "additional oil is needed".

7. On page 13104, in the second column, the sixth line of § 985.73, the word "possessions" should read "possession".

BILLING CODE 1505-01-M

Rural Electrification Administration

7 CFR Part 1701

Advance Notice of Proposed Revision of REA Bulletin 181-3, Accounting Interpretations for Rural Electric Borrowers

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: REA proposes to revise REA Bulletin 181-3, Accounting Interpretations for Rural Electric Borrowers, to clarify the accounting for interest income and expense related to the financing of pollution control equipment. Public comments are invited.

DATE: Public comments must be received by REA no later than April 7, 1980.

ADDRESS: Persons interested in the proposed revisions may submit written data, views, suggestions or comments to the Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon Chazin, Director, Accounting and Auditing Division, above address, telephone number (202) 447-7221.

SUPPLEMENTARY INFORMATION: Electric utility cooperatives, including several with other loans made or guaranteed by the Rural Electrification Administration, have financed the construction and installation of pollution control equipment through tax exempt municipal securities. The funds from these securities are deposited in a Construction Fund and controlled by a designated "Trustee." During construction of these facilities, the interest paid on the bonds should be charged to interest on long-term debt with a concurrent credit for interest capitalized to Allowance for Borrowed Funds Used During Construction—Credit. Often the funds that are under the control of the fund trustee are invested, earning interest (arbitrage) until they are needed. It is the accounting disposition of these earnings that will be addressed in the proposal. Under consideration at this time is a proposal that any interest income earned on pollution control bond proceeds be credited to Construction Work in Progress. This would result in the capitalization of the "net cost" of borrowed funds as provided in Electric Plant Instruction No. 3 (17).

All interested parties are invited to comment on this notice. Further public comment will be solicited when the proposed rule is published.

Dated: February 28, 1980.

Joseph Vellone,

Assistant Administrator—Administration.

[FR Doc. 80-6830 Filed 3-6-80; 8:45 am]

BILLING CODE 3410-15-M

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7 CFR Part 1701

[Bulletin 181-3]

Advance Notice of Proposed Revision of REA; Accounting Interpretations for Rural Electric Borrowers

AGENCY: Rural Electrification Administration.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: REA proposes to revise REA Bulletin 181-3, Accounting Interpretations for Rural Electric Borrowers, to clarify the accounting for discounted capital credit retirements to estates. Public comments are invited.

DATE: Public comments must be received by REA no later than April 7, 1980.

ADDRESS: Persons interested in the proposed revision may submit written data, views, suggestions or comments to the Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon Chazin, Director, Accounting and Auditing Division, above address, telephone number (202) 447-7221.

SUPPLEMENTARY INFORMATION: A number of REA electric cooperative borrowers have adopted a policy of permitting capital credit retirements to estates of deceased patrons on a discounted basis. This has resulted in several accounting questions on how to account for the discounted portion. Under consideration at this time is a proposal that if provided for in the cooperatives by-laws the discounted capital credits could be reallocated to the present patrons. Presently, discounts are recorded in Account 217, Retired Capital Credits—Gain, and never reallocated to patrons.

All interested parties are invited to comment on this notice. Further public comment will be solicited when the proposed rule is published.

Dated: February 28, 1980.

Joseph Vellone,

Assistant Administrator—Administration.

[FR Doc. 80-6829 Filed 3-6-80; 8:45 am]

BILLING CODE 3410-15-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies; Definition of "Associate of a Licensee"

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the definition of "Associate of a Licensee," as set forth in § 107.3 of the Regulations Governing Small Business Investment Companies, by specifically including therein any person who is an officer, director, or holder of 10 percent

or more of the stock of the corporate general partner of an Unincorporated Licensee, and the corporate general partner itself. The proposed rule would also exclude from the definition of "Associate of a Licensee," and specifically from the term "partner," as used in paragraph (c) of the definition, a person who stands in the relationship of a limited partner, or a fellow limited partner, of or with a Person described in paragraphs (a) or (b) of the definition; and who has no other relationship with such a Person. Finally, this proposed rule would amend paragraph (h) of the definition to reflect the fact that Pub. L. 95–507 makes possible the Licensing of Unincorporated section 301(d) Licensees.

DATE: Comments must be received on or before April 7, 1980.

ADDRESS: Written comments, in duplicate, are to be addressed to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Arthur P. Cyr, Acting Director, Office of Investment, Small Business Administration, 1441 L Street NW., Washington, DC 20416. 202–653–6584.

SUPPLEMENTARY INFORMATION: The proposed amendments to paragraphs (a) and (b) of the definition reflect the obvious fact that an officer, director, or holder of 10 percent or more of the stock of the corporate general partner of an Unincorporated Licensee controls or influences the operations of the Licensee to the same extent that an officer, director, or holder of 10 percent or more of the stock of a corporate Licensee controls or influences the operations of that Licensee.

The proposed amendment to Paragraph (c) of the definition would remove the personal ineligibility of certain persons who are associated in a partnership with an Associate of a Licensee. For example, if A is the president of a Licensee and a partner in the partnership of A and B, the present regulation makes B an Associate of a Licensee. The proposed rule would exclude B from the definition of "Associate of a Licensee" if B's only relationship with A is that of a limited partner or fellow limited partner of A. B's status as an Associate of a Licensee would remain unchanged if he or she is a general partner of A; and the proposed rule would make no change with respect to the Associate status of the partnership of A and B. So also if B is a limited partner in a partnership that owns or controls 10 percent or more of the stock or partnership capital of a Licensee. However, this proposed rule would not eliminate from the definition of "Associate of a Licensee" any person who owns or controls 10 percent or more of the partnership capital of an Unincorporated Licensee, even though such person may have no ostensible partnership status in the Licensee other than that of a limited partner, because experience has shown that a person controlling such a significant portion of the partnership capital can influence the operations of the partnership. Accordingly, pursuant to the authority of Section 308 of the Small Business Investment Act of 1958, as amended, 15 U.S.C. 687, it is proposed to amend Part 107 of Chapter I, Title 13 of the Code of Federal Regulations as follows:

In § 107.3, Definitions of terms, the definition of *Associate of a Licensee* is amended by revising paragraphs (a)–(c) and (h) to read as follows:

§ 107.3 Definition of terms.

* * * * *

Associate of a Licensee. "Associate of a Licensee" means: (a) An officer, director, manager, agent, or Investment Adviser of a corporate Licensee, or an officer, director, manager, agent or Investment Adviser of the corporate general partner of an Unincorporated Licensee, and the corporate general partner itself; and any person regularly serving such Licensee in the capacity of attorney at law; or

(b) Any Person owning or Controlling, directly or indirectly, ten percent or more of any class of stock of a corporate Licensee or of the stock of the corporate general partner of an Unincorporated Licensee, or ten percent or more of the partnership capital of such Unincorporated Licensee; or

(c) Any officer, director, partner, manager, agent or employee of any person described in paragraphs (a) or (b): *Provided, however,* That a Person with no other relationship to a Person described in paragraphs (a) or (b) but that of a limited partner shall not be deemed an Associate; or

* * * * *

(h) A section 301(d) Licensee and a participant Licensee owning stock thereof, or securities evidencing a contribution to the partnership capital thereof, pursuant to § 107.813 as well as Associates of such section 301(d) Licensee and such participant Licensee, shall be deemed Associates of each other.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 22, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 80-7233 Filed 3-6-80; 8:45 am]

BILLING CODE 8025-01-M

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13 CFR 111

Pollution Control; Proposed Amendment To Permit Greater Flexibility In Determining Credit Merits of Applications

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: Section 111.4(d), which requires an applicant to have a five-year operating history with three years of profitability, was promulgated to assure the receipt of applications only from concerns with satisfactory credit. This credit standard is not to be relaxed by this proposal.

It has been necessary to reject some applications with evidence of creditworthiness when applying § 111.4(d) as presently written. This has occurred when experienced new owners of a new legal entity, have acquired an existing business and also in cases of newly formed corporate subsidiaries of creditworthy parent concerns.

It is therefore desirable to enlarge the present objective standard without relaxing the requirement that an applicant, to be eligible, must present satisfactory creditworthiness.

DATES: Comments must be received on or before April 7, 1980.

ADDRESS: Comments should be sent in duplicate to Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Vincent A. Fragnito, Chief, Pollution Control Guarantees, Magazine Building, Rosslyn, Virginia 22209, (703) 235–2902.

SUPPLEMENTARY INFORMATION: The proposed rule would permit consideration of complex applications involving multiple concerns when only one of the concerns is in need of the pollution control facility, but lacks the five-year operating history. The proposal would also permit the consideration of applications by new concerns which have been formed with assets of predecessor concerns whose former owners preferred to sell the business rather than install needed pollution control facilities. These applications, however, must present evidence from which SBA can make a determination that the applicant has the equivalent of at least a five-year history of operations with any three of the last five years

being profitable. This proposal is not intended to permit the refinancing of a predecessor concern's indebtedness which may have been assumed by an applicant.

Notice is hereby given that pursuant to the authority contained in section 308(c) of the Small Business Investment Act, as amended, 15 U.S.C. 687(c), it is proposed to amend, as set forth below, Part 111, Chapter 1, Title 13 of the Code of Federal Regulations.

1. Section 111.4(d) is proposed to be amended to read as follows:

§ 111.4 Eligibility

* * * * *

(d) Have been in operation for at least five years, and have a history of profitable operations during any three of the last five years preceding the date of the application, or provide evidence to support a determination by SBA that the equivalent of such operations exists.

* * * * *

(Catalog of Federal Domestic Assistance Programs No. 59,031, Small Business Pollution Control Financing Guarantee)

Dated: March 3, 1980.

William H. Mauk, Jr.,

Acting Administrator.

[FR Doc. 7238 Filed 3-6-80; 8:45 am]

BILLING CODE 8025-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9074]

General Motors Corp., et al.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require a Detroit, Mich., motor vehicle manufacturer (GM) to change its official accounting procedures for dealers to incude specified procedures for determining surpluses realized on repossessed vehicles; and stipulate to its dealers that such procedures must be observed. The order would require GM and its subsidiary, General Motors Acceptance Corporation (GMAC), to institute extensive training programs to familiarize dealers with their obligations in handling repossessed vehicles. Following such training, GM would be required to conduct a series of field audits to ensure that surpluses are being calculated and paid in the prescribed manner. The order would further require that GMAC pay $2 million to eligible consumers whose vehicles were repossessed by the company since May 1, 1974. Additionally, the order would require that post repossession notices and other relevant GMAC documents include accurate and complete information concerning the nature and duration of customers' rights to redemption and surpluses; and that bulletins be sent to dealers whose arrangements with GMAC did not call for "title clearance," advising them of their obligations to pay surpluses on repossessed vehicles.

DATE: Comments must be received on or before May 5, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Thomas Armitage, Director, 10R, Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174. (206) 442-4655.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[Docket No. 9074]

General Motors Corp., et al.; Agreement Containing Consent Order

This agreement, between (1) General Motors Corporation and General Motors Acceptance Corporation, corporations, respondents in a proceeding initiated by the Federal Trade Commission, by their duly authorized officers and their counsel, and (2) counsel for the Federal Trade Commission, is entered into in accordance with the Commission's rules governing consent order procedures. Chuck Olson Chevrolet, Inc., is not a party to this Agreement.

Table of Contents

Agreement Provisions:
Order:
I. Definitions.
II. Repossession Accounting Procedures.
III. Training and Notification.
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V. Equity Dealership Procedures and Monetary Payments.
VI. GMAC Retail Plan Changes, Deficiency Representations, Post-Repossession Notices.
VII. Monetary Payments by GMAC.
VIII. Effect of Inconsistent Rule or Order.
IX. Standard Reporting and Recordkeeping.

1. General Motors Corporation is a Delaware corporation with its offices and principal place of business at 3044 West Grand Boulevard, Detroit, Michigan 48202. General Motors Acceptance Corporation is a New York corporation with its offices and principal place of business at 767 Fifth Avenue, New York, New York 10022. General Motors Acceptance Corporation is a wholly owned subsidiary of General Motors Corporation. General Motors Corporation and General Motors Acceptance Corporation are referred to as the "General Motors respondents."

2. The General Motors respondents have been served with a copy of the Complaint issued by the Commission in this proceeding charging them with violations of section 5 of the Federal Trade Commission Act, as amended, and have filed an Answer denying, *inter alia*, the violations of law alleged in the Complaint.

3. The General Motors respondents admit the jurisdictional facts set forth in Paragraph Three of the Complaint and that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the General Motors respondents and has jurisdiction to issue the Order contained in this Agreement ("Order").

4. The General Motors respondents waive: a. Any further procedural steps;

b. The requirement that the Commission's Decision contain a statement of findings of fact and conclusions of law; and

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order, but do not waive the right to seek judicial review or otherwise to challenge or contest the validity of any order or other determination issued pursuant to Part VIII of the Order or § 3.72(b) of the Commission's rules of practice.

However, these waivers shall cease to be effective if the Commission rejects this Agreement or returns this proceeding to adjudication as to the General Motors respondents. If the proceeding is reopended for the limited

purposes described in Paragraph V.H of the Order, the waivers by General Motors Corporation, and its admissions under Paragraph 3 of this Agreement, shall cease to be effective as to that limited proceeding. The waiver of procedural steps shall not apply to any procedural actions taken by the Commission (with respect to this Agreement and prior to final acceptance) other than those actions described in § 3.25 of the Commission rules of practice.

5. This Agreement shall not become a part of the official record of this proceeding unless and until it is accepted by the Commission. If this Agreement is provisionally accepted by the Commission, it will be placed on the public record together with the Complaint for a period of 60 days and information in respect thereto will be publicly released. The Commission thereafter may either withdraw its acceptance of this Agreement and so notify the General Motors respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision in disposition of the proceeding as to said respondents.

6. This Agreement is for settlement purposes only. The requirements of this Agreement and Order and General Motors respondents' performance of those requirements, including promulgation of the repossession accounting procedures and iplementation of the Initial Compliance Report, do not constitute an admission or finding that the law has been violated by the General Motors respondents as alleged in the Complaint or that the General Motors respondents are thereby liable for any act or practices of any other person.

7. This Agreement contimplates that if it is accepted by the Commission and such acceptance is not subsequently withdrawn by the Commission pursuant to § 3.25(f) of the rules of practice, the Commission may, without further notice to the General Motors respondents, issue its Decision containing the Order in disposition of the proceeding as to the General Motors respondents and make information public with respect thereto. When so entered, the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders of the Commission. The Order shall become final upon service. Delivery by the U.S. Postal Service of the Decision containing the Order to respondents' addresses as stated in Paragraph 1 above shall constitute service. The General Motors respondents waive any rights they may have to any other manner of service. The Complaint and the Initial Compliance Report referred to in Paragraph 10 below may be used in construing the terms of the Order, and no agreement, understanding, representation or interpretation not contained in the Order or in this Agreement may be used to vary or contradict the terms of the Order.

8. By its final acceptance of this Agreement and in consideration of the payments prescribed by Parts V and VII and other relief set forth in the order, the Commission waives (except as provided in Paragraph V.H of the Order): a. Its rights to commence a proceeding against either of the General Motors respondents seeking restitution or other consumer redress under Sections 5 or 19(a)(2) of the Federal Trade Commission Act, as amended, with respect to the acts and practices alleged in Complaint Paragraphs Eight through Ten and Twelve through Sixteen arising at any time prior to the date General Motors Corporation is required to submit the last audit summary provided for in Paragraph IV.C of the Order, except with regard to acts, practices or omissions of the General Motors respondents (i) which occur after service of the Order and are violations of the Order, (ii) which occur after the effective date of a Trade Regulation Rule and are violations of that Rule, or (iii) which occur after entry of an order by the Commission setting aside the Order.

b. Its right to commence a proceeding against any General Motors dealer with respect to (1) the acts and practices alleged in Complaint Paragraphs Eight, Eleven, Twelve, Thirteen and Fifteen concerning any vehicle repossessed by General Motors Acceptance Corporation and returned to the dealer prior to service of the Order except, for non-equity dealerships, those repossessed vehicles with respect to which the dealer executed the reassignment option of the GMAC Retail Plan, and (2) the acts and practices alleged in Complaint Paragraph Sixteen arising prior to service of the Order.

9. By its final acceptance of this Agreement, the Commission agrees not to pursue against Chuck Olson Chevrolet, Inc. any charges made in Docket 9074 involving repossessed vehicles regarding which General Motors Acceptance Corporation was the financing institution.

10. The General Motors respondents submit with this Agreement an Initial Compliance Report setting forth details of the manner in which they will comply with the Order. Final acceptance of this Agreement shall constitute acceptance of the Initial Compliance Report and shall also constitute advice under § 2.41(d) of the rules of practice that implementation of the Initial Compliance Report will constitute compliance with applicable portions of the Order until such time as the Commission seeks additional evidence of compliance.

11. The General Motors respondents have read the Complaint and Order and understand that after the Order becomes final (a) they may be required to file additional compliance reports showing they have complied fully with the Order, and (b) they may be liable for civil penalties in the amount provided by law for each violation of the Order.

Order

I. Definitions

It is ordered, That for purposes of this Order the following definitions shall apply: A. "General Motors respondents" or "respondents" means General Motors Corporation ("General Motors") and General Motors Acceptance Corporation ("GMAC"), corporations. It shall not refer to Chuck Olson Chevrolet, Inc. References to either or both of the General Motors respondents shall include their successors, assignees, officers, agents, representatives and employees, as well as any corporations, subsidiaries, divisions or devices through which they act in the United States. However, references to General Motors shall not include GMAC and references to either or both of the General Motors respondents shall not include dealerships. The requirements imposed on the General Motors respondents shall apply only to transactions within the United States.

B. "Vehicle" means an automobile or truck with a gross vehicle weight rating less than 11,000 pounds (4,990 kilograms) or a motor home. The term includes all parts, accessories and appurtenances of the vehicle. A van is deemed a "truck."

C. "Dealership" or "dealer" means a corporation, partnership or proprietorship as to its operations within the United States pursuant to a Sales and Service Agreement with General Motors' Buick, Cadillac, Chevrolet, Oldsmobile, or Pontiac divisions, or the GMC Truck and Coach Division.

D. "Retail sale" means the sale of a vehicle by a dealer, other than for purposes of resale (e.g., sales to dealers or wholesalers), lease or rental, to a customer who is not a fleet purchaser.

E. "Recourse financing" means the financing of a retail sale subject to an agreement between a financing institution and a dealership (generally called a "repurchase," "recourse," or "guaranty" agreement) which provides that the dealership is obligated to pay

off the outstanding obligation to the financing institution after receiving a transfer of the repossessed vehicle.

F. "Equity dealership" means a dealership in which General Motors holds 50 percent or more of the voting stock or is entitled to elect 50 percent or more of the board of directors.

G. "Financing customer" means a purchaser of a vheicle from a dealership by means of a retail installment contract.

H. "Disposition" or "dispose" means a delership's sale or lease of a repossessed vehicle previously sold by that dealership and returned to it by or for a financing institution pursuant to a recourse agreement. Such sale or lease includes only transactions with an independent third party; i.e., it does not include a sale or lease to the financing institution, the dealership or a representative of either. Disposition or dispose shall not mean the transfer of a repossessed vehicle to a dealership pursuant to a recourse agreement, or to a person or firm liable under a guaranty, endorsement, or recourse agreement covering the repossessed vehicle, nor mean a sale subsequent to a judicial sale.

I. "Proceeds" means whatever is received for a repossessed vehicle upon its disposition, as proceeds are described in the Initial Compliance Report. Among other things, it does not include charges for separately priced warranties and service contracts itemized in the sales contract or lease.

J. "Allowable expenses" means only actual out-of-pocket expenses incurred as the result of a repossession. The expenses must be reasonable and directly resulting from the repossessing, holding, preparing for disposition and disposing of the vehicle, and not otherwise reimbursed to the dealership disposing of the vehicle. They are limited to the following charges (if permitted under applicable state law): 1. Expenses paid to persons who are not employees of the dealership nor of the financing institution that financed the retail sale, for repossessing, towing or transporting the vehicle;

2. Filing fees, court costs, cost of bonds, and fees and expenses paid to a sheriff or similar officer or to an attorney who is not an employee of the dealership nor of the financing institution, for obtaining possession of or title to the vehicle;

3. Fees paid to others to obtain title to the vehicle, to obtain legally required inspection of the vehicle, or to register the vehicle;

4. Amounts paid to others for storage (excluding a charge for storage at facilities operated by the delership);

5. Labor and associated parts and supplies furnished by the dealership for the repair, reconditioning or maintenance (including legally required inspections) of the vehicle in preparation for disposition, computed at dealer cost (as defined in the Initial Compliance Report) with appropriate adjustments for any insurance, service contract or warranty recovery;

6. Amounts paid to others for labor and associated parts and supplies purchased for the repair, reconditioning or maintenance (including legally required inspections) of the vehicle in preparation for disposition;

7. Cost of sales commissions paid for actual participation in the disposition of the particular vehicle, computed at a rate no higher than for the sale or lease, as applicable, of a similar, non-repossessed vehicle in similar circumstances, but excluding all portions of commissions attributable to the selling of service contracts, separately priced warranties, financing or insurance;

8. A proportionate share of expenditures for advertisements that specifically mention the particular vehicle;

9. Fees and expenses paid to others for auctioning the vehicle;

10. Amounts paid to others for communication (including telephone calls, postage and military locator fees) and photocopying necessary in arranging for the repossession, holding, transportation, reconditioning or disposition of the vehicle.

11. Amounts paid to insure the particular vehicle while holding it.

K. "Contract balance" means (1) the unpaid balance as of the date of repossession, less any payments made thereafter and less applicable finance charge, insurance premium and service contract rebates deducted by the financing institution, plus (2) other charges authorized by contract or law and actually assessed or incurred prior to repossession. It may reflect a deduction for insurance, service contract and warranty payments received or to be received by the financing institution.

L. "Surplus" means:

+Proceeds
+Applicable insurance or warranty reimbursements received by the dealership or financing institution unless these reimbursements were deducted in computing the contract balance
+Any other applicable rebates or credits not deducted in computing the contract balance
−Contract balance
−Allowable expenses
−Amounts paid to discharge any security interest in the vehicle provided for by law
=Surplus. A negative (minus) amount produced by this calculation is referred to as a "deficiency"

M. "Pay" or "paid," in reference to payment of a surplus, means a diligent effort to pay in accordance with the standards set forth in the Initial Compliance Report.

II. Repossession Accounting Procedures

It is further ordered, That General Motors shall provide to all dealers within 10 days of service of this Order, and to each new dealer within 30 days of entering into a Sales and Service Agreement, procedures for determining the existence of surpluses and for accounting for surpluses and for any deficiencies sought.

A. These procedures (the "repossession accounting procedures") shall, by physical insertion or as a supplement, be made a part of the General Motors uniform accounting system referred to in the various dealer Sales and Service Agreements between General Motors and its dealers. These agreements provide that this system (currently called the "General Motors Dealers Standard Accounting System Manual") is to be followed in dealership operations. The requirement that the system be followed, insofar as it relates to the repossession accounting procedures, shall not be deleted from the Sales and Service Agreements, nor modified, without 60 days notice to the Commission. General Motors shall not implement the deletion or modification if the Commission, within that 60-day period, advises General Motors that it objects. The repossession accounting procedures shall also be incorporated into any subsequent set or compendium of comparable instructions.

B. The repossession accounting procedures shall include a standardized form ("dealer repossession accounting form") for dealers' use in determining for each vehicle the existence and amount of any surplus and of any deficiency sought, and in recording payment of each surplus, in accordance with the provisions of Paragraph C below.

C. The repossession accounting procedures shall provide that: 1. Each surplus is to be determined and paid to the recourse financing customer within 45 days of disposition in accordance with a method conforming to Paragraphs I.H through I.M of this Order;

2. Expenses other than allowable expenses are not to be deducted in calculating surpluses and deficiencies sought;

3. Dispositions are to be commercially reasonable. The dealer should make the same efforts to obtain the best possible price for a repossessed vehicle as would be made for a comparable used vehicle, except that a dealer is not required to offer a warranty without extra charge even though such warranties are provided on other used vehicles. If State law sets forth particular requirements for the disposition of repossessed vehicles, the dealer should comply with those requirements but shall still attempt to obtain the best possible price consistent with those requirements.

4. If any rebate owed to the recourse financing customer's account has not been received at the time the dealer repossession accounting firm is completed, such rebate is to be applied for promptly;

5. If any rebate is received after completion of the dealer repossession accounting form, any surplus or deficiency is to be redetermined and any remaining surplus paid within 45 days of disposition or within 10 days of receiving the rebate, whichever is later;

6. The dealer repossession accounting form is to be prepared by the dealer for each dispostion of a repossessed vehicle and:

a. Is to set forth the calculation of each surplus and of each deficiency sought;

b. Is to identify the vehicle and the financing customer and be certified by a person authorized to sign retail installment contracts on behalf of the dealership;

c. A copy of the form is to be sent with the surplus payment to each recourse financing customer to whom a surplus is paid and is to be sent to each recourse financing customer from whom a deficiency is sought; and

d. Is to be retained by the dealer, together with all relevant underlying documentation, for at least two years from the date of disposition.

7. Dealers are not to obtain or attempt to obtain waivers of surplus or redemption rights from recourse financing customers, except in the precise manner and under the precise circumstances contemplated by the applicable State law version of Section 9–505 of the Uniform Commercial Code. Under Section 9–505 a waiver of a customer's right to a surplus may not be sought unless the dealer intends to retain the collateral for its own use for the immediate future rather than to resell the collateral in the ordinary course of business. If a waiver is sought, the dealer shall not represent that by proposing the waiver it proposes to forego its right to a deficiency judgment, unless it intends to seek such a judgment should the waiver not be given.

D. The repossession accounting procedures shall state that failure to adhere to the standards of subparagraphs C.1–.7 above or to account properly to customers for surpluses may expose the dealer to legal action by the Federal Trade Commission and/or consumers.

E. General Motors shall give the Federal Trade Commission 30 days advance notice of any change in its manner and form of carrying out the requirements of Part II of this Order.

F. The repossession accounting procedures shall not apply to the sale of a repossessed vehicle subsequent to a judicial sale.

G. The Federal Trade Commission has proposed a Trade Regulation Rule that defines duties involved in disposing of a repossessed vehicle differently from the method described in subparagraph C.3 above. For this reason, that subparagraph is not to be considered a ratification or acceptance by the Commission of that method of disposition, except for purposes of this Order.

III. Training and Notification

A. *It is further ordered,* That General Motors shall develop detailed educational materials and training to carry out the purposes of Part II of this Order, and of Part VI (as related to reinstatement and redemption rights), as further described in the Initial Compliance Report. General Motors: 1. Shall provide the educational materials to every dealer within 10 days after service of this Order.

2. Shall, commencing no later than 180 days after service of this Order and in the normal course of providing seminars and other training, include detailed information on all pertinent aspects of Part II of this Order and Part VI (as related to reinstatement and redemption rights) in all appropriate seminars and other training materials offered to dealers.

B. *It is further ordered,* That General Motors: 1. Shall, within 10 days after service of this Order, send to each dealer a letter which contains information to the following effect: a. State law requires that any surplus generated on the disposition of a repossessed vehicle must be paid to the defaulting customer.

b. The Federal Trade Commission has charged that secured parties' sales of repossessed vehicles to themselves are of no effect in computing a customer's deficiency or surplus. With regard to these charges, GMAC has been prohibited from purchasing a repossessed vehicle at any sale it conducts and has been ordered to make payments to some customers whose repossessed vehicles were purchased by GMAC at a sale which it conducted.

c. The duty to pay surpluses has existed for many years, and the company urges dealers to pay all surpluses on repossessed vehicles dispose of by them, except for past GMAC repossessions which were not subject to the reassignment option of the GMAC Retail Plan. This duty covers surpluses arising prior to the date of the letter, as well as those arising later.

d. As of the date of this letter, the law of virtually all States provides that if a dealer does not pay a surplus owed, the defaulting customer has the right to recover a penalty equal to "an amount not less than the credit service charge plus 10 percent of the principal amount of the debt or the time price differential plus 10 percent of the cash price".

e. If a customer to whom a surplus is owed has been reported by the dealer or its agent (including a collection agency) to a credit reporting agency as owing a deficiency, the dealer should promptly advise the credit reporting agency of the correct facts.

f. The Federal Trade Commission has issued complaints against three automobile dealers charging that their failure to pay past surpluses violated Federal law.

2. Shall include in the above mailing a copy of the Commission's published Analysis of Consent Order.

3. Shall, within 90 days after service of this Order, develop and provide to all Motors Holding branch personnel (other than clerical employees) educational materials and training to carry out the purposes of Part II and V of this Order, as further described in the Initial Compliance Report.

4. Shall, if certain acts or practices are found unlawful in docket 9072, 9073 or 9074, mail a set of documents, to be provided by the Commission at a later date, for the purpose of notifying dealerships that those acts or practices have been found unlawful. The mailing shall be certified mail, return receipt requested, to each dealership president (or Dealer-Operator, as that term is defined in General Motors Sales and Service Agreements). General Motors shall provide the Commission with a certification of mailing by a responsible official, including a statement that the mailing list used was complete at the time of mailing to the best of the certifier's knowledge. It shall maintain the receipts for at least three years after (1) the last audit summary is submitted pursuant to Paragraph IV.C of this Order, or (2) the mailing is completed,

whichever comes later. General Motors may include a covering letter or transmittal sheet in the mailing, with language subject to the approval of the Commission or its authorized representatives.

C. *It is further ordered,* That GMAC:

1. Shall, within 60 days after service of this Order, send a letter explaining the duty to pay past surpluses to each dealer to which GMAC returned a repossessed vehicle between May 1, 1974 and service of this Order where the dealer executed the reassignment option of the GMAC Retail Plan.

2. Shall, within 90 days after service of this Order, develop and provide to all GMAC branch personnel involved in recourse financing transactions (other than clerical employees) educational materials and training to carry out the purposes of Parts II and VI of this Order, as further described in the Initial Compliance Report.

D. *It is further ordered,* That General Motors shall issue no new materials or instructions to dealers inconsistent with this Order and shall provide no materials or instructions to dealers inconsistent with this Order after 180 days after service of this Order.

IV. Dealer Audits

A. To determine whether dealers are correctly calculating and paying surpluses after implementation of Parts II and III of this Order, General Motors shall conduct audits of dealers with respect to their disposition of repossessed vehicles. The audit process shall:

1. Consist of four successive twelve-month auditing periods, the first to begin approximately 190 days after service of this Order.

2. Include 300 recourse dealers per twelve-month auditing period, selected pursuant to the method set forth in the Initial Compliance Report. In addition, each dealer found in the preceding auditing period to have had transactions in which the dealer failed to follow the repossession accounting procedures in calculating surpluses and deficiencies sought or in paying surpluses will be included, limited to one reaudit per dealer.

3. Consist of an audit of each dealer's dealer repossession accounting forms, with resort to all necessary underlying records, as described in the Initial Compliance Report. The audit shall include for each dealer audited the preparation of a summary ("dealer summary report") which shall contain: a. The name and address of the dealership;

b. The number of dispositions audited;

c. The number and dollar value of surpluses properly calculated and paid;

d. The number and dollar value of surpluses as to which attempts to pay were unsuccessful;

e. The number of repossessed vehicles sold at wholesale;

f. Description of any failures to follow the repossession accounting procedures other than in calculating surpluses or deficiencies sought or in paying surpluses;

g. The number of dispositions in which the dealer failed to follow the repossession accounting procedures in calculating surpluses and deficiencies sought or in paying surpluses, and, for each of these dispositions: (1) A statement of the nature of the failure; (2) a form, described in the Initial Compliance Report, on which the auditor will list all documents in the dealer's files which contain information which should be stated on the dealer repossession accounting form and set forth that information; and (3) any worksheet(s) the auditor prepares in connection with that disposition;

h. A certification by the auditor that the dealer summary report is accurate to the best of the auditor's knowledge and that the auditor has informed the dealership in writing that it should retain for at least 2 years after the audit all documents relating to any disposition under subparagraph A.3.g.

4. Include, for each dealer audited, each recourse financing repossession disposed of by the dealer during a preceding twelve-month period (defined in the Initial Compliance Report). Dispositions in which the repossession occurs prior to 30 days after General Motors provides dealers with the repossession accounting procedures need not be included.

B. Audit reports and documents prepared during an audit pursuant to Paragraph A shall be maintained by General Motors for three years following the end of the twelve-month auditing period for which they are prepared.

C. General Motors shall file with the Commission an audit summary for each twelve-month auditing period described in subparagraph A.1. Each summary shall be filed 90 days after the completion of the auditing period. These summaries shall contain the following information in aggregate form: 1. The number of dealers audited;

2. The number of dispositions audited;

3. The number and total dollar value of surpluses properly calculated and paid;

4. The number and total dollar value of surpluses as to which attempts to pay were unsuccessful;

5. The number of dispositions in which the repossessed vehicle was sold at wholesale;

6. The number of dispositions in which there was a failure to follow the repossession accounting procedures in calculating and in paying a surplus, the number of dealerships involved, and the total additional dollar amount the dealerships should have paid according to the repossession accounting procedures;

7. The number of dispositions in which a deficiency was sought, the number of those in which there was a failure to follow the repossession accounting procedures in calculating the deficiency and the number of dealerships involved in these failures; and

8. A statement describing the steps that General Motors took to contact dealerships which were discovered during an audit to have failed to follow the repossession accounting procedures in calculating surpluses or deficiencies sought or in paying surpluses.

D. The audits described in Paragraph A shall be conducted by General Motors' Sales Section or by other qualified representatives designated by General Motors, in accordance with procedures described in this Order and in the Initial Compliance Report. The following procedures shall be followed: 1. The General Motors respondents shall not inform dealers or other third parties of the audit procedure or the identity of dealers selected for audit, except to the extent described in this Order.

2. No dealer selected for audit under this Part IV shall be given more than ten business days advance notice of the scheduled audit.

V. Equity Dealership Procedures and Monetary Payments

It is further ordered, That: A. Within 60 days after service of this Order, or within 60 days after issuance of stock in any new equity dealership, General Motors shall, as a shareholder in equity dealerships, present and support resolutions for consideration by the boards of directors of those dealerships, which provide that: 1. The dealership's accounting practices will be conformed to the repossession accounting procedures described in Part II above; and

2. Surpluses and deficiencies will be calculated and surpluses paid according to the repossession accounting procedures.

B. Within 100 days after service of this Order, General Motors shall advise the Federal Trade Commission in writing of the number of equity dealerships which

did not adopt the resolutions described in Paragraph V.A.

C. General Motors shall, during each accounting systems examination ("systems exam") it conducts at an equity dealership, determine if the dealership has, since the last systems exam, calculated surpluses and deficiencies sought and paid surpluses according to the repossession accounting procedures. The systems examiner shall review all accounts in which the repossessed vehicle was disposed of during the period beginning 45 days prior to the preceeding systems exam and ending 45 days prior to the current systems exam. For these accounts the examiner shall review the dealer repossession accounting forms with resort to all necessary underlying records. Dispositions in which the repossession occurs prior to 30 days after General Motors has provided dealerships with the repossession accounting procedures need not be reviewed. Systems exams shall be conducted to examine repossession disposition(s) at least once each year for each equity dealership.

D. When a systems exam or other reliable information discloses the failure of an equity dealership to calculate surpluses or deficiencies sought or pay surpluses according to the repossession accounting procedures, General Motors shall, as a shareholder: 1. Request the dealership's board of directors to review with the dealer operator the repossession accounting procedures;

2. Send copies of the relevant portions of the systems exam, or the substance of the reliable information, to each of the dealership's board members; and

3. Request the dealership's board members to take steps to insure that surpluses and deficiencies sought are calculated and surpluses paid in accordance with the repossession accounting procedures.

E. In the course of the first systems exam for a dealership following action taken by General Motors under Paragraph D above, GM shall determine whether all the failures have been corrected. If the failures have not been corrected, GM shall include those failures in an aggregate report compiled at the end of each calendar year. This report shall state the number of dealers with those uncorrected failures, the number and amount of surpluses involved, and the number and amount of excess deficiencies involved.

F. For each equity dealership which, during the report period defined in Paragraph G below, failed to calculate a surplus or deficiency sought, or to pay a surplus, in accordance with the repossession accounting procedures, General Motors shall prepare an examination summary. This summary shall be retained for a period of 3 years following the submission of the equity dealership report referred to in Paragraph G below. It shall contain: 1. The name and address of the dealership;

2. The number of dispositions examined;

3. The number and dollar value of surpluses properly calculated and paid;

4. The number and dollar value of surpluses as to which attempts to pay were unsuccessful;

5. The number of repossessed vehicles sold at wholesale;

6. Description of any failures to follow the repossession accounting procedures other than in calculating surpluses or deficiencies sought or in paying surpluses;

7. The number of dispositions in which the dealer failed to follow the repossession accounting procedures in calculating surpluses or deficiencies sought or in paying surpluses, and, for each such disposition, the amount of surplus unpaid or excess deficiency sought, copies of the examiner's worksheets dealing with the disposition, a statement of the nature of the failure, and a certification by the examiner that the examination summary is correct to the best of his or her knowledge. In addition, the examiner shall attach photocopies of all records examined which are necessary to document each of these dispositions.

G. General Motors shall file with the Commission a report with respect to equity dealerships ("equity dealership report"), within 28 months after General Motors has provided dealers with the repossession accounting procedures. The equity dealership report shall cover systems exams completed within two years after the 30-day period described in Paragraph C above. This two-year period is called the "report period." The equity dealership report shall state the total number of equity dealerships examined and shall contain the following information in aggregate form with respect to equity dealership which failed during the report period to follow the repossession accounting procedures in calculating surpluses or deficiencies sought or in paying surpluses: 1. The number of dealers;

2. The number of dispositions examined;

3. The number and total dollar value of surpluses properly calculated and paid;

4. The number and total dollar value of surpluses as to which attempts to pay were unsuccessful;

5. The number of dispositions in which the repossessed vehicle was sold at wholesale;

6. The number of dispositions in which there was a failure to follow the repossession accounting procedures in calculating or paying a surplus, the number of dealerships involved and the total additional dollar amount the dealerships should have paid according to the repossession accounting procedures;

7. The number of dispositions in which a deficiency was sought the number of those in which there was a failure to follow the repossession accounting procedures in calculating the deficiency and the number of dealerships involved in those failures.

H. In the event that more than 10 percent of the equity dealerships had dispositions during the report period which failed to follow the repossession accounting procedures in calculating surpluses or deficiencies sought or in paying surpluses, the Federal Trade Commission shall have the right to re-open this proceeding against General Motors solely with regard to the issue of General Motors' alleged responsibility for equity dealerships' failure properly to calculate surpluses and deficiencies sought or to pay surpluses on repossession dispositions. If this reopening occurs, no charges or evidence shall be based on any disposition where GMAC was the financing institution and the financing plan called for a prior sale (title clearance) by GMAC or where GMAC held a prior sale (title clearance) in connection with a recourse obligation.

I. General Motors shall, within 180 days of service of this Order, with respect to all repossessed vehicles returned between May 1, 1974 and 40 days after service of this Order (a) to dealerships which are equity dealerships as of the date of service of this Order or (b) to dealerships which were equity dealerships at the time the vehicle was returned to the dealership and were liquidated while equity dealerships between May 1, 1974 and December 31, 1978, establish to the reasonable satisfaction of the Commission, as described in the Initial Compliance Report, that: 1. All surpluses have been offered to financing customers and paid to those who have executed a release; and

2. In each instance where a customer entitled to receive a surplus had been previously reported by the dealership or its agent (including a collection agency) to a credit reporting agency as owing a deficiency, the credit reporting agency has been subsequently advised of the correct facts.

With respect to vehicles repossessed by GMAC, Paragraph I shall apply only to vehicles subject to the reassignment option of the GMAC Retail Plan.

VI, GMAC Retail Plan Changes, Deficiency Representations, Post-Repossession Notices

It is further ordered, That GMAC: A. Shall, in connection with the extension and enforcement of retail credit obligations relating to the sale of vehicles by dealers, cease and desist from:

1. Purchasing a repossessed vehicle at or through any type of sale (title clearance) conducted by GMAC.

2. Misrepresenting, directly or indirectly, orally, in writing, or in any other manner, that the debtor may be liable to pay a deficiency where GMAC knows or should know that it is not entitled under state or federal law to collect a deficiency.

3. Collecting or attempting to collect a deficiency from a defaulting customer, or from his or her successors or assigns, where GMAC knows or should know that (a) it is not entitled under state or federal law to collect such deficiency, or (b) such deficiency is greater than the amount determined in accordance with the definitions set forth in Part I of this Order. For purposes of this subparagraph the definitions of "proceeds" and "allowable expenses" will apply to GMAC's own dispositions.

4. Obtaining or attempting to obtain waivers of redemption or surplus rights from financing customers, except in the precise manner and under the precise circumstances contemplated by the applicable state law version of Section 9–505 of the Uniform Commercial Code. Under Section 9–505 a waiver of a customer's right to a surplus may not be sought unless GMAC intends to retain the collateral for its own use for the immediate future rather than to resell the collateral in the ordinary course of business or to return it to a dealer pursuant to a recourse agreement. If a waiver is sought, GMAC shall not represent that by proposing the waiver it proposes to forego its right to a deficiency judgment, unless it intends to seek such a judgment should the waiver not be given.

Subparagraph A.1 shall become effective 40 days after service of this Order. Subparagraphs A.2–.3 shall not apply to dispositions involving repossessions occurring prior to service of this Order.

B. Shall incorporate, by addendum or otherwise, provisions to the following effect into its Retail Plan as it relates to recourse financing within 60 days after service of this Order, and into any subsequent edition or successor document: 1. Dealers are to permit redemption by the customer whose vehicle has been repossessed, at any time until there is a binding agreement for disposition, except where the dealer has obtained a waiver under subparagraph II.C.7;

2. Dealers are to permit redemption in accordance with the post-repossession notice sent by GMAC to the customer, except where the dealer has obtained a waiver under subparagraph II.C.7;

3. Dealers are to determine whether a surplus exists on a recourse financing repossession according to the repossession accounting procedures described in Part II of this Order;

4. In determining surpluses and deficiencies, dealers are not to deduct expenses other than allowable expenses;

5. Dealers are to account for and pay each surplus within 45 days of disposition.

C. Shall develop revised retail installment contract forms which (except as modified as described in Paragraph D below) include a clear, concise statement in lay language that, in the event of repossession: 1. No expenses other than reasonable expenses incurred as a direct result of repossessing, holding, preparing for disposition and disposing of the vehicle may be deducted from the proceeds in determining a surplus or deficiency; and

2. Any surplus realized on the resale or other disposition of the vehicle is to be paid to the customer.

D. Shall distribute the revised retail installment contract forms to all dealers who use GMAC forms within one year after the Commission issues a final rule or final ajudicated order not less restrictive than the Paragraph C statements of allowable expenses and the duty to pay surpluses. If the final rule or final adjudicated order is less restrictive than the Paragraph C statements, GMAC shall complete the distribution within one year after the Commission has modified Paragraph C to render it consistent with the final rule or final adjudicated order. GMAC shall direct its branch offices that, commencing two weeks after the distribution to a dealership of the revised GMAC retail installment contract forms, they are not to purchase from that dealership GMAC forms of retail installment contracts that are not on the revised forms. For two years thereafter, GMAC shall periodically examine its branch office files, in accordance with its usual monitoring procedures, to determine whether GMAC's prior retail installment contract forms are being used, and if so, shall institute appropriate corrective action.

E. Shall, within 60 days after service of this Order, establish and follow a procedure for uniformly sending a written notice ("post-repossession notice") to GMAC financing customers as soon as practicable after repossession: 1. GMAC shall periodically examine its branches' files, in accordance with its usual monitoring procedures to determine whether the post-repossesion notices have been and are being sent and shall institute appropriate actions to assure that the procedure for sending post-repossession notices is adhered to.

2. The post-repossession notice shall have a GMAC heading and shall specify in clear, lay language: a. The name and address of the place at which the vehicle is being stored and the address and telephone number of the GMAC branch office to be contacted;

b. The date or interval of time within which the customer may redeem by reinstating the contract in states where the creditor is required to permit reinstatement of the contract;

c. The amount necessary to redeem by reinstating the contract at the time the notice is dated, if the customer is entitled to or will be permitted to redeem by reinstatement;

d. The net amount necessary to redeem by discharging the customer's obligation at the time the notice is dated, except where the customer is entitled to or will be permitted reinstatement until the vehicle is disposed of;

e. The date or interval of time prior to which the vehicle will not be disposed of;

f. That the vehicle can be redeemed at any time prior to a binding agreement for its disposition;

g. That additional expenses may be incurred and may increase the amount necessary to redeem the vehicle if redemption is delayed (as further described in the Initial Compliance Report);

h. That GMAC should be contacted for further information about getting the vehicle back;

i. That any surplus resulting from a sale or lease must be paid to the customer within 45 days after disposition (the notice may also state that an agreement between the dealer and GMAC provides that the dealer is to pay any surplus);

j. That failure to account for and pay a surplus may give the customer a right to sue for the amount of the surplus and for any penalties provided by law;

k. That the customer will be liable for a deficiency or that the deficiency

cannot be collected (the notice is to include the applicable language only);

l. That the customer should call the insurance company or the dealer to make sure that any insurance or service contract has been cancelled and that the customer has a right to credit for any refunds.

F. Shall issue no new materials to dealers inconsistent with this Order and, commencing three months and to be completed no later than twelve months after service of this Order, shall review all pertinent GMAC forms, form letters, notices and internal written procedures and make them consistent with the provisions of this Order.

G. In any action by the Commission seeking civil penalties for a violation of subparagraphs A.2–.4 and Paragraph E, GMAC may not be held liable if it shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. In applying this paragraph, judicial interpretations of 130(c) of the Truth in Lending Act, 15 U.S.C. 1640(c) (1974), shall be used.

VII. Monetary Payments by GMAC

It is further ordered, That GMAC shall pay $2 million to financing customers whose vehicles were repossessed by GMAC. The money will be distributed as follows: A. For each financing customer whose account (1) was charted by Commission complaint counsel as an alleged surplus, which chart was provided to GMAC by May 31, 1978; and (2) involved a vehicle repossessed by GMAC which was not subject to the reassignment option of the GMAC Retail Plan, GMAC shall offer, within 60 days after service of this Order, to pay the amount alleged as an unpaid surplus on the chart. The offering letter will be modelled on the letter described in subparagraph C.4 below. GMAC shall promptly pay the offered amount to each financing customer who properly signs and returns the release.

B. GMAC shall ascertain the public sale (title clearance) price and the contract balance as shown on its Bills Receivable card ("BR card") or, if the BR card can not be located, as shown in the repossession file, for the account of each financing customer whose contract was purchased by GMAC, where: (1) the vehicle was repossessed on or after May 1, 1974 and was returned to the dealer before GMAC implements subparagraph VI.A.1; (2) GMAC purchased the vehicle at a public sale (title clearance) which it conducted and returned the vehicle to the dealer pursuant to a recourse agreement; (3) the vehicle was not redeemed; (4) the contract balance is available as stated above; and (5) the financing customer was not covered by Paragraph VII.A. For repossessed vehicles where the public sale (title clearance) price is not available in the file, GMAC shall use as the public sale (title clearance) price an estimated value.

C. GMAC will pay to financing customers an amount (the "Fund") equal to $2 million minus the sum actually distributed pursuant to Paragraph A, in the following manner: 1. This Paragraph will apply to financing customers whose vehicles fall within Paragraph B.

2. A calculated "difference" is the public sale (title clearance) price adjusted as described below less the customer's contract balance as determined in Paragraph B above. All prorating referred to below shall be based on calculated differences.

3. GMAC will generate a list of customers eligible for payments by increasing the public sale (title clearance) price of each vehicle by an equal percentage until the sum of all the differences greater than or equal to $25 equals approximately twice the Fund. Those customers with positive differences greater than or equal to $25 are the eligible customers. GMAC will then prorate the Fund among the eligible customers. In prorating the Fund, no eligible customer will be assigned less than $25 or more than $700.

4. GMAC will send a letter and release (Attachment A to this Order) to each eligible customer, identified in subparagraph C.3 above. The letter will state that, pursuant to a consent agreement executed by GMAC and the Federal Trade Commission, GMAC is offering to pay that person at least the prorated sum computed pursuant to subparagraph C.3. The letter will also state that, in order to receive the payment, the customer must waive any claims the customer may have against GMAC, GM or any GM dealers, or their directors or employees, with regard to the repossession, handling, storage and disposition of the vehicle by signing and returning the release attached to the letter. The customer will have 60 days from the date of the letter to return the signed release.

5. If GMAC has received properly signed and returned releases covering an aggregate of at least 50 percent of the Fund by the end of the 80th day after mailing the last letter pursuant to subparagraph C.4, GMAC will prorate the Fund among those customers who have properly signed and returned releases. Any difference which exceeds $700 after proration will be deemed equal to $700 and the excess shall be distributed as part of the remaining Fund. Any amount less than $25 will be deemed equal to $25 with the excess deducted from the Fund. GMAC shall, within 60 days after the end of the 80-day period, pay the total amount calculated under subparagraph C.3 and this subparagraph C.5 to these financing customers.

6. If GMAC has not received properly signed and returned releases covering at least 50 percent of the Fund by the end of the 80th day after mailing the last letter pursuant to subparagraph C.4, GMAC shall: a. Delete from its subparagraph C.1 list the names of all financing customers who were sent releases but who failed to sign and return them.

b. Generate a new list of eligible customers and calculated differences from the now-reduced subparagraph C.1 list. This list will be created by further increasing the public sale (title clearance) price of each vehicle, again by an equal percentage. The procedure for generating the new list will take into account the rate of return of properly signed and returned releases experienced under subparagraph C.4.

c. Promptly pay the eligible customers in subparagraph C.6.b who properly signed and returned the subparagraph C.4 releases the differences recalculated under subparagraph C.6.b. Any amount which exceeds $700 will be deemed equal to $700, with the excess distributed as part of the remaining Fund. Any amount less than $25 will be deemed equal to $25 with the excess deducted from the Fund. Payments made will reduce the Fund accordingly.

d. The additional eligible customers (if any) in subparagraph C.6.b will be sent the form of letter and offer described in subparagraph C.4 within 60 days of the end of the 80 day period described in subparagraph C.5. The amount offered to each will be a prorated portion of the Fund remaining after the deductions for subparagraph C.6.c payments. At the end of 80 days after the last letter is mailed to the additional eligible customers, GMAC shall prorate the remaining Fund among those additional eligible customers who have properly signed and returned releases and shall promptly pay those recalculated amounts. The same minimum and maximum amounts as in subparagraphs C.3 and C.5 will apply to offers and payments under this subparagraph.

D. If GMAC offers payment to a financing customer pursuant to Part VII, its obligation under this Order to make payment to that customer shall terminate upon expiration of the 60 days provided in the offer. However, GMAC may pay financing customers on the

basis of releases mailed subsequent to the expiration of the 60 day period and may deduct from the Fund any sums so distributed.

E. GMAC shall send the letters described in subparagraph C.4 as soon as practicable, but no later than one year after service of this Order.

F. In performing its obligations under Part VII, GMAC may employ its records as found. GMAC shall not be required to collect data not presently available in its repossession files, nor to search files for accounts involving repossessed vehicles which were returned to dealers during periods in which the dealer had executed the reassignment option of the GMAC Retail Plan. A public sale (title clearance) shall be deemed to have been held in all cases where the vehicle was returned pursuant to a recourse obligation to a dealer who had not executed the reassignment option.

G. GMAC shall maintain procedures to verify the eligibility of any inquiring person for a monetary payment up to the expiration of all time periods for claiming payments. These procedures shall include providing the Commission with a single GMAC address to which all public inquiries regarding eligibility can be directed.

VIII. Effect of Inconsistent Rule or Order

It is further ordered, That: A. In the event the Federal Trade Commission issues a final Trade Regulation Rule establishing standards less restrictive on automobile manufacturers, financing companies or dealerships than a corresponding provision or provisions of this Order relative to (1) the disposition of repossessed vehicles, (2) the determination, calculation or communication of the existence or amount of surpluses or deficiencies, or the time or manner of paying or accounting for surpluses, or (3) the determination or communication of reinstatement or redemption rights (including their duration and/or the amount necessary to reinstate or redeem), then such less restrictive standards shall, on the effective date of the Rule, supersede and replace the corresponding provision(s) of this Order. The enumeration of subject matter contained in clauses (1), (2) and (3) of this Paragraph is exclusive. However, the General Motors respondents shall advise the Commission of their intention to rely upon any provision of a Trade Regulation Rule as having superseded any provision of this Order 30 days in advance of reliance thereon.

B. In the event any of the proceedings presently bearing Docket Nos. 9072, 9073 or 9074 result in a final adjudicated or consent order prescribing standards less restrictive (including deferral to state law) than a corresponding provision or provisions of this Order relative to (1) the disposition of repossessed vehicles, (2) the determination, calculation or communication of the existence or amount of surpluses or deficiencies, or the time or manner of paying or accounting for surpluses, or (3) the determination or communication of reinstatement or redemption rights (including their duration and/or the amount necessary to reinstate or redeem), then the Commission shall, within 120 days of a General Motors respondent's request pursuant to Section 2.51 of the Commission's Rules of Practice, reopen this proceeding and order modifications of this Order or other relief as necessary and appropriate to conform this Order to such less restrictive standards prescribed in the other order(s). The enumeration of subject matter contained in clauses (1), (2) and (3) of this Paragraph is exclusive.

IX. Standard Reporting and Recordkeeping

It is further ordered, That: A. The General Motors respondents shall maintain complete business records relative to the manner and form of their continuing compliance with this Order. These include, but are not limited to, copies of notices sent to financing customers pursuant to Part VI, and records prepared pursuant to Paragraphs V.A–F for each equity dealership. The General Motors respondents shall retain all such records for at least three years and shall, upon reasonable notice, make them available for inspection and photocopying by authorized representatives of the Federal Trade Commission.

B. Each of the General Motors respondents shall, within 180 days after service of this Order, file with the Commission a written report setting forth in detail the manner and form in which it has complied with this Order and has implemented the Initial Compliance Report submitted with the Agreement Containing Consent Order.

C. Promptly following service of this Order, General Motors shall distribute a copy of this Order to its car divisions, GMC Truck and Coach Division, Motors Holding Division, and Sales Section, unless previously furnished, and GMAC shall distribute a copy of this Order to each of its regional managers, unless previously furnished.

D. Each of the General Motors respondents shall notify the Commission at least 30 days prior to any proposed corporate change which may negate any of the obligations of the General Motors respondents arising out of this Order. Such changes include dissolution, assignment or sale resulting in the emergence of a successor corporation or corporations, the discontinuance of General Motors' present program for investing in equity dealerships, and the creation or dissolution of subsidiaries or any other change which may have such effect. No notice need be provided in the event of General Motors' terminating, reducing or acquiring any interest in an equity dealership.

Attachment A (D. 9074 Consent Order); General Motors Acceptance Corp. Claim Notice and Release

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(Name, address, city, state)
GMAC Acct. No. ——
Vehicle ——

Our records show that this car or truck was retaken by GMAC. We will send you a check for *at least* $———. The exact amount may be higher. This depends on how many people answer these letters.

All you have to do to get the money is date and sign the release form below. You must send it back in *60 days.* Use the enclosed envelope. We'll send the check in a few months.

Here is why we're doing this. We were sued by the Federal Trade Commission (FTC). They said we used an improper method in reselling some vehicles. They also said we should have paid certain customers some money. We denied the charges, but we agreed to make payments to avoid a costly trial. These payments are based on a formula agreed to by the FTC and GMAC. Neither GMAC nor the FTC knows how much you might have gotten except for this settlement. It could have been more, less, or nothing at all.

The release means you give up any claims you may have because of the repossession and resale of your vehicle.

General Motors Acceptance Corporation, P.O. Box 5290, FDR Station, New York, NY 10022, (Address may be in letterhead).

Release

GMAC Acct. No. ——
Vehicle ——

I've read the letter above. The car or truck was mine. I'll be paid at least $—— by GMAC if I sign and mail back this release by ——. This payment is based on an agreement by GMAC and the FTC.

In return, I release all claims and counterclaims (but not any defenses) against GMAC, General Motors or any GM dealer, or their directors or employees, due to the repossession, handling, storage or disposition of my vehicle.

Date: ———
(Signed) X———
(Please Print) ———
Name

———
Address

———
City State Zip

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from General Motors Corporation (GM) and its credit subsidiary, General Motors Acceptance Corporation (GMAC).

The proposed consent order has been placed on the public record for 60 days. During this period all interested persons may comment on the proposed order and compliance report. The comments will become part of the public record. After 60 days the Commission will again review the agreement and the comments received, and will decide whether to withdraw from the agreement or make the order final.

This analysis is intended to encourage public comment on the proposed order. It does not constitute an official interpretation of the agreement and proposed order nor a modification of their terms.

Nature of the Case

The Commission's complaint issued in February 1976. It made a number of allegations about repossession practices involving GMAC and GM dealers. Below is an explanation of principal allegations and background information.

Background

Each year GMAC repossesses over 100,000 cars and trucks from GM dealers' credit customers. State law requires that on each resale of a repossessed vehicle, after paying off the underlying debt and meeting certain reasonable expenses of repossession and resale, any money left over (the "surplus") must be paid to the person from whom the vehicle was repossessed.

GMAC has arrangements with a majority of GM dealers whereby it returns the repossessed car or truck to the dealer who had previously sold it. The *dealer* then resells the vehicle.

In most instances, GMAC holds a "title clearance sale" while the dealer is waiting to resell the vehicle. GMAC says its title clearance is the public sale which determines any surplus or deficiency on the transaction.

Complaint Allegations

1. The dealer is obligated (along with GMAC) to see that any surplus is paid. Many of the dealers' resales have resulted in surpluses which were not in fact paid by either GMAC or the dealer. Under state law and for "fairness" under the FTC Act, these surpluses should have been refunded.

2. GMAC's title clearance is a sham transaction. Rarely do outside bidders attend, and GMAC "purchases" the vehicle itself in over 95 percent of these transactions.

3. In addition to GMAC claiming this "sale" was the disposition required (and thus ignoring the true resale by the dealer in calculating surpluses), this same "sale" was used to calculate, seek and collect deficiencies.

4. In addition, GMAC and dealers misrepresented the right to a deficiency in states where that right was limited.

5. GMAC and dealers have not provided defaulting customers with necessary information about their right to redeem (buy back) their repossessed car or truck under state law.

The complaint specifically named Chuck Olson Chevrolet, Inc., a Seattle, Washington GM dealer, as a participant in these practices. Olson is not a party to this settlement, but most of Olson's customers will be in the pool eligible for monetary payments from GMAC.

Another aspect of the case involves allegations of General Motors Corporation responsibility for dealerships in which it owns all or part of the voting stock (about 4 percent of all GM dealers). The complaint charged that such "owned" delerships have failed to pay surpluses and/or provide necessary redemption information on repossessed vehicles returned to them by various financing institutions (such as banks) under arrangements similar to those described above for GMAC. (Usually only GMAC transactions had the prior "title clearance.") The consent order calls these dealerships equity dealerships.

The Proposed Settlement

The proposed consent order is designed to bring about correct calculation and prompt payment of all surpluses on repossessed vehicles resold by GM dealers. It provides the General Motors' official accounting procedures for dealers will be changed to include specific procedures for determining surpluses. The complete new procedure (Repossession Accounting Procedures) is on the public record. It is an attachment to an initial report of GM's intended manner of compliance with the order. GM Sales and Service Agreements (franchises) require that all GM dealers follow the accounting procedures.

Under the newly required procedure, each GM dealer will obtain the best available price in reselling any repossessed vehicle returned to it, and will pay any resulting surplus within 45 days of the resale. The only expenses which may be deducted are reasonable, actual out-of-pocket costs incurred as a direct result of repossessing, holding, preparing for sale or reselling the vehicle. A prescribed written summary will be prepared and sent by the dealer to each customer entitled to a surplus or from whom an attempt is made to collect any further amount (a "deficiency").

The agreed-to order represents a significantly different approach from that of the "notice" verson published with the complaint. That version would have held GMAC responsible for surpluses arising from GMAC repossessions, and GM responsible for surpluses involving its "owned" dealerships. Although the settlement leaves open the questions of GM and GMAC's liability for nonpayment of surpluses, GM's duties are actually greater than under the "notice" order. The remedial technique of a GM-wide accounting manual modification provides coverage of *all* repossessed vehicles returned to GM dealers (regardless of financing institution and regardless of who owns the dealership). Through this inclusion of bank-repossessed vehicles returned to non-owned dealerships, the number of repossessed transactions affected by the order has been more than doubled (as compared to the "notice" version).

The consent order requires that GM and GMAC institute extensive training programs to familiarize dealers with their obligations in handling repossessions. The training will be followed by a series of field audits conducted by GM, to verify that dealers are calculating and paying surpluses correctly.

GMAC has agreed to pay $2 million to consumers whose vehicles were repossessed by GMAC since May 1, 1974 and were subject to GMAC's "title clearance." The $2 million is a guaranteed payout. GMAC will also bear all costs of calculation and distribution. To avoid the enormous administrative costs of calculating specific amounts owed, a formula will distribute the $2 million to consumers. This formula will offer, on the average, approximately what should have been paid generally to those who should have been paid. This will still result in some individual discrepancies, but there was no reasonable alternative to using a formula that would have been agreeable to both sides of the negotiations. Any consumer who does not wish to accept the formula payment may still pursue private remedies.

Other provisions of the proposed order would require: 1. Specialized measures to ensure payment of surpluses realized by GM's "owned"

dealerships, including payment of surpluses on vehicles repossessed as far back as May 1974.

2. Bulletins to all dealers who had arrangements with GMAC not calling for the "title clearance" setting forth their longstanding duty to pay surpluses and urging them to pay surpluses on past repossessions. (These dealers' past transactions are not covered by the GMAC "title clearance" payments described above.)

3. A total rewriting of the post-repossession notice GMAC sends to customers. The notice will be in much clearer language and include more accurate and complete information than before. The Notice will state the nature and duration of the customer's rights to get the vehicle back ("redeem") and the amount needed to do so, and set forth the customer's right to refund of any surplus monies left over after resale.

4. Statements of customers' surplus and redemption rights to be included in certain other GMAC documents provided to customers and in GMAC contractural arrangements with dealers.

5. Qualified prohibitions against obtaining waivers of customers' surplus or redemption rights.

6. All repossessions for GM-owned dealerships will be reviewed annually by GM for correct surplus payments and deficiency calculations. Failure by these dealers to pass these reviews in the first 2 years may result in the Commission's reopening the proceedings against GM, a novel remedy.

Carol M. Thomas,

Secretary.

[FR Doc. 80-6905 Filed 3-6-80; 8:45 am]
BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. 9074]

General Motors Corp., et al.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require Chuck Olson Chevrolet, Inc. (Olson), an Oregon motor vehicle dealer with its principal place of business located in Seattle, Wash., to adopt and adhere to the "Repossession Accounting Procedures" maintained by General Motors Corporation; furnish all appropriate supervisory personnel with a copy of the procedures; and establish to the reasonable satisfaction of the Commission that it has paid all surpluses realized on repossessed vehicles returned by financing institutions other than General Motors Acceptance Corporation (GMAC) since February 10, 1973. (Surpluses generated from Olson vehicles which have been repossessed by GMAC would have to be paid by GMAC.)

DATE: Comments must be received on or before May 6, 1980.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Thomas Armitage, Director, 10R; Seattle Regional Office, Federal Trade Commission, 28th Floor, Federal Bldg., 915 Second Ave., Seattle, Wash. 98174. (206) 442-4655.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is herby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

Agreement Containing Consent Order as to Chuck Olson Chevrolet, Inc.

In the matter of General Motors Corporation, General Motors Acceptance Corporation, and Chuck Olson Chevrolet, Inc., corporations.

This agreement, between Chuck Olson Chevrolet, Inc. ("respondent"), a corporation, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rules governing consent order procedures. General Motors Corporation and General Motors Acceptance Corporation ("GMAC") are not party to this agreement.

The parties hereby agree that:

1. Respondent Chuck Olson Chevrolet, Inc. is an Oregon corporation with its office and principal place of business at 17545 Aurora Avenue North, Seattle, Washington 98133. Respondent's controlling shareholder is also the controlling shareholder of Viking Service Corporation, a Washington corporation doing business as Olson Triumph at the same address.

2. Respondent has been served with a copy of the Complaint issued by the Commission charging it and others with violation of Section 5 of the Federal Trade Commission Act, as amended, and has filed an Answer denying the violations of law alleged in the Complaint.

3. The Complaint incorrectly identifies respondent as a Washington corporation. In all other respects respondent admits the jurisdictional facts set forth in the Complaint.

4. Respondent waives:

a. any further procedural steps;

b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

c. all rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement.

5. This agreement shall not become a part of the official record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of sixty days and information in respect thereto will be publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the Complaint.

7. This agreement contemplates that if it is accepted by the Commission and such acceptance is not subsequently withdrawn by the Commission pursuant to Section 3.25(f) of the Commission's Rules of Practice, the Commission may, without further notice to respondent, issue its decision containing the following order "(Order)" in disposition of the proceeding as to respondent and make information public with respect thereto. When so issued, the Order shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders of the Commission. The Order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the Order, to respondent's address as stated in Paragraph 1 above, shall constitute service. Respondent waives any rights it may have to any other manner of service. The Complaint may be used in construing the terms of the Order, and no agreement, understanding, respresentation, or interpretation not contained in the Order or in this agreement may be used to vary or contradict the terms of the Order.

8. Final acceptance of this agreement is contingent on issuance of a final order in Docket 9074 directing GMAC to make payments to certain of respondent's customers whose vehicles were repossessed by GMAC.

9. Respondent has read the Complaint and Order and understands that after service of the Order (1) it will be required to file one or more compliance reports showing that it has

complied fully with the Order, and (2) it may be liable for civil penalties in the amount provided by law for each violation of the Order.

Order

I. It is ordered that respondent Chuck Olson Chevrolet, Inc., a corporation, and its successors, assigns, officers, agents, representatives and employees, and any corporation, subsidiary, division or device through which they act directly or indirectly (including Viking Service Corporation doing business as Olson Triumph), shall forthwith (A) adopt and adhere to the "Repossession Accounting Procedures" maintained by General Motors Corporation pursuant to the disposition of Docket 9074 as to General Motors Corporation, and (B) deliver a copy of the Repossession Accounting Procedures to all appropriate supervisory personnel.

II. It is further ordered that respondent shall, no later than 60 days after service of this Order:

A. Establish to the reasonable satisfaction of the Commission that all surpluses (if any) generated from repossessed vehicles returned to respondent by financing institutions other than General Motors Acceptance Corporation between February 10, 1973 and the date of service of this Order have been paid.

B. File with the Commission a written report setting forth in detail the manner and form in which it has complied with this Order.

III. It is further ordered that respondent notify the Commission at least 30 days prior to any dissolution or other proposed change in the corporate respondent (such as assignment or sale resulting in the emergence of a successor corporation or corporations), or any other corporate change (including the creation or dissolution of subsidiaries) which may affect compliance obligations arising out of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Chuck Olson Chevrolet, Inc. ("Olson"). The proposed consent order has been placed on the public record for 60 days. Interested persons may comment on the proposed order during this period. The comments will become part of the public record. After 60 days the Commission will again review the agreement and any comments received, and will decide whether to withdraw from the agreement or make the order final.

Olson is an automobile dealer. The Commission's complaint, issued in February 1976, charged that Olson was withholding surpluses received when it resold repossessed cars and trucks. (A "surplus" is the money left over after the underlying debt is paid off and reasonable expenses of repossession and resale are met.) The failure to return a repossession surplus to the consumer/debtor was alleged to be in violation of state law and an unfair practice under the FTC Act.

The complaint also charged that many other GM dealers have engaged in the same practice, and that GM's credit subsidiary (GMAC) shares responsibility for any dealer's withholding of a surplus on resale of a repossessed vehicle obtained from GMAC under a "recourse" obligation. GM and GMAC agreed to a consent settlement announced ————, providing for GM's adoption of "Repossession Accounting Procedures" applicable to all dealers and GMAC's paying $2 million in restitution to consumers on past GMAC repossessions.

The proposed consent order as to Olson would assure its payment of correctly calculated surpluses on future repossessions by requiring that Olson follow GM's new Repossession Accounting Procedures. Under these procedures, Olson will obtain the best available price in reselling any repossessed vehicle, and will pay any resulting surplus to the consumer/debtor, with a prescribed written summary, within 45 days of the resale. The only expenses which may be deducted are reasonable, actual out-of-pocket costs incurred as a direct result of repossessing, holding, preparing for sale or reselling the vehicle.

In addition, Olson must establish to the reasonable satisfaction of the Commission that it has paid all past surpluses on non-GMAC repossessions back to February 10, 1973, a date three years prior to issuance of the complaint. (Surpluses on Olson's GMAC repossessions during this seven-year period are included in the $2 million restitution pool to be distributed by GMAC under the settlement mentioned above. FTC staff estimates this will provide over $16,000 to past customers of Olson.)

This analysis is intended to encourage public comment on the proposed order. It does not constitute an official interpretation of the agreement and proposed order nor a modification of their terms.

James A. Tobin,

Acting Secretary.

[FR Doc. 80-7221 Filed 3-6-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Subchapter J

[Docket No. 79N-0013]

Devices Used as a Radiation Source (In Combination With a Psolaren Drug) in the Photochemotherapy for Psoriasis; Intent to Propose Rules and Develop Recommendations

Correction

In FR Doc. 80-3764 appearing at page 8870 in the issue of Friday, February 8, 1980, on page 8871, third column, second column of the table, insert [1] after "Output".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

Receipt of Permanent Program Submission From the State of North Dakota

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of intent: Receipt of program submission from the State of North Dakota.

SUMMARY: On February 29, 1980, the State of North Dakota submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comments on the completeness of the State program.

DATES: A public review meeting to discuss completeness of the submission will be held on April 10, 1980, from 9:00 a.m. to 5:00 p.m., or until all discussion has been completed. Written comments must be received on or before 5:00 p.m., April 21, 1980.

ADDRESSES: The public review meeting will be held in the large auditorium of the State Highway Building on the Capitol grounds in Bismarck, North Dakota. Copies of the full text of the proposed North Dakota program are available for review during regular business hours at the following locations:

Department of the Interior, Office of Surface Mining, Region V, 1020 15th Street, Denver, Colorado 80202.

Department of Reclamation, Public Service Commission, Capitol Building, Bismarck, North Dakota 58505.

Written comments should be sent to: Mr. Donald A. Crane, Regional Director, Office of Surface Mining, Region V, 1020 15th Street, Denver, Colorado 80202.

Written comments will be available for public review at the OSM Region V Office above, on Monday through Friday, 8:00 a.m.–4:30 p.m., excluding holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Sylvia Sullivan, Public Information Officer, Office of Surface Mining, Region V, 1020 15th Street, Denver, Colorado 80202, Telephone No: (303) 837–4731.

SUPPLEMENTARY INFORMATION: On February 29, 1980, OSM received a proposed permanent regulatory program from the State of North Dakota. The purpose of this submission is to demonstrate both the State's intent and its capability to assume responsibility

for administering and enforcing the provisions of SMCRA and the permanent regulatory program (30 CFR Chapter VII), as published in the Federal Register on March 13, 1979 (44 FR 15311–15463).

This notice describes the nature of the North Dakota proposed program and sets forth information concerning public participation in the Regional Director's determination of whether or not the submission is complete. The public participation requirements for the consideration of a permanent State program are found in 30 CFR Sections 732.11 and 732.12 (44 FR 15326–15327). Additional information may be found under corresponding sections of the preamble to OSM's permanent program regulations (44 FR 14959–14960).

The receipt of the North Dakota submission is the first step in a process which will result in the establishment of a comprehensive program for the regulation of surface coal mining and reclamation operations and coal exploration in North Dakota.

By submitting a proposed program, North Dakota has indicated that it wishes to be primarily responsible for this permanent program. If the submission, as hereafter modified, is approved by the Secretary of the Interior, the State of North Dakota will have primary jurisdiction for the regulation of coal mining and reclamation and coal exploration on non-Federal lands in North Dakota. If the program is disapproved, a Federal program will be implemented and OSM will have primary jurisdiction for the regulation of those activities.

Before OSM and the Secretary formally begin consideration of the substance of the program, the Regional Director must determine that the submission is complete. If the Regional Director determines the submission to be complete, consideration of the adequacy of the program will begin and the public will be informed of the decision and granted the opportunity to submit comments on the adequacy of the submission. If the submission is determined to be incomplete, the State will be given the opportunity to submit additional material. If the State fails to provide the missing elements, or the submission is otherwise determined to be inadequate, the program will be initially disapproved. After initial disapproval the State may revise the program. If the resubmitted program is also found to be incomplete after opportunity for supplementing it has passed or is otherwise deficient, the State program will be given a final disapproval, and a Federal program will be implemented.

At this time, OSM is primarily concerned with whether the proposed program constitutes a complete submission. The decision on completeness will be made by Donald A. Crane, Regional Director, OSM Region V. To assist in obtaining information on the completeness of the North Dakota submission, the Regional Director is requesting written comments from the public and will hold a public review meeting on the issue of completeness.

The public review meeting on completeness will be conducted by the Regional Director and will be informal. This will provide members of the public, State and OSM the opportunity to openly exchange thoughts concerning program completeness outside the more rigid structure of formal public hearing proceedings. Specific format procedures will be at the discretion of the Regional Director.

Written comments may supplement or be submitted in lieu of oral presentation at the public review meeting. All written comments must be mailed or handcarried to the Regional Director's Office above or may be handcarried to the public review meeting at the address above and submitted as exhibits to the proceeding. The comment period will close at 5:00 p.m., April 21, 1980. Comments received after that time will not be considered in the Regional Director's completeness determination. Representatives of OSM Region V will be available to meet between February 29, 1980, and April 21, 1980, at the request of the public to receive their advice and recommendations concerning the completeness of the proposed program.

Persons wishing to meet with representatives of OSM Region V during this time period may place such a request with Sylvia Sullivan, Public Information Office, Telephone (303) 837–4731, at the Regional Director's Office above.

Meetings may be scheduled between 9:00 a.m.–12:00 noon, and 1:00 p.m.–4:00 p.m., Monday through Friday, excluding holidays at the Regional Director's Office.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed North Dakota program. Under Section 702(d) of SMCRA (30 U.S.C. Section 1292(d)), approval of State programs does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

The following constitutes a summary of the contents of the North Dakota submission:

The Department of Reclamation, Public Service Commission has been designated by the Governor of North Dakota to implement and enforce the North Dakota Surface Mine Reclamation Act in accordance with the Surface Mining and Reclamation Act of 1977 (PL 95–87). The Department has developed State regulations to carry out the State mandate.

Contents of the State Program Submission include:

1. State Laws and Regulations.
2. Other Related State Laws and Regulations.
3. Letter of Legal Authority: State/Federal Law and Regulations Comparison.
4. Regulatory Authority Designation.
5. Structural Organization—Staffing Functions.
6. Supporting Agreements between Agencies.
7. Narrative Description for:

A. Issuing Exploration and Mining Permits.
B. Assessing Permit Fees.
C. Bonding-Insurance.
D. Inspecting and Monitoring.
E. Enforcing the Administrative, Civil and Criminal Sanctions.
F. Administering and Enforcing Permanent Program Standards.
G. Assessing and Collecting Civil Penalties.
H. Issuing Public Notices and Holding Public Hearings.
I. Coordinating with Other Agencies.
J. Consulting with Other Agencies.
K. Designating Lands Unsuitable for Surface Mining.
L. Restricting Financial Interests.
M. Training, Examining and Certifying Blasters.
N. Providing for Public Participation.
O. Providing Administrative and Judicial Review.
P. Provding a Small Operator Assistance Program (SOAP).

8. Statistical Information.
9. Summary of Staff with Titles, Functions, Job Experience and Training.
10. Description of Staffing Adequacy.
11. Projected Use of Other Professional and Technical Personnel.
12. Budget Information.
13. Physical Resources Information.
14. Other Programs Administered by the Regulatory Authority.
15. Omission of Certain Permanent Program Provision.
16. Cooperative Agreement.

Dated: February 29, 1980.

Donald A. Crane,

Regional Director.

[FR Doc. 80-7223 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Chapter VII

Receipt of Permanent Program Submission From the State of Ohio

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of intent: receipt of program submission from the State of Ohio.

SUMMARY: On February 29, 1980, the State of Ohio submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comments on the completeness of the State program.

DATES: A public review meeting to discuss completeness of the submission will be held on April 11, 1980, from 1:00 p.m. to 5:00 p.m. and from 7:00 p.m. until 9:00 p.m., or until all discussion has been completed. Written comments must be received on or before 4:30 p.m. on April 16, 1980.

ADDRESS: The public review meeting will be held at the Christopher Inn, 300 E. Board Street, Columbus, Ohio 43215. Copies of the full text of proposed Ohio Program are available for review during regular business hours at the following locations.

Office of Surface Mining, Region III, Fifth Floor, Room 510, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204

Ohio Division of Reclamation, Department of Natural Resources, Fountain Square, Building B, Columbus, Ohio 43224.

Ohio Division of Reclamation, District II, 1894 East High Street, New Philadelphia, Ohio 44663.

Ohio Division of Reclamation, District IV, Technical Building, 850 Airport Road, Route 4, Zanesville, Ohio 43701.

Ohio Division of Reclamation, District V, Road No. 1, National Road, St. Clairsville, Ohio 43950.

Ohio Division of Reclamation, District VI, 360 East State Street, Athens, Ohio 45701.

Ohio Division of Reclamation, District VI, 36 Portsmouth Street, Jackson, Ohio 45640.

Office of Surface Mining, District Office, 1100 Brandywine Blvd., Building D, Zanesville, Ohio 43701.

Written comments should be sent to: Mr. Edgar A. Imhoff, Regional Director, Office of Surface Mining, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204.

Written comments will be available for public review during regular business hours, Monday through Friday, excluding holidays, at the locations listed above.

FOR FURTHER INFORMATION CONTACT: Mr. J. M. Furman, Assistant Regional Director, Office of Surface Mining, Fifth Floor, Room 527, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204, Telephone: (317) 269-2629.

SUPPLEMENTARY INFORMATION: On February 29, 1980, OSM received a proposed permanent regulatory program from the State of Ohio. The purpose of this submission is to demonstrate both the State's intent and its capability to assume responsibility for administering and enforcing the provisions of SMCRA and OSM's permanent regulatory program (30 CFR Chapter 7), as published in the Federal Register on March 13, 1979 (44 FR 15311-15463).

This notice describes the nature of Ohio's proposed program and sets forth information concerning public participation in the Regional Director's determination of whether or not the submission is complete. The public participation requirements for the consideration of a permanent State program are found in 30 CFR Sections 732.11 and 732.12 (44 FR 15326-15327). Additional information may be found under corresponding sections of the preamble to OSM's permanent program regulations (44 FR 14959-14960).

The receipt of the Ohio submission is the first step in a process which will result in the establishment of a comprehensive program for the regulation of surface coal mining and reclamation operations and coal exploration in Ohio.

By submitting a proposed program Ohio has indicated that it wishes to be primarily responsible for this permanent program. If the submission, as hereafter modified, is approved by the Secretary of the Interior, the State of Ohio will have primary jurisdiction for the regulation of coal mining and reclamation and coal exploration on non-Federal lands in Ohio. If the program is disapproved, a Federal program will be implemented and OSM will have primary jurisdiction for the regulation of those activities.

Before OSM and the Secretary begin consideration of the substance of the program, the Regional Director must determine that the submission is complete. If the Regional Director determines the submission to be complete, consideration of the adequacy of the program will begin and the public will be informed of the decision and granted the opportunity to submit comments on the adequacy of the submission. If the submission is determined to be incomplete, the State will be given the opportunity to submit additional material. If a State fails to provide the missing elements, or the submission is otherwise determined to be inadequate, the program will be initially disapproved. After initial disapproval the State may revise the program. If the resubmitted program is also found to be incomplete after opportunity for supplementing it has passed or is otherwise deficient, the State program will be given a final disapproval, and a Federal program will be implemented.

At this time, OSM is primarily concerned with whether the proposed program constitutes a complete submission. The decision on completeness will be made by Edgar A. Imhoff, Regional Director, OSM, Region III. To assist in obtaining information on the completeness of the Ohio submission, the Regional Director is requesting written comments from the public and will hold a public review meeting on the issue of completeness.

The public review meeting on completeness will be conducted by the Regional Director, or his designated representative, and will be informal. This will provide members of the public, State and OSM opportunity to openly exchange thoughts concerning program completeness outside the more rigid structure of formal public hearing proceedings. Specific format procedures will be at the discretion of the Regional Director.

Written comments may supplement or be submitted in lieu of oral presentation at the public review meeting. All written comments must be mailed or handcarried to the Regional Director's office above or may be handcarried to the public review meeting at the address above and submitted as exhibits to the proceeding. The comment period will close at 4:30 p.m. on April 16, 1980. Comments received after that time will not be considered in the Regional Director's completeness determination. Representatives of the Regional Director's office will be available to meet, between the date of the publication of this notice and April 16, 1980, at the request of members of the public to receive their advice and recommendations concerning the completeness of the proposed program.

Persons wishing to meet with representatives of the Regional Director's office during this time period may place such request with Mr. J. M. Furman, Assistant Regional Director,

telephone (317) 269–2629, at the Regional Director's Office above.

Meetings may be scheduled between 9:00 a.m. and noon and 1:00 p.m. and 4:00 p.m., Monday through Friday, excluding holidays, at the Regional Director's Office.

No Environmental Impact Statement is being prepared in connection with the process leading to the approval or disapproval of the proposed Ohio program. Under Section 702(d) of SMCRA (30 USC Section 1292(d)), approval of State programs does not constitute a major action within the meaning of Section 102(2)(c) of the National Environmental Protection Act of 1969 (42 USC 4332).

The following constitutes a summary of the contents of the Ohio Submission:

The Ohio Department of Natural Resources, Division of Reclamation has been designated by the Governor of Ohio to implement and enforce the Ohio Strip Mine Law (Chapter 1513. Ohio Revised Code) in accordance with the Surface Mining and Reclamation Act of 1977 (P. L. 95–87). The Ohio Division of Reclamation has developed State regulations to carry out the State mandate.

Contents of the State Program Submission include:

(a) State Laws and Regulations.
(b) Other Related State Laws and Regulations.
(c) Letter of Legal Authority; State/Federal Law and Regulation Comparison.
(d) Regulatory Authority Designation.
(e) Structural Organization—Staffing Functions.
(f) Supporting Agreements Between Agencies.
(g) System Narratives.
(1) Exploration and Mining Permits.
(2) Permit Application Fees.
(3) Bonding—Insurance.
(4) Inspection and Monitoring.
(5) Enforcement of Administrative, Civil and Criminal Sanctions.
(6) Administering and Enforcing Permanent Program Standards.
(7) Assessing and Collecting Civil Penalties.
(8) Public Notices and Hearings.
(9) Coordination with Other Agencies. RE: Permits.
(10) Consultation with Other Agencies. RE: Environmental, Historic, Cultural, and Archaeological Resources.
(11) Lands Unsuitable for Surface Mining.
(12) Restrictions on Financial Interests.
(13) Training, Examining and Certifying Blasters.
(14) Public Participation.
(15) Administrative and Judicial Review.
(16) The Small Operator Assistance Program (S.O.A.P.).
(h) Statistical Information.
(i) Summary of Staff with Titles, Functions, Job Experience and Training.
(j) Description of Staffing Adequacy.
(k) Projected Use of Other Professional and Technical Personnel.
(l) Budget Information.
(m) Physical Resources.
(n) Other Programs of the Regulatory Authority.

Dated: February 29, 1980.

Edgar A. Imhoff,

Regional Director, OSM, Region III.

[FR Doc. 80-7224 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-05-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 302

Proposed Rule With Respect To 1980 Filing of Claims to Cable Royalty Fees

AGENCY: Copyright Royalty Tribunal.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the Copyright Royalty Tribunal's rule concerning the content of claims to cable royalty fees for secondary transmissions by cable systems by establishing the requirements for claims to be filed in July 1980.

DATES: Written comments on this proposed rule must be received by March 31, 1980.

ADDRESS: Comments should be directed to Chairman, Copyright Royalty Tribunal, 1111 20th Street, N.W., Room 450, Washington, D.C. 20036.

FOR FURTHER INFORMATION CONTACT: Mary Lou Burg, Chairman, Copyright Royalty Tribunal, 202–653–5175.

SUPPLEMENTARY INFORMATION: 17 U.S.C. 111(d)(5)(A) requires that during July of each year every person claiming royalty fees for secondary transmissions by cable systems shall file a claim with the Tribunal. The Tribunal has adopted in 37 CFR Part 302 a rule concerning the filing and content of such claims. Section 302.7 regulates the filing of claims for secondary transmissions "during calendar years 1979 and subsequent calendar years." It states that "such filing shall include such information as the Copyright Royalty Tribunal may require." The purpose of the proposed rule is to establish the requirements for the July 1980 filing.

The Tribunal on September 12, 1979 published official notice declaring a controversy concerning the distribution of royalty fees for secondary transmissions during calendar year 1978. A proceeding to determine the distribution of such royalty fees is currently in progress. There is little prospect that this proceeding will be concluded prior to the required July filing. Under these circumstances, the Tribunal does not believe that any useful purpose would be served by requiring the 1980 claims to contain detailed entitlement justification. Consequently, the proposed rule only requires the claim to include the basic information that was required for the initial claim filing in July 1978.

The Tribunal wishes to emphasize that the copyright law requires that claims be filed during "the month of July in each year". The Tribunal will reject any claim which is filed after July 31.

Accordingly, 37 CFR Part 302 is amended by revising Section 302.7 to read as follows:

§ 302.7 Filing of claims to cable royalty fees for secondary transmissions during calendar year 1979 and subsequent calendar years.

(a) During the month of July 1980, and in July of each succeeding year, every person claiming to be entitled to compulsory license fees for secondary transmissions during the preceding calendar year shall file a claim to such fees in the office of the Copyright Royalty Tribunal. No royalty fees shall be distributed to copyright owners for secondary transmissions during the specified period unless such owner has filed a claim to such fees during the following calendar month of July. For purposes of this clause claimants may file claims jointly or as a single claim. Such filing shall include such information as the Copyright Royalty Tribunal may require.

(b) Claims filed during the month of July 1980 shall include the following information:

(1) The full legal name of the person or entity claiming compulsory license fees.

(2) The full address, including a specific number and street name or rural route, of the place of business of the person or entity.

(3) A general statement of the nature of the copyright works, whose secondary transmission provides the basis of the claim.

(4) Identification of at least one secondary transmission establishing a basis for the claim.

Mary Lou Burg,

Chairman, Copyright Royalty Tribunal.

[FR Doc. 80-7179 Filed 3-6-80; 8:45 am]

BILLING CODE 1410-01-M

POSTAL RATE COMMISSION

39 CFR Part 3001

Rules of Practice; Advance Notice of Proposed Rulemaking; Correction

March 4, 1980.

AGENCY: Postal Rate Commission.

ACTION: Errata Notice to Advance Notice of Proposed Rulemaking.

SUMMARY: In FR Doc. 80-5206 appearing at pages 11139-11140 in the Federal Register of Wednesday, February 20, 1980, the Postal Rate Commission published an Advance Notice of Proposed Rulemaking instituting the second annual review of our rules of practice pursuant to the Commission's final plan for implementing Executive Order No. 12044 (43 FR 12661, March 24, 1978), published in the Federal Register on 1/12/79 (44 FR 2606-08). The Advance Notice of Proposed Rulemaking solicited proposals from the public for improving our rules of practice and proposed amendments to those rules that would authorize the Commission to reject defective rate and classification requests filed by the Postal Service.

DATES: Comments responsive to our Advance Notice of Proposed Rulemaking should be submitted by March 12, 1980.

ADDRESS: Comments should be directed to David F. Harris, Secretary, Postal Rate Commission, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Suite 500, 2000 L Street, N.W., Washington, D.C. 20268; telephone 202-254-3824.

SUPPLEMENTARY INFORMATION: Change date for submission of comments from March 7, 1980 to March 12, 1980.

David F. Harris,

Secretary.

[FR Doc. 80-7172 Filed 3-6-80; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1429-6]

Proposed Revision to the Massachusetts State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposal announces receipt of a request from the State of Massachusetts to extend a revision to its State Implementation Plan. This extension, which the Environmental Protection Agency proposes to approve, would continue a variance from visible emissions regulations which expired on December 31, 1979, to allow the continued burning of a 30% coal/70% oil mixture in the New England Power Company's (NEPCo), Salem Harbor Station, Unit #1, Salem, Massachusetts for a period of one year, as a research project funded by the U.S. Energy Research and Development Administration (ERDA).

DATES: Comments must be received on or before April 7, 1980.

ADDRESSES: Copies of the Massachusetts submittal are available for public inspection during normal business hours at the Environmental Portection Agency, Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460; and Massachusetts Department of Environmental Quality Engineering, Air and Hazardous Materials Division, Room 320, 600 Washington Street, Boston, Massachusetts 02111.

Comments should be submitted to Frank Ciavattieri, Chief, Air Branch, Region I, Environmental Protection Agency, Room 2203, J.F.K. Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Margaret McDonough, Air Branch, EPA Region I, Room 1903, J.F.K. Federal Building, Boston, Massachusetts 02203, (617) 223-4448.

SUPPLEMENTARY INFORMATION: On December 28, 1979 the Commissioner of the Massachusetts Department of Environmental Quality Engineering, (the Massachusetts Department) submitted a request to the Environmental Protection Agency (EPA) to approve a proposed revision to the Massachusetts State Implementation Plan (SIP). This revision would grant a variance to Massachusetts Regulation 310 CMR 7.06 (formerly Regulation 6) *Visible Emissions.*

Under the proposed SIP revision which EPA proposes to approve, the temporary variance to regulation 310 CMR 7.06 (*Visible Emissions)* would relax from six minutes per hour to fifteen minutes per hour the permitted exceedances of the 20 percent opacity limit (No. 1. on the Ringlemann Chart). The plume opacity shall at no time exceed 40 percent (No. 2 on the Ringlemann Chart). The request will allow New England Power Company's (NEPCo), Salem Harbor Station, Unit #1, Salem, Massachusetts, to burn 30% coal/70% oil mixture until December 31, 1980 as a research and development project funded by the Energy Research and Development Administration (ERDA).

On February 7, 1979 (44 CFR 7712) the Regional Administrator approved a temporary revision to the Massachusetts SIP which included variances to Massachusetts regulations 310 CMR 7.05 *Sulfur-in-Fuel* and 310 CMR 7.06 *Visible Emissions* (formerly regulations 5 and 6). On May 21, 1979 EPA approved a permanent revision to Massachusetts regulation 310 CMR 7.05 *Sulfur-in-Fuel* which allowed Salem Harbor to burn fossil fuel with a maximum sulfur content of 1.21 pounds per million Btu release potential (approximately equivalent to 2.2% sulfur content residual fuel oil by weight). Therefore, it is not necessary to vary the provisions of 310 CMR 7.05. The February 7, 1979 variance to regulation 310 CMR 7.06 *Visible Emissions* expired on December 31, 1979.

NEPCo originally intended to burn the coal/fuel slurry for a one year period ending December 31, 1979. Because of engineering and equipment delays, the first test burning of the coal/fuel mixture began on July 24, 1979. The unit was shut down during the entire month of August for routine maintenance. The slurry was again burned on September 4, 1979.

The requested variance was filed with the Massachusetts Department on August 10, 1979 by NEPCo representatives. On December 27, 1979, the Massachusetts Department, after public hearings conducted on November 8, 1979, approved NEPCo's request with the following provisions:

1. The project shall be commenced using: 10 percent to 90 percent coal/oil respectively, and then gradually progressing to 20 percent to 80 percent coal/oil and then to a maximum of 30 percent to 70 percent coal/oil, if feasible.

2. Stack testing shall take place after each increment and compliance with the particulate emissions limitation (0.12 lbs/mBtu) and all other applicable regulations shall be demonstrated prior to any increase in coal/oil slurry ratio.

3. If nuisance conditions occur as a result of any coal handling or burning operations, then the variance shall be subject to immediate termination.

4. The variance shall expire on December 31, 1980.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the Massachusetts State Implementation

Plan should be approved or disapproved.

The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)-(H) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Sections 110(a) and 301 of the Clean Air Act, as amended, (42 U.S.C. 7410 and 7601).

Dated: February 21, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 80-7219 Filed 3-6-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Parts 52 and 81

[FRL 1429-8]

Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Massachusetts Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: Revisions to the State Implementation Plan (SIP) for the Commonwealth of Massachusetts were submitted to EPA in four portions. On March 30, 1979 and May 3, 1979 revisions to the SIP designed to satisfy the requirements of Part D of Title I of the Clean Air Act, (the Act) for total suspended particulates and for review of new and modified sources of air pollution were submitted by the Commissioner of the Massachusetts Department of Environmental Quality Engineering (DEQE). These revisions were discussed in a separate Federal Register notice published on July 16, 1979 (44 FR 41258).

On December 31, 1978 the Governor of Massachusetts and on May 16, 1979 the Acting Commissioner of DEQE submitted other revisions to the Massachusetts SIP which are intended to meet the requirements of Part D of the Act by implementing measures designed to attain and maintain the National Ambient Air Quality Standards (NAAQS) for carbon monoxide and ozone. The December 31 submittal contains provisions intended to meet transportation planning requirements. The May 16 submittal contains regulations to control volatile organic compound emissions (VOC's) from stationary sources and includes a request for an extension, to 1987, of the deadline for attainment of the ozone and carbon monoxide standards in Massachusetts. This notice discusses the December 31 and May 6 submittals (in the May 16 transmittal letter the DEQE has combined the transportation element from the December 31 submittal with the stationary source element) and EPA's proposed action on them. The DEQE also submitted letters dated September 19, 1979, and November 13, 1979, and December 7, 1979, which contained additional information concerning the previous submittals.

DATES: Comments must be received on or before April 7, 1980.

ADDRESSES: Copies of the Massachusetts submittal and documents containing EPA's guidance are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and the Massachusetts Division of Air and Hazardous Materials, Room 320, 600 Washington Street, Boston, Massachusetts 02111.

Comments should be submitted to Frank Ciavattieri, Air Branch, Region I, Environmental Protection Agency, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Frank Ciavattieri, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

SUPPLEMENTARY INFORMATION: On April 4 (44 FR 20372), July 2 (44 FR 38583), August 28 (44 FR 50371) September 17 (44 FR 53761) and November 23 (44 FR 67182) 1979, EPA published the requirements (hereafter the General Preamble) for an approvable non-attainment SIP in the Federal Register. These publications supplement this proposal by identifying the major considerations that guide EPA's evaluation of state submittals. These considerations are not restated in this Notice in detail but copies of the documents in which they are stated are available at the locations listed in the Addresses section of this Notice.

In this notice, the proposed revisions to the Massachusetts SIP are described and evaluated and EPA proposed approval or conditional approval. A conditional approval means that the restrictions on new major source construction and other sanction provided by the Act will not take effect for that part of the proposed revision unless the state fails to comply with the condition by the scheduled date, or unless the additional submission is not approved by EPA.

EPA is hereby proposing to approve:

1. The request for an extension of the attainment dates for both CO and O_x until 1987.
2. Regulation 310 CMR 7.16, Reduction of Single-Occupant Commuter Vehicle use.
3. Regulation 310 CMR 7.18:(7), Automotive Surface Coating.
4. Regulation 310 CMR 7.18(4), Metal Can Surface Coating.
5. Regulation 310 CMR 7.18:(6), Magnet Wire Insulation Surface Coating.
6. Regulation 310 CMR 7.18:(5), Large Appliance Surface Coating.
7. The conformity procedures and criteria used in the Transportation Planning Program.
8. The inclusion of certain transportation projects specified in Appendix A.
9. The commitment of the State to public transportation.
10. The revision of regulation 310 CMR 7.02(12) for monitoring of operations for storage vessels for petroleum liquids to make it consistent with New Source Performace Standards.
11. The SIP resource commitments.

EPA is proposing to approve with conditions:

1. The Inspection and Maintenance Program.
2. The commitment of the state to further study VOC controls for paper, fabric, and metal coil coating sources and to develop and submit regulations to EPA based on the conclusions of the study.
3. Regulation 310 CMR 7.18: (8), Solvent Metal Degreasing.
4. Regulation 310 CMR 7.02:(12)(a)(b), Organic Material, Bulk Plants and Terminals Handling Organic Material.
5. Regulations 310 CMR 7.18:(3), Metal Furniture Surface Coating.
6. The commitment of the State to adopt a regulation to control emissions from cutback asphalt usage.
7. The submittal of a point source and mobile source emissions inventory in NEDS format or in other EPA approved format.
8. The submittal of Reasonably Available Control Measure (RACM) analyses and accompanying implementation schedules as SIP revisions.
9. The carbon monoxide attainment plant.
10. The revision and submittal to EPA of the Reasonable Further Progress demonstration to reflect changes outlined in this Notice.
11. The New Source Review Program.

12. The program to assure future involvement of public, local, and other State groups in the development of State air pollution plans.

13. The description of the social and energy impacts of the SIP.

EPA invites public comment on these submittals generally, the identified issues, suggested corrections, and particularly on whether the revisions should be approved, approved with conditions, or disapproved, especially with respect to the requirements of Part D of the Act. Comments may also be submitted on the April 4, July 2, August 28, September 17 and November 23 notices discussed above and on relevant EPA guidance and other documents.

The measures approved or conditionally approved are in addition to, and not in lieu of, existing SIP regulations. The present emission control regulations remain applicable and enforceable to prevent a source from operating without controls or under less stringent controls, while moving toward compliance with the new regulations (or, if it chooses, challenging the new regulations). Failure of a source to meet applicable pre-existing regulations will result in appropriate enforcement action, which may include assessment of noncompliance penalties.

There are two main exceptions to this rule. First, if a pre-existing control requirement is compatible with a new, more stringent requirement, the State may exempt sources from compliance with the pre-existing regulations during the period when compliance with the existing requirement conflicts with achieving compliance with the new requirement. Any exemption granted would be reviewed and acted on by EPA as a SIP revision. Second, an existing requirement can be relaxed or revoked if the revision will not interfere with attainment of standards.

It should be noted that once revisions are approved there may be existing federally promulgated regulations which will have been adopted by the state and therefore EPA can revoke the federal regulations. A separate Federal Register Notice will be published discussing any such revocations.

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I. Background

Despite significant progress since the Massachusetts SIP was developed and adopted in 1972, violations of the National Ambient Air Quality Standards (NAAQS), except for sulfur dioxide and nitrogen dioxide, have continued to occur in Massachusetts. Accordingly, on March 3, 1978 (43 FR 9002), pursuant to Section 107 of the Act, EPA promulgated a list submitted by the DEQE designating areas where the NAAQS were not attained as of August 7, 1977 with respect to carbon monoxide, sulfur dioxide, total suspended particulates and ozone. Ozone is formed by complex chemical reactions involving various precursors, primarily oxides of nitrogen and volatile organic compounds (VOCs). Emissions of VOCs are controlled in order to reduce ozone concentrations. (For the purposes of this notice HC is generally used for hydrocarbon emissions from automobile exhaust, VOC for such emissions from stationary sources.) The entire State was designated non-attainment for ozone. Worcester, Lowell, Boston, Cambridge, Medford, Waltham and Springfield were designated non-attainment for carbon monoxide. More recent CO data analyzed by the State indicates that Quincy should also be added to the list of areas violating the CO standard. EPA is therefore proposing to revise the March 3, 1978 Federal Register (43 FR 9002) by adding Quincy to the list of areas violating the CO standard. The DEQE must satisfy specific requirements in the areas designated as non-attainment. The SIP must be revised to demonstrate attainment of the NAAQS as expeditiously as practicable, but no later than the end of 1982 (or the end of 1987 for areas with serious ozone and/or carbon monoxide problems). In some cases of secondary standard non-attainment, the SIP may provide for an attainment date beyond 1982. As was noted above, these requirements and the major considerations that will guide EPA's evaluation of SIP submittals were presented in detail in the Federal Register on April 4, 1979 (44 FR 20372) and are briefly summarized below. After each item is a citation to the applicable section of the Act and the applicable paragraphs of the Administrator's February 24, 1978 memorandum on "Criteria for Approval of 1979 SIP Revisions" which was published in the Federal Register on May 19, 1978 (43 FR 21673). EPA guidance documents, including all documents cited in this notice, containing additional information relevant to review of these submittals are contained in dockets which are available for public inspection at the locations listed above.

Requirements for All Part D SIP'S

- Demonstrate that both primary and secondary NAAQS will be attained within the non-attainment areas as expeditiously as practicable, but for primary NAAQS no later than the following final deadlines: Section 172(a); ¶¶ 1, 3, 5.)

For sulfur oxides, particulate matter, and nitrogen dioxide, December 31, 1982.

For ozone or carbon monoxide, December 31, 1982, except, if the state demonstrates that attainment by December 31, 1982 is impossible despite implementation of all reasonabley available measures, December 31, 1987.

- Require reasonable further progress in the period before attainment, including regular, consistent reductions sufficient to assure attainment by the required date. (Section 172(b)(3); ¶ 6.)
- Provide for implementation of all reasonably available control measures (RACM) as expeditiously as practicable, insofar as necessary to assure reasonable further progress and attainment by the required date. This includes reasonably available control technology (RACT) for stationary sources and reasonably available transportation control measures. (Section 172(b)(2), (8); ¶¶ 4–5.)
- Include an accurate, current inventory of emissions that have an impact on the non-attainment area, and provide for annual updates to indicate emissions from existing sources. (Section 172(b)(4); ¶¶ 2, 7–8.)
- Expressly quantify the emissions growth allowance, if any, that will be

allowed to result from new major sources or major modifications of existing sources, which may not be so large as to jeopardize reasonable further progress or attainment by the required date. (Section 272(b)(3) and (5); ¶ 7.)

• Requirement preconstruction review permits for new major sources and major modifications of existing sources, to be issued in accordance with Section 173 of the Act. (Section 172(b)(6); ¶ 9.)

• Include the following addition SIP elements: (Section 172(b)(7), (9)–(10); ¶¶ 4, 10–11.)

Identification and commitment of the necessary resources to carry out the Part D provisions of the plan.

Evidence of public, local government, and state legislative involvement and consultation in accordance with Section 174 of the Act.

Identification and brief analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions chosen and the alternatives considered, and a summary of the public comment on the analysis.

Written evidence that the state and other governmental bodies have adopted the necessary requirements in legally enforceable form.

Written evidence that the state and other governmental bodies are committed to implement and enforce the appropriate elements of the SIP.

There are additional requirements for states where carbon monoxide and ozone attainment will not take place prior to 1982. In Massachusetts these additional requirements are necessary since ozone and carbon monoxide attainment will not take place prior to 1982. These are:

• Include an adequate on-going vehicle emission control inspection/maintenance program, or establish a specific schedule endorsed by and committed to by the governor (or the chief executive of the local or regional governmental unit, if it is responsible for implementation) for the development, adoption, and implementation of such a program as expeditiously as practicable. (Section 172(b)(11)(B); ¶ 2.)

• Present a program for selecting a package of transportation control measures (and any other necessary measures) to attain the emission reductions target ascribed in the SIP to the package, including adopted schedules for expeditious implementation of currently planned reasonable transportation control measures, and schedules for analysis and adoption of additional transportation control (and other necessary) measures. Sections 110(a)(3)(D), 172 (b)(2) and (11)(C); Oxidant ¶¶ 1–5.)

• Include a commitment to establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as practicable, including a commitment to use necessary federal grants and state and local funds. (Sections 110(a)(3)(D), 172(b)(2); ¶¶ 3–4.)

• Establish a program that requires, before issuance of a preconstruction review permit, an analysis of alternative sites and other factors which demonstrates that the benefits of the proposed source significantly outweigh any environmental and social costs. (Section 172(b)(11)(A); ¶ 1.)

The SIP revisions, in compliance with Section 172(b)(1) of the Act, were submitted after reasonable notice and public hearings. Hearings for the December 31 submittal were held in Boston, on December 13, 1978, in Springfield on December 14, 1978, in Worcester on December 19, 1978, in Lakeville on December 20, 1978 and in Pittsfield and Tewksbury, on December 21, 1978. For the May 16 submittal, hearings were held in Boston and Lakeville, on February 26, 1979, in Worcester and Tewksbury, on February 27, 1979 and in Pittsfield and Springfield, on February 28, 1979.

On June 5, 1979 (44 FR 34519) EPA published a notice that the Massachusetts SIP revisions were available for review and invited the public to comment on their approvability. Two comments have been received, and will be responded to in the final rulemaking notice.

II. Description of the Proposed Revision and EPA's Proposed Action

A. Attainment Dates for Massachusetts

The Act provides for an extension of the attainment date for ozone or carbon monoxide for some period of time beyond December 31, 1982 but no later than December 31, 1987 if the state demonstrates that despite the implemention of all reasonably available control measures, attainment by the former date is not possible.

The SIP submittal requests an extension of the ozone and carbon monoxide attainment dates until 1987. The DEQE has submitted Reasonable Further Progress (RFP) lines to depict the reduction in emissions which will occur as a result of the implementation of control measures between now and 1982 and to show the emission reductions needed prior to the 1987 attainment date which will be addressed in the 1982 revisions. These RFP projections show that attainment is not possible by the end of 1982 despite the implementation of all reasonably available control measures and that December 31, 1987 is the most expeditious attainment date.

Proposed Action: EPA is proposing approval of the DEQE's request for an extension date for ozone and carbon monoxide attainment until 1987.

B. Control of Volatile Organic Compound (VOC) Emissions From Stationary Sources

Massachusetts has been designated non-attainment statewide for ozone. Sections 172(b)(2) and (3) of Part D of the Act, require the SIP to provide for implementation of all reasonably available control technology for stationary sources of emissions as expeditiously as practicable, and to assure reasonable further progress towards attainment of standards by the required dates.

EPA prepared and published a set of guidance documents called Control Technology Guidelines (CTG's) for certain VOC categories. The CTG's contained guidance to assist the states in developing regulations requiring the application of RACT. For each VOC category covered by CTG's issued on or before January 1, 1978, such regulations were to be included in this SIP revision. The recommended emission limitations contained in the CTG's are a "presumptive norm," that is, they are emission limitations which EPA believes may be attained by applying RACT. EPA acknowledges that what is RACT for a general source category may not be reasonably available for a particular source or even several sources within a source category. It is EPA policy to accept, as part of a state's VOC control strategy, emission limitations for particular sources or source categories which are different from the EPA recommended numbers, if such new emission limitations are based upon documented evaluations of what is reasonably available control technology for each source or groups of sources within the source category.

According to the DEQE stationary source inventory the following CTG category sources exist in Massachusetts: solvent metal cleaning (degreasing); petroleum storage and marketing including Stage I Vapor Recovery; automotive surface coating; metal coil coating; fabric coating; large appliance manufacturing; paper coating; metal can coating; the use of cutback asphalt; magnet wire insulation coating and metal furniture coating. Of this list, the DEQE has adopted regulations to control: solvent metal cleaning; petroleum storage and marketing including Stage I Vapor Recovery; large appliance surface coating; magnet wire

insulation coating; metal furniture coating and metal can coating. The regulations for metal furniture, metal cans, large appliances and magnet wire insulation require full compliance by July 1, 1980 but allow sources to show that additional time is needed, in which case, final compliance must be as expeditious as practicable but no later than July 1, 1982. The solvent metal degreasing regulation requires final compliance by December 31, 1980. The petroleum storage and marketing regulations require final compliance by July 1, 1980. The State and Territorial Air Pollution Program Administrators have negotiated a national control strategy for automotive surface coating with General Motors. The DEQE has adopted this strategy, which calls for final compliance by December 31, 1985 for the sources in Massachusetts, and a corresponding regulation has been adopted. This leaves unregulated metal coil coating, paper coating and fabric coating sources and the use of cutback asphalt. The DEQE has determined that there is sufficient use of cutback asphalt in the state to warrant the development of a regulation according to a schedule discussed in more detail in a subsequent section of this notice.

From information obtained at the public hearings, the DEQE has determined that regulations based on EPA's CTG's for the three remaining source categories are inappropriate for Massachusetts sources (for reasons explained more fully later in this notice) and were not submitted.

The SIP includes a provision which exempts methyl chloroform (1,1,1 trichloroethane). This volatile organic compound, while not appreciably affecting ambient ozone levels, is potentially harmful. Methyl chloroform has been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity.

Furthermore, methyl chloroform is considered one of the slower reacting VOCs which eventually migrates to the stratosphere where it is suspected of contributing to the depletion of the ozone layer. Since stratospheric ozone is the principal absorber of ultraviolet light (UV), its depletion could lead to an increase of UV penetration resulting in a worldwide increase in skin cancer.

With the exemption of this compound, some sources, particularly existing degreasers, will be encouraged to utilize methyl chloroform in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in the SIP can only further aggravate the problem of increasing the emissions produced by existing primary degreasers and other sources.

EPA does not intend to disapprove the State SIP submittal if the State chooses to maintain these exemptions. However, we are concerned that this policy not be interpreted as encouraging the increased use of this compound nor compliance by substitution. EPA does not endorse such approaches. Furthermore, the public and sources should be advised that there is a strong possibility of future regulatory action to control this compound. Sources which choose to comply by substitution may well be required to install control systems as a consequence of these future regulatory actions.

Proposed Action: EPA is proposing approval of the regulations to control: automotive surface coating; metal can surface coating; magnet wire insulation surface coating and large appliance surface coating. EPA is proposing to approve with conditions the state regulations for: solvent metal cleaning, petroleum storage and marketing including Stage I Vapor Recovery and metal furniture surface coating. EPA is proposing to approve with conditions DEQE's commitment to adopt a regulation to control the use of cutback asphalt as discussed in the subsequent sections of this notice. EPA is proposing approval of the VOC control portion of the SIP for paper, fabric and metal coil coating sources based on a study (discussed in the subsequent section) and on the adoption of regulations as described in more detail below.

1. *Solvent Metal Degreasing.* RACT for these sources entails implementation of operating procedures which minimize solvent loss and includes the retrofit of control devices. Control equipment can be as simple as a manual cover or as complex as a carbon adsorption system, depending on the size and design of the degreaser. Operating procedures include covering degreasing equipment whenever possible, properly using solvent sprays, reducing the amount of solvent carried out of the unit on cleaned work by various means, promptly repairing leaking equipment, and most importantly properly disposing of wastes containing volatile organics.

The DEQE regulation does not contain provisions for handling and disposal of solvents although emissions from uncontrolled solvent handling and disposal are equal to one-third of the total emissions from this category (EPA-450/2-77-022). The regulation does not require labeling of operational procedures for equipment. Such labeling is a necessary implementation tool. The regulation exempts certain small vapor degreasers and conveyorized degreasers but DEQE has not submitted information to demonstrate that emissions from these smaller sources are negligible.

The DEQE has drafted a regulation to control the disposal of volatile organic compounds including all solvent disposal. Final action will be taken by February 25, 1980 and a SIP revision submitted to EPA by March 15, 1980. The DEQE will require the labeling of operational procedures for equipment as part of their standard operating procedures as described in the narrative portion of SIP.

Proposed Action: EPA is proposing to approve this regulation conditioned upon the submittal to EPA by March 15, 1980 of a state adopted regulation amended as discussed above.

The DEQE has also agreed to update the emissions inventory with respect to identifying small vapor degreasers which had been exempted from the regulation. The DEQE will be distributing inventory questionnaires during March, 1980. If the results of the inventory indicate that the emissions from the small degreasers constitute greater than 5% of the emissions from the entire category (including the emissions from the larger degreasers) then the DEQE will adopt a regulation to control the small degreasing operations by December 1, 1980. In general, controls for small degreasers consist of covers when the equipment and solvent are not in use, and proper disposal of the solvent.

2. *Petroleum Storage and Marketing.* EPA has recommended that RACT for gasoline storage terminals be the control of vapors escaping during the transfer of petroleum products to within 80 milligrams of VOC per liter of gasoline loaded.

The State regulation to control gasoline storage terminals (CMR 7.02(12)(a) 1.2.3.) does not contain an emission limitation or percent capture efficiency required of the vapor recovery equipment. The CTG document (EPA-450/2-77-026) recommends that such a regulation achieve a 90% capture of the total emissions from the terminal facility for all the components of the gasoline handling and storage facility including the storage tanks, loading rack, delivery trucks and all connecting components. The purpose of this is to achieve a "closed loop" effect so as to recirculate and contain the vapors. Without such a provision the State regulation will be ineffective.

To correct these deficiencies the DEQE has agreed to submit a SIP revision by March 15, 1980.

Proposed Action: EPA is proposing approval of this regulation conditioned on the DEQE amending the regulation and submitting it as a SIP revision to EPA by March 15, 1980.

The state regulation to control bulk storage plants [CMR 7.01(12)(a) 4] requires drop fill tubes to be used but does not require vapor recovery equipment to be installed and operated. The CTG document (EPA–450/2–77–035) recommends that bulk storage plants should have vapor recovery equipment but that such plants with a throughput capacity per year of 20,000 gallons or less should be carefully reviewed for economic hardship and that control of only these smaller plants servicing accounts with Stage I vapor recovery equipment be required. The DEQE has agreed to amend the regulations and to provide public notice for hearing by December 15, 1979; hold hearings by January 25, 1980; take final action based upon the hearing testimony by February 25, 1980; and submit a SIP revision by March 15, 1980.

Proposed Action: EPA is proposing to approve this regulation conditioned upon the submittal of a state adopted amended regulation as a SIP revision by March 15, 1980 as described above.

3. *Large Appliance Manufacturing, Magnet Wire Insulation, and Metal Furniture Production.* EPA has recommended a RACT emission limitation for large appliance surface coating operations based on the use of low organic solvent coatings. The emission limitation is 2.8 pounds of organic solvent per gallon of coating minus water. (EPA–450/2–77–034) This emission limitation can be achieved with coatings which contain at least 62 percent solids by volume or any water-borne equivalent. This would result in approximately an 80 percent reduction in VOC emissions over conventional organic-borne coatings which contain about 25 percent by volume solids. An equivalent reduction can also be achieved by use of add-on control devices such as incinerators or carbon adsorbers.

The EPA recommended RACT limit for magnet wire insulation coating is 1.7 pounds of solvent per gallon of coating. (EPA–450/2–77–033) The most common control technique used for wire coating ovens is incineration. The emission limit can be met with high-solids coatings having greater than 77 percent solids by volume. This emission limit can also be met with a water-borne coating which contains 29 percent by volume solids, 8 percent by volume organic solvent, and 63 percent by volume water.

EPA's recommendation of RACT for the coating of metal furniture is 3.0 pounds of organic solids per gallon of coating applied (minus water). (EPA–450/2–77–032) This emission limit is based on the use of low organic solvent coatings. It can also be achieved with water-borne coatings and is approximately equivalent to the use of add-on control devices which collect or destroy 80 percent of the solvent from conventional high organic solvent coating.

The State regulations to control large appliance surface coating, magnet wire insulation surface coating, and metal furniture and metal can coating sources apply only to those facilities which have the potential to emit more than 100 tons per year of VOC from a coating line as of calendar year 1977. EPA requires RACT for all sources in urban areas, not just 100 ton potential sources, (44 FR 20376). If the DEQE submits documentation to show that the emissions from exempted sources are less than 5% of the recommended control coverage then EPA would approve the coverage of these regulations. (Letter dated July 28, 1978 from G. T. Helms, Chief, Control Programs Operations Branch, to all EPA Regional Air Branch Chiefs.) According to supplementary information submitted by the DEQE, there is only one source in the state which will be covered by the magnet wire surface coating regulation; therefore, a 5% showing is not required. There are only two sources in the state affected by the large appliance manufacturing regulation; both are located in rural areas and emit less than 100 tons per year and are therefore exempt from the regulation.

The metal furniture regulation also exempts sources emitting less than 100 tons per year; however, the DEQE does not want to rely on the accuracy of their present emissions inventory to make the 5% showing.

Proposed Action: EPA is proposing approval of the magnet wire surface coating regulation and the large appliance manufacturing regulation. EPA is proposing approval of the metal furniture manufacturing regulation conditioned upon the submission of either a 5% showing or the required regulation covering smaller sources by December 1, 1980.

4. *Automotive Surface Coating.* The regulation adopted by the state provides for an extended schedule with a final compliance date of December 31, 1985. The regulation would apply to the General Motors facility in Framingham which is currently the only such facility in Massachusetts. The schedule is part of a nationwide compliance schedule for General Motors Corporation to control emissions in accordance with recommended EPA RACT emission limitations.

Proposed Action: EPA is proposing to approve this regulation.

5. *Cutback Asphalt.* The DEQE with assistance from the Department of Public Works has taken a survey of the municipal use of cutback asphalt and concluded that a regulation will be necessary. DEQE found that cutback usage is widespread and that very few communities have any experience at all using emulsified asphalt. To properly implement a successful conversion from cutback to emulsified asphalt, however, it will be necessary to provide adequate time for over three hundred communities to become educated in the use of emulsions. Therefore, the DEQE intends to schedule hearings in the near future to propose a regulation and to solicit information on the amount of time necessary to assure proper training in the use of emulsions. It will be proposed that the regulation become effective on one of three dates: July 1, 1980, July 1, 1981 or July 1, 1982. The DEQE will submit a SIP revision by March 15, 1980.

Proposed Action: EPA is proposing to approve this portion of the SIP conditioned upon the state submitting by March 15, 1980 a RACT regulation for controlling this category.

6. *Paper, Fabric and Metal Coil Coating.* From information obtained in connection with the public hearings, the State reached the conclusion that the technology for achieving EPA's recommended RACT emission limitations was not reasonably available to most of the VOC sources in Massachusetts in the three remaining categories, paper, fabric and metal coil coating. There were numerous reasons cited for this conclusion, including: age and size of existing facilities, the random design of plant layouts, the fuel requirements for add-on controls, and the use of custom-formulated specialty coatings having solvent mixtures which cannot be economically recovered for reuse.

When the State informed EPA that the CTG guidance was insufficient as a basis for justifiable alternate emission limitations, EPA suggested that the State adopt the EPA "presumptive norm" RACT emission limitations and thereafter proceed on a source-by-source basis to develop alternate emission limitations where these would be justifiable. In response to this suggestion, the State pointed out that this would entail a heavy administrative burden of processing variances and SIP revisions. The state has proposed that it proceed, through contractual assistance, to study RACT for categories and subcategories of sources. This study and

the resulting regulations will be submitted to EPA on a schedule to be completed within one year from the date of publication of this Notice, as is described below.

On February 21, 1980 the Commissioner of the DEQE submitted a letter to EPA committing to proceed with the proposed study and to adopt regulations in accordance with the following schedule:

1. Within 15 days after publication of this Notice of Proposed Rulemaking (NPR) the DEQE shall provide EPA with their recommended emission limitation accompanied by supporting documentation for the one coil coater in the state.

2. 30 days after publication of the NPR, the DEQE shall propose a regulation for the coil coater and announce a public hearing on the regulation.

3. 60 days after publication of the NPR the DEQE will submit a list of all paper and fabric coating sources to be studied by source name, location, and suggested grouping for study.

4. 60 days after publication of the NPR the DEQE shall hold a public hearing on the proposed coil coating regulation.

5. 75 days after publication of the NPR a contract shall be awarded for studying and developing RACT limitations for all paper and fabric coating sources.

6. 105 days after publication of the NPR, the DEQE shall submit an adopted coil coating regulation to EPA as a SIP revision.

7. 180 days after the publication of the NPR, the DEQE shall provide EPA proposed emission limitations for all paper coating sources in the State.

8. 210 days after the publication of the NPR, the DEQE will propose regulations for paper coaters and announce a public hearing on the regulation.

9. 240 days after the publication of the NPR, the DEQE shall hold a public hearing on the proposed paper coating regulation.

10. 285 days after the publication of the NPR, the DEQE shall submit an adopted paper coating regulation to EPA as a SIP revision.

11. 240 days after the publication of the NPR, the DEQE shall provide EPA with their proposed emission limitations for all fabric coating sources in the State.

12. 270 days after the publication of the NPR, the DEQE shall propose a regulation for fabric coating sources and announce a public hearing.

13. 300 days after the publication of the NPR, the DEQE shall hold a public hearing on the proposed fabric coating regulation.

14. 365 days after the publication of the NPR, the DEQE shall submit an adopted fabric coating regulation to EPA as a SIP revision.

As may be seen, the development of regulations would proceed in a phased approach with adoption of regulations for the single coil coater in the State within 105 days of this Notice, a regulation for paper coaters within 285 days and a regulation for fabric coaters within 365 days.

The contract scope of work with the milestones discussed above will include evaluation of all paper and fabric coating sources located in the State. However, there is a possibility that small sources (sources with emissions of less than 100 tons per year) may be exempt from the regulation if their collective emissions contribute less than 5 percent of the total emissions from their source category or that specific sources may be exempt if the cost of controls above would be so prohibitive as to reduce the source profit margin to zero. Demonstrations for these exemptions would have to be made at the time the DEQE submits the proposed regulations to EPA.

In light of the public hearing testimony presented to the State by sources in the fabric and paper coating categories and by the coil coating source, and because the emissions from these sources constitutes only 9.5 percent of the total HC emissions generated in the State, with a majority of the remainder of the HC emissions being controlled through an automobile inspection and maintenance program and other stationary source VOC controls, EPA is proposing to conditionally approve this portion of the SIP revisions.

A conditional approval would be finally promulgated by EPA only in the event that the State and EPA have agreed upon a request for proposal including a scope of work for its study contract and the State had made satisfactory provisions for funding and awarded a contract for the study before the date of EPA's final action on this proposed rulemaking. EPA would accept a scope of work only if the end results of the study were to provide numerical emission limitations for individual sources or groups of sources. The State would have to develop reasonable implementation schedules generally not to exceed two years from the date of EPA's final rulemaking, subject to EPA's final approval of any justifiable exceptions.

Such emission limitations would have to take into account the full potential for controls available to each source, rather than simply set numbers for broad groups of sources which would result in allowing certain sources to adopt less stringent controls than they should. In other words, the State must demonstrate that any RACT determinations are justified.

EPA will closely monitor the DEQE's performance in meeting the schedule to which they have committed. Failure to meet the schedule would be considered grounds for EPA to proceed to withdraw any final conditional approval granted and to disapprove this portion of the SIP revisions.

Proposed Action: EPA is proposing to approve the VOC portion of the SIP as it pertains to paper, fabric and metal coil coating, subject to the condition that the State develop and submit adopted regulations as SIP revisions to EPA in accordance with the following schedule:

1. 60 days after the publication of the NPR, the DEQE shall hold a public hearing on the proposed coil coating regulation.

2. 105 days after the publication of the NPR, the DEQE shall submit an adopted coil coating regulation to EPA as a SIP revision.

3. 240 days after the publication of the NPR, the DEQE shall hold a public hearing on the proposed paper coating regulation.

4. 285 days after the publication of the NPR, the DEQE shall submit an adopted paper coating regulation to EPA as a SIP revision.

5. 300 days after the publication of the NPR, the DEQE shall hold a public hearing on the proposed fabric coating regulation.

6. 365 days after the publication of the NPR, the DEQE shall submit an adopted fabric coating regulation to EPA as a SIP revision.

C. Transportation Planning

1. *Background.* Section 174(b) of the Act provides that SIP revisions prepared to satisfy Part D "shall be coordinated with the continuing, cooperative, and comprehensive transportation process required under Section 134 of Title 23, United States Code". (The transportation planning process as well as the Section 110 air quality maintenance planning process, are further required to take into account the requirements of Part D.) In order to implement this requirement, EPA and the U.S. Department of Transportation (DOT) adopted guidelines in June of 1978 (hereafter EPA–DOT Guidelines) which describe an acceptable process for accomplishing the continuing tasks of transportation-air quality planning and programming required by the Clean Air Act. The three areas considered critical for adoption in the 1979 plan revision to produce an adequate

transportation planning and project implementation process are:

1. Incorporating a description of the major tasks and responsibilities of agencies involved in the transportation process and a description of the points in the process where air quality objectives will be considered. This includes the establishment of procedures and criteria by which transportation plans, programs and projects will be reviewed for conformity with the SIP. (See discussion below under Conformity Procedures and Criteria.)

2. The inclusion of detailed work program and schedule for evaluating packages of transportation measures to improve air quality. The evaluation should lead to a firm commitment to implement those measures determined to be reasonably available.

3. Providing for the inclusion of specific air quality related transportation projects and commitments to implement them.

The discussion below describes the adequacy of the Massachusetts submittal in meeting the Clean Air Act requirements related to transportation planning. The objective is to guarantee that the transportation projects will contribute to the maximum extent feasible to a reduction of emissions necessary to make reasonable further progress toward attainment of the ozone and carbon monoxide air quality standards.

2. *Planning Process Requirements.* a. *Integration of Air Quality Considerations with Transportation Planning Process.* Regional planning agencies (RPAs) have been designated by the Governor of Massachusetts to be one member of the MPO in each area. The MPO is responsible for transportation planning and meeting the requirements of Section 134 of the Federal Aid Highway Act. On June 18, 1978 the MPO's in each area were designated under Section 174 of the Clean Air Act as having responsibilities for air quality-transportation planning activities. RPAs are thus the agencies which fulfill the intent of the Clean Air Act to have local organizations take lead responsibility for assuring the integration of the air quality and transportation planning process and the conformity of transportation plans, programs, and projects with the SIP.

The Massachusetts submittal describes the transportation planning process and the way in which highway and transit projects are advanced for funding. Also included is a discussion of procedures for an annual conformity determination of transportation plans and programs with the SIP. Memoranda of Understanding (MOU's) among DEQE, RPAs, the Department of Public Works and the Executive Office of Transportation and Construction have been submitted which commit to the: 1) documentation of the existing air quality transportation planning process in the region, 2) identification of actions necessary to improve the process, and 3) special consideration for planning and implementing air quality improving projects. The MOUs also contain criteria for evaluating conformity of transportation plans, programs, and projects, and commitments to public transportation which will be addressed in subsequent sections.

3. *Conformity Procedures and Criteria.* The Administrator's memorandum requires that, where the SIP revisions have demonstrated the need for an attainment date extension, the revisions must "Contain procedures and criteria adopted into the SIP by which it can be determined whether the outputs of the DOT Transportation planning process conform to the SIP." 43 FR 21677. (See also the EPA and DOT "Transportation-Air Quality Planning Guidelines, June, 1978," (Guidelines) page 23.)

The basic policy goal of the integrated transportation-air quality planning is to reduce transportation system emissions and resulting adverse air quality impacts while maintaining compatibility with other community goals. The documentation resulting from the Federal-Aid Highway Act Section 109(j) "consistency" determination process along with the SIP provisions under consideration here are, together, the means by which it can be determined whether transportation plans, programs, and projects (the "outputs" of the transportation process) will allow attainment of the NAAQS as expeditiously as practicable, but no later than the required attainment date (Section 172(a)), will lead to the implementation of all reasonably available control measures as expeditiously as practicable (Section 172(b)(2)) and will provide for reasonable further progress in the reduction of emissions sufficient to attain the standards by the required date. Since these are requirements for all nonattainment SIPs, transportation plans, programs, and projects must be determined to satisfy these requirements in order to conform to the SIP (Section 176(c)) and the SIP must contain procedures and criteria to make this conformity determination. The conformity review procedures and criteria are discussed on pp. 100–105 and in Appendix I of the Massachusetts submittal. Appendix J has been reserved for project guidelines but was not included with the submittal. (Note that Massachusetts uses the term "consistency" in describing this process.) An example Memorandum of Understanding which the DEQE has entered into with state and regional transportation planning agencies, Section II of which describes the conformity review process, is found on pages 87 to 95 of the submittal.

The Massachusetts submittal contains two sets of criteria to be used by the MPO and the DEQE for determining conformity, one set for plans and programs and another for projects. (The criteria are in Appendix A to the MOU's, pp. 93–95, and also in Tables IV–4 and IV–5.) A transportation plan consists of a long range element which provides for the long range (10–30 year) needs of an area and identifies new transportation policies and facilities or other major changes in the existing network, and also includes a transportation systems management element which provides for short range needs by making efficient use of existing transportation resources. A transportation program is a staged, multi-year listing of projects which are to be advanced for federal funding during the next three to five years and also includes an annual element which is a listing of projects for which funding is to be requested within the next year. A project is any individual strategy, measure, construction activity or other action taken to improve the transportation system. Included are highway and transit construction, repaving roads, acquisition of buses, ride sharing programs, traffic signalization modifications, and a wide variety of other activities.

a. *Plans and Programs.* For the plan and program level the Massachusetts submittal lists twelve criteria to be used for evaluating conformity (Table IV–4, pp. 101–102). The criteria require consultation with the DEQE in the early phases of plan development leading to agreement on analyses to be performed; modification of the transportation planning process to insure that air quality impacts are considered; advancement of plans and projects, and evidence on studies beneficial to air quality; inclusion in plans of all reasonable and feasible hydrocarbon reduction measures; performance of an adequate air quality analysis; assistance to DEQE in identification of carbon monoxide hotspots; special consideration for funding advancement and implementation of reasonable and

feasible projects with beneficial air quality impacts; evidence of air quality improvement through monitoring data; documentation of the projected air quality impact of transportation programs; establishment of staff training and a commitment to do monitoring.

The MOU provides for consultation with DEQE in making the "consistency" determination and ultimately for submission of the MPO's determination with DEQE's comments to the FHWA. The November 13, 1979 letter from the Commissioner of the DEQE states that in all cases there will be written documentation and comments, if any, on all the MPOs plan and program consistency determinations at the systems level. DEQE has also in that letter established as a goal assisting the development and use of analytical techniques, and the availability of resources, to do an emissions-based analysis of plans and programs by January 1, 1981 or in accordance with the certification requirements of the U.S. DOT. After such capability and resources have been obtained the DEQE has committed to revise the existing consistency criteria in the MOUs to include emissions-based criteria providing for a comparison with the RFP projection in the SIP. (See also the "Preamble" to Appendix A of the MOU.)

b. *Projects.* The project level criteria in the submission are similar to those for plans and programs (Table IV–5, p. 104). They require that hydrocarbon emissions resulting from the preferred alternative be less than the no-build case or if greater, all reasonable and feasible hydrocarbon measures must be included; no new carbon monoxide violations may be caused by a project, and where violations currently exist ambient levels of carbon monoxide must be reduced. Transit projects and non-major projects are presumed consistent.

In a supplement to the submittal dated September 19, 1979 from Thomas McLoughlin, Acting Commissioner of the DEQE (hereafter referred to as the supplement) the need for project level technical support is addressed by stating that a requirement for a microscale, or local, impact analysis is implied in the conformity criterion to demonstrate evidence of no carbon monoxide violation in areas not currently exceeding standards and a reduction of CO in areas where violations currently exist. EPA interprets this criterion to require a microscale analysis for the impact of transportation projects on ambient levels of carbon monoxide.

In the supplement the DEQE explains that the exemption of transit projects from conformity review is justified because it represents" . . . good public policy in the name of both air pollution control and energy conservation to facilitate the construction of mass transit facilities." They further note that potential adverse impacts can be addressed and resolved through the environmental review procedures required by the Massachusetts Environmental Policy Act, which is the state's environmental impact statement process.

Proposed Action: EPA is proposing approval of the conformity procedures and criteria as further explained in the September 19 supplement and the November 13, 1979 letter. EPA intends to monitor the state's progress, and assist to the extent possible, in developing additional emissions analysis capability and in amending the conformity criteria accordingly.

EPA is proposing approval of the portions of the SIP addressing the plan and program conformity evaluations.

EPA is proposing approval of portions of the SIP addressing the project conformity evaluations conditioned upon submittal of Appendix J of the Massachusetts SIP by the expiration of public comment period of this Notice of Proposed Rulemaking.

4. *Reasonably Available Control Measures.* Sections 110(a)(3)(D), 172(b)(2) and 172(b)(11)(C) of the Act require a commitment by the state in the SIP to the analysis of all reasonably available control measures (RACM's) and the adoption of those which are found necessary and effective by DEQE. The Administrator's Memorandum further requires the SIP to "present a program for evaluating a range of alternative packages of transportation measures . . . which identifies a package of measures to attain the emission reduction goal ascribed in the SIP".

The original submittal contained no hydrocarbon reduction goals. However, the DEQE has provided goals for the Boston, Worcester, and Springfield urban areas. The Northern Middlesex, Merrimack Valley, Metropolitan Boston, Old Colony, Southeastern, Cape Cod, Martha's Vineyard, and Nantucket Planning Regions are considered, for the purpose of the RACM analysis, to be within the Boston urban area, Montachusetts and Central Planning Regions within the Worcester urban area, and Berkshire County, Franklin County and Lower Pioneer Valley Planning Regions within the Springfield urban area. EPA has requested and received additional information on the interpretation of the target reductions. The information clarifies the base year to be used for emissions reductions, and whether the targets allow credit for Inspection and Maintenance (I&M) and the Federal Motor Vehicle Emission Control Program.

The submittal also did not include a schedule and milestones for completing the RACM analysis. The Administrator's memorandum (43 FR 21677) requires that a schedule for RACM analysis be adopted and be compatible with the states' schedule for adopting the 1982 attainment plans. In the letter dated November 13, 1979, DEQE has provided the schedule for RACM analyses and for the adoption of air quality improving transportation projects into the 1982 plan revisions.

Proposed Action: EPA is proposing approval of the SIP related to the RACM analysis.

5. *Commitment to Public Transportation.* As was noted in the General Preamble, at 44 FR 20375, Part D SIP revisions which contain attainment dates of ozone or carbon monoxide which are after 1982 must "Include a commitment to establish, expand, or improve public transportation measures to meet basic transportation needs as expeditiously as practicable, including a commitment to use necessary federal grants and state and local funds." (See Sections 110(a)(3)(D) and 172(b)(2) of the Act.) The Memoranda of Understanding between the DEQE and the MPO's made a commitment to the maintenance and improvement of the overall level of transit service to meet, at a minimum, basic transportation needs in the region. This commitment is further defined to mean operate at least the current level of daily vehicle miles of travel of transit service and to expand service in order to meet projected demand or to continue to carry at a minimum the same percentage of trips via transit. The commitment is conditioned on the availability of Federal, State and local funds.

This commitment is weak. The Act intends that States and Regions re-establish their priorities to provide sufficient transit service which can offer viable alternative to low occupancy vehicles. An aspect of this commitment is the actual pursuit of funding sources, for example, and if necessary the postponement of other activities not in support of this goal.

Proposed Action: EPA is proposing to approve this portion of the submittal. Although the language of the commitment is weak, the State and regions have shown that there is a commitment to public transportation. All regions are committed to the analyses of both long and short range improvements in public transportation and many regions have submitted transit projects for inclusion in the SIP.

D. Carbon Monoxide Attainment Plan

The Administrator's memorandum (43 FR 21677) requires that the 1979 plan must, in addition to demonstrating RFP toward elimination of identified violations of the standard, provide for a schedule to conduct CO monitoring as necessary to correct any deficiencies in the monitoring network as identified by the Regional Office. Because of the localized nature of the violations and the possible widespread nature of their occurrence, some alternative to ambient monitoring with fixed instruments is needed to define the extent and severity of carbon monoxide violations. One such alternative is known as a hotspot screening program and its need in Massachusetts is based on a determination by EPA that the ambient CO monitoring network is not adequate. As explained in a letter dated August 17 from EPA to all Massachusetts planning agencies, the prediction that Massachusetts will attain standards by 1987 is based on monitoring done at a limited number of fixed sites. Since ambient CO violations are almost always the result of localized emissions, a limited number of fixed monitors alone cannot be used to determine the full extent of the CO problem in complex urban areas. Furthermore, the Massachusetts CO monitoring network does not entirely meet the EPA siting criteria, and therefore may not be identifying the highest violations occurring within the State. Many other potential CO hotspot sites exist but have not been monitored due to limited resources. A CO hotspot screening program will help determine in a cost effective manner where other violations are occurring without requiring extensive monitoring. EPA will therefore accept a CO screening procedure based on traffic data and ambient air quality models as an adequate substitute for extensive monitoring. Priority identification of potential hotspots would then be followed by ambient monitoring at representative sites to verify the results of the screening procedure. A commitment that corrective action will be initiated at areas found in violation is also needed.

The MPOs are to assist DEQE in the identification of carbon monoxide violations. By letter dated November 13, 1979 DEQE has committed to applying an EPA-approved screening methodolgy to identify potential violations in each region, to rank the results of the screening, and to identify the location with the predicted highest violation (the "worst-case location"). The worst-case site from each region will be analyzed by DEQE to determine whether areawide strategies are adequate to correct the violation. If the analysis shows standards will not be achieved by 1987 at the latest, DEQE commits to conduct ambient monitoring at representative sites and to analyze the monitored data. DEQE will submit a schedule for intitiating corrective action for those sites for which attainment cannot be demonstrated by 1987. DEQE has committed to the manpower to undertake these activities and to seek resources for initiating corrective actions as necessary.

The DEQE must also submit more detailed information concerning which strategies have been implemented or justification when they have not been implemented for areas of the State already studied, such as Springfield and Boston. Implemented strategies should be submitted as part of the SIP. Areas known to be violating the CO standard, such as Waltham and East Boston, must be analyzed for corrective strategies according to the screening methodology discussed above.

Proposed Action: EPA is proposing approval of the carbon monoxide plan conditioned upon adherence to the following schedule:

a. RPA's will apply and EPA approved screening methodology to identify potential violations in each planning region; to rank the results of such screening and to identify the worst-case location in each region by July 1, 1980.

b. DEQE will analyze the impact of areawide strategies contained in the SIP upon each worst case site identified from the screening and submit the results of this analysis to EPA by August 15, 1980.

c. DEQE will submit a schedule by October 1, 1980 for monitoring at representative sites for which the anlysis in b. (above) do not show attainment as expeditiously as practicable, but no later than December 31, 1987. The schedule will include a date by which DEQE will analyze the impact of areawide strategies contained in the SIP on the sites monitored and a date to EPA a date by which corrective actions will be initiated for sites not demonstrating attainment.

d. DEQE will submit additional information on carbon monoxide strategies for areas which have previously been studied by the expiration of the public comment period of this Notice of Proposed Rulemaking.

E. Inspection and Maintenance

"Inspection/Maintenance" (I/M) refers to a program whereby motor vehicles receive periodic inspections to assess the functioning of their exhaust emission control systems. Vehicles which have excessive emissions must then undergo mandatory maintenance. Generally, I/M programs include only passenger cars, although other classes can be included as well. Enforcement can be accomplished by requiring proof of compliance to register a vehicle. In certain cases, a windshield sticker system can be used, much like many safety inspection programs.

Section 172 of the Act requires that SIPs for States which include nonattainment areas must meet certain criteria. For areas which demonstrate that they will not be able to attain the ambient air quality standards for ozone or carbon monoxide by the end of 1982, despite the implementation of all reasonably available measures, an extension to 1987 will be granted. In such cases Section 172(b)(11)(B) requires that: "the plan provisions shall establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program. . . ."

In the General Preamble for Proposed Rulemaking (44 20372, 20373), EPA issued guidance on the general criteria for SIP approval including I/M, and on July 17, 1978, regarding the specific criteria for I/M SIP approval. Though the July 17, 1978, guidance should be consulted for details, the key elements for I/M SIP approval are as follows:

- *Legal Authority.* States or local governments must have adopted the necessary statutes, ordinances, etc., to implement and enforce the inspection/maintenance program. (Section 172(b)(10).)
- *Commitment.* The appropriate governmental unit(s) must be committed to implement and enforce the I/M program. (Section 172(b)(10).)
- *Resources.* The necessary finances and resources to carry out the I/M program must be identified and committed. (Section 172(b)(7).)
- *Schedule.* A specific schedule to establish the I/M program must be included in the State Implementation Plan. (Section 172(b)(11)(B).) Interim milestones are specified in the July 17, 1978, memorandum in accordance with the general requirement of 40 CFR 51.15(c).
- *Program Effectiveness.* As set forth in the July 17, 1978 guidance memorandum, the I/M program must achieve a 25 percent reduction in passenger car exhaust emissions of hydrocarbons and a 25 percent reduction for carbon monoxide. This reduction is measured by comparing the levels of emission projected to December 31, 1987, with and without the I/M program. This policy is based on Section 172(b)(2) which states that "the plan provisions . . . shall . . . provide for

the implementation of all reasonably available control measures. . . ."

Specific detailed requirements of these five provisions are discussed below.

To be acceptable, I/M legal authority must be adequate to implement and effectively enforce the program and must not be conditioned upon further legislative approval or any other substantial contingency. However, the legislation can delegate certain decision making to an appropriate regulatory body which must pass any necessary regulations prior to program implementation. For example, a state department of environmental protection or department of transportation may be charged with implementing the program, selecting the type of test procedure as well as the type of program to be used, whereas adoption of necessary rules and regulations may involve some approval. I/M legal authority must be included with any plan revision which must include I/M (i.e., a plan which establishes an attainment date beyond December 31, 1982).

Written evidence is also required to establish that the appropriate governmental bodies are "committed to implement and enforce the appropriate elements of the plan". (Section 172(b)(10).) Under Section 172(b)(7), supporting commitments for the necessary financial and manpower resources are also required.

A specific schedule to establish an I/M program is required. (Section 172(b)(11)(B).) The July 17, 1978, guidance memorandum established as EPA policy the key milestones for the implementation of the various I/M programs. These milestones were the general SIP requirement for compliance modified at 40 CFR 51.15 (c). This section requires that increments of progress be incorporated for compliance schedules of over one year in length.

To be acceptable an I/M program must achieve the requisite 25% reductions in both hydrocarbon and carbon monoxide exhaust emissions from passenger cars by the end of calendar year 1987. The Act mandates "implementation of all reasonably available control measures as expeditiously as practicable". Section 172(b)(2). At the time of passage of the Clean Air Act Amendments of 1977, several I/M programs were already operating, including mandatory programs in New Jersey and Arizona operating at about a 20% stringency.

A mandatory private garage I/M program may be implemented as late as December 31, 1981 and the attainment date may be as late as December 31, 1987. Based on an implementation date of December 31, 1981 and a 20% stringency factor, EPA predicts that reductions of both CO and HC exhaust emissions of 25% can be achieved by December 31, 1987. Thus, because of the Act's requirement for the implementation of all reasonably available control measures and because New Jersey and Arizona have effectively demonstrated practical operation of I/M programs with 20% stringency factors, it is EPA policy to use a 25% emission reduction as the criterion to determine compliance of the I/M portion with Section 172(b)(2).

The Massachusetts legislature passed a motor vehicle Inspection/Maintenance bill which was signed into law on November 14, 1979 by Governor King.

The I/M program will cover all gasoline powered motor vehicles with a curb weight of up to 8,000 lbs. and provides for inspection each year. Inspections would be carried out by private licensed garages. Vehicles failing inspection must be reinspected following repair. Enforcement will be carried out through windshield stickers which are issued as proof of inspection. The fee for the combined safety and emissions inspection may not exceed ten dollars. The fee will be set by the Registrar of Motor Vehicles and the Commissioner of the DEQE.

Vehicles older than 15 years will be excluded. Also, a vehicle exceeding the standards after its second inspection could be granted a waiver, if the cost of repairs exceeded $100.00 or 10 percent of the vehicle's value. The Commissioner of the DEQE is authorized to develop rules and regulations to establish emission standards, to establish a program for certification and training of mechanics, and to establish specifications for instruments. In their May, 1979 submittal, Massachusetts committed to achieve from the I/M program, by December 31, 1987, a 25.9% reduction in HC emissions and a 27.1% reduction in CO emissions from Light Duty Vehicles.

Under the bill private garages will be licensed to conduct inspections. In order to be licensed the garage must possess an approved instrument, allow inspections to be done only by properly trained and certified inspectors, and collect and maintain accurate data files. Both the registrar and commissioner are authorized to enter any licensed inspection station to examine records and enforce program provisions.

For the purpose of consumer protection the program will feature referee stations where the motorists may have their vehicle reinspected should they disagree with the garage inspection. These referee stations are authorized to pass a car which failed inspection in a garage, is retested, and found to actually meet the emissions cutpoints established for the program.

In order to involve the legislature in development of the program, all rules and regulations must be submitted to the general court where they will be submitted to appropriate committees. Within thirty days the committee may hold public hearings on the rules and regulations and issue a report. The report must be considered by the registrar and commissioner before filing final rules and regulations for the program.

Regarding program implementation Massachusetts has entered into an agreement with EPA which was signed by the Regional Administrator on October 15, 1979. In this agreement Massachusetts committed to a work plan which would insure that an adequate I/M work program is developed and implemented. The work plan will:

- Identify necessary program elements.
- Designate agency responsibilities.
- Commit resources and finances to implement elements.
- Establish a schedule by when these elements will be implemented.
- Identify use of EPA funds and needs of EPA technical assistance.

Proposed Action: EPA is proposing to approve the I/M portion of the Massachusetts SIP conditioned upon the submittal of the above described work plan as a SIP revision by the close of the public comment period of this Notice of Proposed Rulemaking.

The work plan must commit to the following schedule:

1. By June 15, 1980 the complete development and initiation of a public participation program.
2. By August 15, 1980 the development and adoption of emission test equipment specifications for the program.
3. By September 15, 1980 commence training programs for state administrative, technical and inspection personnel as well as garage mechanics.
4. By November 15, 1980 the design and adoption of a data recording and management system.
5. By May 15, 1981 the complete development and adoption of a quality control program.
6. By May 15, 1981 the complete design and adoption of a garage licensing or certification program.
7. By May 15, 1981 the adoption of program cutpoints and standards.
8. By November 15, 1981 the completion of building, equipping and/or identifying referee stations.

9. By January 1, 1982 commence mandatory inspection/mandatory maintenance phase.

F. Other Part D requirements

1. *Emissions Inventories.* a. *General.*—Sections 172 b(3) and b(4) of the Act together require that the SIP revision must include an accurate, current inventory of emissions of non-attainment pollutants for the non-attainment area, and must provide for updates of the inventory to indicate emissions growth and to show progress in reducing emissions from existing sources.

b. *Stationary Source.*—The emissions inventory submitted by DEQE is adequate for major stationary sources. However, the inventory was not submitted in a format to be readily entered into the EPA data computer system, the National Emissions Data Systems (NEDS). The inventory also needs improvement in addressing minor stationary source emissions.

c. *Mobile Source.*—Mobile 1, a computer program developed by EPA for calculating emissions from motor vehicles by model year, was used for the mobile source component of the inventory. EPA test procedural default values based on national averages were used by DEQE for ambient temperature, percentage hot-start and cold-start, and vehicle type. Massachusetts specific values for age distribution and speed by functional class were used.

As the State and regional planning agencies evaluate various alternative transportation measures and compare them for their relative effectiveness, data which accurately characterizes conditions in Massachusetts will become more important. Key parameters and assumptions used in estimating emissions will need to be verified. The rationale for projecting a 2.6% annual growth rate of vehicle miles of travel (VMT) also must be reassessed to consider new information such as energy constraints and changing trends in land-use patterns.

In addition to these improvements needed for the total mobile source inventory, a carbon monoxide inventory is needed for each location identified as being in violation of the standards. As part of the CO hot spot screening program each site must be inventoried in terms of its current traffic pattern, traffic flow, spatial configuration and other factors which influence the relationship of emissions to ambient levels of CO. Without this information corrective measures cannot be evaluated for their effectiveness in alleviating the violation. The Massachusetts SIP currently describes CO emissions only by cities, towns, air quality control regions, or planning regions. These areas are too large to allow meaningful analyses.

The mobile source inventory is adequate for the 1979 revision, however, it must be reviewed for the validity of assumptions and refined for use in future plans. Both mobile and stationary source inventories must be updated annually and the procedures used by DEQE to accomplish this should be described in the SIP.

Proposed Action:

EPA is proposing approval of the inventories conditioned upon the submittal by DEQE by December 1, 1980 of both the stationary and mobile source inventories in NEDS format or other EPA approved format accompanied by a description of the procedures to be used to annually update these inventories.

The stationary source inventory must be improved upon in terms of calculating the emission contribution of minor point sources. This information must be submitted by December 1, 1980.

The mobile source inventory must be accompanied by a schedule outlining the dates by which the assumptions used in hot and cold start calculations and stabilized operating percentages, mix by vehicle type, VMT growth rates and other refinements will be verified. Data verification must be submitted prior to December 1, 1980.

Further, DEQE must submit a CO evaluation of each site for which a determination is made that the violation cannot be corrected with area-wide strategies and must be site specific considering worst case winter temperatures by October 1, 1980. (See discussion under CO Planning Activities.) CO evaluation by site must represent the immediate area of violation and surrounding areas which may be impacted by corrective action, such as traffic flow improvements. This analysis should be part of the CO attainment program discussed in Section (d)(2).

2. *Reasonable Further Progress.* a. *General.*—Section 172(b)(3) of the Act requires that "reasonable further progress" (RFP) be made toward achieving the NAAQS. Section 171(1) defines this to mean annual incremental reductions in emissions sufficient to attain standards by the required date.

The RFP requirement is one of the most important provisions of Part D. What it means is that the SIP must inventory current emissions, estimate future emissions growth, and predict the emissions reductions available to attain standards as expeditiously as practicable but no late than the required attainment date. The RFP projection can be illustrated as a graph showing expected emissions reductions from the present to the attainment date. An ozone plan like Massachusetts' with an attainment date after 1982 will satisfy the requirement for reasonable further progress if the SIP requires at least (1) "straight-line reductions" by the end of 1982, or (2) reductions that reflect application of all reasonably available control measures for stationary and mobile sources through the end of 1982 with no emissions growth allowance for new major sources (44 FR 20377).

b. *Stationary Source.*—As has been discussed above, for stationary sources EPA's requirements for RFP are the implementation of all RACT regulations for sources in the State for which EPA has published a CTG document by January 1978 and schedules to adopt and submit by July 1, 1980 and January 1, 1981 additional requirements for sources covered by future CTGs (44 FR 20376). Because DEQE has not submitted regulations to implement RACT for certain categories of stationary sources due in this submission as described above, the SIP does not satisfy the RFP requirement. Based on the information in the SIP revisions, it appears that the necessary reductions to achieve 1987 attainment can be realized from controls on remaining unregulated and future CTG categories. The state will have to revise the RFP demonstration each time new VOC regulations are submitted for inclusion in the SIP.

c. *Mobile Source.*—For mobile sources, the RFP requirement is more complex. In non-attainment areas requesting an extension of the 1982 deadline, the Administrator's memorandum, the joint EPA and USDOT guidelines, Section 110(c)(5)(B)(ii) and Section 172(b)(2) of the Act require that the SIP provide for expeditious implementation of reasonably available control measures (RACM) which improve air quality. Section 108(f) of the Act lists transportation strategies and projects which as a minimum are to be considered reasonably available for adoption in the SIP (44 FR 20377). Defining RFP beyond 1982 should be accomplished after the RACM analysis has been completed as discussed in a previous section.

The State has submitted a list of projects for the Boston, Springfield and Worcester Regions, and several statewide projects (attached as Appendix A). Of particular importance is the submittal of a statewide Masspool, carpooling regulation. The DEQE expended considerable effort in order to accomplish the adoption of this

regulation and is commended for it. The Massachusetts Department of Public Works is implementing the program and it should be noted that the program is one of the most successful strategies in reducing VMT. EPA will be publishing shortly in the Federal Register, a discussion of previously promulgated regulations covering Boston and Springfield such as the federal carpooling regulation which will be reviewed to see if they should be revoked in light of the revised SIP.

In a letter dated December 7, 1979 from the Commissioner of the DEQE to the Regional Administrator, the DEQE has included the following statements concerning the air quality related transportation projects which are included in the SIP revisions. "This will effectively leave one list of transportation projects that meet EPA's criteria for approval in the SIP: i.e., they are (a) beneficial in reducing transportation-related emissions, and (b) can be legally enforced because there exists a completion date. With respect to this final list of projects, however, it will be our understanding that the indicated 'completion dates' are not mandatory deadlines that will trigger enforcement action under the Act in the event they are not achieved. It will instead be our understanding that these dates are goals which the transportation sector will do their best to achieve within the constraints of the transportation planning process and limited funding."

EPA recognizes the inherent complexities and uncertainties of the transportation planning and implementation process, and will fully take into consideration any delays beyond the control of the implementing agency before taking enforcement action for a missed compliance date. However, Section 172(b)(10) of the Clean Air Act requires a firm commitment to an implementation schedule for transportation control measures, as well as any other control measure in a SIP. EPA interprets the statements quoted above as meaning that the completion dates can be legally enforced, as is stated in the first sentence. However, in view of the fact that planning, construction, or funding difficulties may arise, the dates should not be viewed as irrevocable deadlines since the SIP can be revised if, for good cause, the projects cannot be completed on schedule.

Proposed Action: EPA is proposing approval of the RFP demonstration conditioned upon the state amending the RFP demonstrations according to changes discussed in the foregoing sections of this Federal Register and completion of the following items: the state must recalculate the RFP denomstrations to show the annual reductions obtained from adopted strategies contained in the SIP for mobile sources by January 1, 1981. The state must revise the RFP lines at the same time the regulations for paper, fabric and coil coating source categories are submitted.

The RFP demonstration would have to be disapproved if the stationary source VOC portion is disapproved since this would not represent timely implementation of RACT.

EPA is proposing approval of the transportation projects listed in Appendix A. These projects have been submitted with compliance schedules and can be demonstrated to be beneficial in reducing transportation related emissions.

3. *New Source Review.*—In a Federal Register Notice dated July 16, 1979 (44 FR 41261) EPA published a discussion and comments on the New Source Review program proposed by the DEQE. The general framework for the program and its implementation as it relates to TSP and SO_2 sources was discussed. There are additional requirements for CO and O_x which are addressed here.

Section 172(b)(11)(A) of the Act requires that for areas requesting an extension until 1987 of the date for attainment of the primary standard for photochemical oxidants or carbon monoxide the State must establish a program which requires, prior to issuance of any permit for construction or modification of a major emitting facility, an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

These requirements are satisfied by the Massachusetts Environmental Policy Act (MEPA) G.L. Ch. 30, 61 and 62 which established an environmental review process for state actions which may cause damage to the state's natural environment. The regulations apply to activities undertaken in the Commonwealth by state agencies, or which receive state financial assistance from state agencies or which require permits from state agencies. Sources applying for permits are therefore required to comply with MEPA by preparing an Environmental Notification Form which must address all significant potential impacts.

There is one other requirement of the New Source Review Program which must be satisfied on a pollutant by pollutant basis. As described in the April 4, 1979 Federal Register (44 FR 20379), a state preconstruction review program along with other SIP provisions must impose enough controls on new and existing sources so that reasonable further progress and attainment will actually occur as required. If this does not happen, major sources and major modifications may be unable to obtain permits in the future, existing sources may have to apply even more stringent controls, and the overall SIP may be found not to satisfy Part D requirements.

A discussion of how this requirement was addressed in the SIP for TSP and SO_2 was published in the separate Federal Register notice referenced earlier (44 FR 41261). Since that Notice was published, the Acting Commissioner of the DEQE has submitted a letter (dated August 7, 1979) in which he commits the DEQE to adopting regulations by March 1, 1980 which will specify that by the time a CO or VOC source is to commence operation, the total allowable emissions from (1) existing sources, (2) new or modified sources which are not major emitting facilities, and (3) the proposed source will be less than total allowable emissions from existing sources represented by the RFP line. As discussed earlier in the Notice the Reasonable Further Progress demonstration for ozone must be based on the implementation of RACT regulations for all stationary sources in the state for which EPA has issued Control Technology Guidelines and implementation of RACM for mobile sources. Each time DEQE adopts regulations necessary to attain the O_x standard, the RFP demonstration will have to be revised accordingly.

Proposed Action: EPA is therefore proposing conditional approval of the New Source Review Program based on the DEQE meeting the conditions of O_x control portion of the SIP and the RFP portion of the SIP. The disapproval of either of these portions will also mean disapproval of the New Source Review Program regulations. The failure to meet conditions in the VOC control portion or RFP portion would require that no permits for major sources be issued until the deficiencies are corrected. The state must also submit regulations by March 1, 1980 which will provide for approval of new sources consistent with RFP.

4. *Public Participation/Social and Energy Impact Analysis.*—To assist in the development of the control portions of the SIP, the DEQE convened a

Technical and Policy Advisory Committee with subcommittees on "VOC" and "Growth". Staff support was also provided to the Special Study Commission for I/M which was formed by the state legislature, and investigated all available I/M options and make recommendations for program design. Educational efforts designed to reach a broad constituency included a newsletter, a series of public forums and television and radio talk shows. The plan does not include a plan for a future public participation program.

Although the State has documented involvement by the public and local and state officials in developing the plan, in accordance with Section 172(b)(9), the SIP does not include an adequate identification and analysis of the energy or social effects of the plan, as required by Section 172(b)(9)(A). Neither does the plan include a summary of the public comment on this analysis (Section 172(b)(9)(B)).

Proposed Action: EPA proposes to approve the public participation section of the SIP conditioned upon the submittal to EPA by March 31, 1980 of a more detailed analysis of the social and energy impacts of the plan and an accompanying summary of public comment on this analysis.

EPA is also conditioning approval of the public participation element upon submission of a comprehensive plan for public participation by March 31, 1980.

5. *Resource Commitments.*—The State has provided a description of the personnel resources that will be allocated to carry out the various provisions of the proposed SIP. Enforcement and monitoring resources are outlined for the DEQE for stationary source strategies and planning resources are more generally outlined by the involved state agencies for mobile source strategies. Each of the three major MPO's have submitted institutional and political feasibility studies for each strategy which has been preliminarily screened. It is stated that budget and work tasks agreed to during subsequent Section 105 and 175 program grant negotiations will outline necessary resources for future activities for all responsible state and local agencies.

Proposed Action: EPA is proposing approval of this portion of the SIP, noting that additional resource information has been submitted as part of the grant process.

II Non-Part D Requirements

The following list of issues with the exception of Public Notification were discussed in the July 16, 1979 Federal Register notice (44 FR 41258) referenced in the Summary section of this notice:

1. Interstate Pollution (Section 126),
2. Prevention of Significant Determination (PSD) Part C and Section 110(a)(2)(D),
3. Monitoring (Section 110(a)(2)(c),
4. Permit Fees (Section 110(a)(2)(k),
5. Consultation (Section 121),
6. Stack Height (Section 123),
7. Public Notification (Section 127)—requires that States shall provide for notifying the public on a regular basis of instances or areas in which any primary standards was exceeded during any portion of the proceeding calendar year.

On May 10, 1979 (44 FR 27569) EPA promulgated regulations concerning this item which requires the state to submit, by March 1, 1980, a SIP revision that contains provisions to comply with the requirement. EPA is currently preparing guidance for the states to use in developing such a plan revision.

Proposed Action: None at this time.

Also discussed in the July 16th register was a section on Conflict of Interest reproduced here as follows:

Conflict of Interest—Section 128 requires that any existing state board which is empowered to approve or enforce permits required under the Act must have as a majority members who represent the public interest. Any member with any potential conflict of interest must disclose that fact.

The Massachusetts submission had included documentation which concludes that the existing state conflict of interest provisions are adequate to satisfy these requirements, and EPA agrees with this conclusion.

Since no documentation concerning this portion of the SIP was made available to the public at the time the proposed notice was published we are soliciting comment at this time on this portion of the SIP. Documentation is now available at the locations referenced in the earlier portions of this notice.

Proposed Action: EPA is proposing to approve this portion of the SIP.

On March 30, 1979 the Commissioner of the DEQE submitted changes to two regulations adopted by the DEQE on June 17, 1977. Public hearings were held on the proposed changes during the Fall of 1976.

A revision to Regulation 310 CMR 7.02(12) requires monitoring of operations for storage vessels for petroleum liquids which is a provision also required by the federal New Source Performance Standards (NSPS) regulation. The DEQE also submitted a revision to Regulation 310 CMR 7.02(8) which changes the NO_x emission limitation for new fossil fuel utilization facilities. EPA is still reviewing this revision and will propose action at a later date.

Since Regulation 310 CMR 7.02(12) has been modified to be consistent with Federal regulations, EPA is proposing approval.

Interested persons are invited to comment on these SIP revisions and whether they meet the requirements of the Act. Comments should be submitted, preferably in triplicate, to the address listed in the front of this notice. Public comments received by (30 days after the date of publication) will be considered in EPA's final decision. EPA believes the available period for comments is adequate because:

(1) The issues involved in the Massachusetts SIP are sufficiently clear to allow comments to be developed in the available thirty day period;

(2) The SIP has been available for inspection and comment since May 16, 1979. EPA's notice published on June 5, 1979 indicated the possibility that the comment period may be less than 60 days; and

(3) EPA has a responsibility under the Act to take final action as soon as possible after the July 1, 1979 deadline on those sections of the SIP that address the requirements of Part D.

All comments received will be available for inspection at the Region I office, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". We have reviewed this regulation and determined that if is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: February 22, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

Appendix A

Project and Completion Date

State Programs:

Rail Assistance Program—Ongoing
Statewide Ride Sharing Program (Mass pool)—Ongoing
Statewide Third-Party Vanpooling Program—Ongoing
State Vanpool Incentive Funds—Continuing
State-Aid Bikeways Program—Continuing
Stage I Vapor Recovery (excluding Berkshire APCD)—Continuing

Boston Region:

MBTA Service Delivery—Ongoing

Programs to Improve Service Delivery
Programs to Improve Service Evaluation
MBTA Public Information Promotion—Ongoing
MBTA Commuter Rail Improvements Program—Ongoing
Commuter Boat Service (Hingham-Boston)—Ongoing
State and Local Subsidy of MBTA Deficit—and Maintenance of Moderate Fare Level—Ongoing
MBTA Red Line Extension-Quincy Center to Braintree—January 1, 1981
MBTA Red Line Extension-Harvard to Alewife—January 1, 1982
Extension of I-93 Bus/Carpool Lane in Charlestown—January 1, 1979
Reduction and Relocation of Bus Stops—Ongoing
Downtown Crossing—Ongoing
City of Boston Residential Sticker Demonstration Program—Ongoing
City of Cambridge Residential Parking Sticker Parking—Ongoing
MDC On-Street Parking Ban—Ongoing
MBTA Pass Program—Ongoing
MBTA Suburban Transportation Program—Ongoing
Variable Work Hours Program—Ongoing
MBTA Idling Reduction Program—Ongoing
Right Turn on Red—January 1, 1980
Charlestown Bus Garage—January 1, 1982
Bus Immersion Heater Program—Ongoing
MBTA Orangeline Relocation, South Cove to Forest Hills—September, 1981
MBTA Plant Improvements—Continuing
MBTA Vehicle Fleet Improvements—Continuing
MBTA Fringe Parking Program—Ongoing
MDPW Bikeway Program—Ongoing
Urban Systems "Topics" Project with Air Quality Benefits (no projects listed)—Ongoing

Springfield Region:

Continued Service Agreements between PVTA and private carriers—Ongoing
Transit Marketing Program—Ongoing
Hispanic Marketing Program—January 1, 1980
Purchase of 155 Advance Design Buses—January 1, 1981
Implementation of Required and optional UMTA Section 15 Reporting and Surveillance Actions—October, 1980
Phase II of the Transit Operations, Management Effectiveness Study and Implementation of Recommendations—June, 1980
Equipment Improvements of Transit System—Ongoing
Chicopee-West Springfield Bridge (conversion to bikeway-pedestrian use)—May, 1981
Amherst Bikepath—June, 1981

Worcester Region:

Aquisition of New Buses—October, 1980
Aquisition of City-Owned Buses—October, 1980
Transit Operating Assistance to Member Communities—Ongoing
Holden Bikeway—June, 1981
Worcester Bikeway—June, 1981

Berkshire Region:

Purchase of New Buses—October, 1980
Fixed Route Service (9 buses)—Ongoing

Cape Cod Region:

Brewster Bikepath—June, 1980
Route 28, Barnstable Bikepath—June, 1980
Main Street and Old Bass River Road, Dennis, Bikeway—June, 1980
Eastham Bikeway—June, 1980
Orleans Bikepath—June, 1980
Mashpee Bikepath—June, 1980
Yarmouth Bikeways—June, 1980
Shinning Sea Bikepath, Falmouth—June, 1980
Restoration of Rail Passenger Service—Ongoing

Lawrence-Haverhill Region:

MVRTA Operating Subsidy—Ongoing
Capital Facilities in Haverhill—August, 1980
Bikelane-Haverhill—May, 1980

Montachusetts Region:

MRTA Operating Subsidy—Ongoing

Lowell Region:

Operating Assistance of Public Transportation—Ongoing

Brockton Region:

Operating Subsidy for Fixed Route Transit Service—Ongoing
Bikeway-Easton—July, 1980
Bikeway-Old Colony Portion of Boston to Cape Bikeway—July, 1980

Southeastern Region:

Mattapoisett Commuter parking lot—May, 1980
Bikeway-Wareham—August, 1980
Bikeway-Norton—August, 1980
Bikeway-Somerset—August, 1980
Bikeway-Swansea—August, 1980

Franklin County Region:

TDP (Planning Activity)—Ongoing.

[FR Doc. 80-7227 Filed 3-6-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 80

[FRL-1425-5]

Controls Applicable to Gasoline Refiners; Lead Phase-Down Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA proposes several possible alternative actions regarding the unleaded gasoline production requirements (40 CFR 80.20) associated with the optional 0.8 gram per gallon (gpg) lead standard in the lead phase-down regulations for the two quarters of fiscal year 1980 beginning April 1, 1980, and July 1, 1980. The possible alternatives include, but are not limited to, (1) no change; (2) adjust the 6%/45% production requirement to more accurately reflect the increased demand for unleaded gasoline each quarter over the corresponding quarter in 1979; (3) revoke the unleaded production requirements for both quarters in 1980; or, (4) link a modification or revocation of the 6%/45% requirements to an indicator, such as retail price differential or the ratio of unleaded sales to unleaded refinery output. The requirements applicable to the quarter beginning January 1, 1980, have been revoked as discussed in a Final Rule published elsewhere in this issue of the Federal Register.

DATES: Comments on these possible future actions must be received on or before April 7, 1980. If requested, a public hearing will be held.

ADDRESSES: Send comments to Docket Number EN-80-4, Environmental Protection Agency, 401 M Street, S.W., 20460. Comments should be identified with the docket number. Comments will be available for public inspection at the Central Docket Section (Docket No. EN-80-4), Room 2903B, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C., from 8:00 A.M. to 4:00 P.M. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying service.

FOR FURTHER INFORMATION CONTACT: Robert Summerhayes, Fuels Section, Field Operations and Support Division (EN-340), 401 M Street, S.W., Washington, D.C. 20460 at (202) 472-9367.

SUPPLEMENTARY INFORMATION: On September 12, 1979, (44 FR 53144) EPA published amended regulations (40 CFR 80.20) which relaxed for one year the lead phase-down standard of 0.5 gpg effective October 1, 1979, to 0.8 gpg conditioned upon an increase in quarterly unleaded gasoline production of six percentage points over the previous year, or an unleaded gasoline production of at least 45% of total gasoline. EPA relaxed the lead standard to enable refiners to produce more total gasoline. The unleaded gasoline production requirement was included to insure that sufficient supplies of unleaded gasoline would be produced to help protect against increased fuel switching due to shortages of gasoline, particularly unleaded gasoline. Alternatively, refiners were provided the option of complying with the 0.5 gpg requirement on October 1, 1979, as originally promulgated, in which case they would not be required to produce a minimum percentage of unleaded gasoline.

The 6%/45% unleaded gasoline production percentages were based on the historical growth of unleaded gasoline demand. But EPA noted in the preamble of the September 1979 amendments that it would "continue to monitor unleaded gasoline demand. If demand does not grow by at least the historical rate, EPA will take

appropriate actions to avoid the unnecessary overproduction of unleaded gasoline." EPA has recently received reports indicating that demand has not continued to increase at the historical rate and that some overproduction of unleaded gasoline may have occurred during the October–December 1979 quarter. In addition, these reports indicate that the imbalance could become more serious during the first quarter of calendar year 1980 because of high year end inventories produced to comply with the requirements of the previous quarter.

Some refiners have reported unusual difficulties in trading excess unleaded gasoline for leaded gasoline. EPA has also noted that cargo trading differentials on the inter-refinery spot market, which normally reflect a 2–3 cent per gallon premium for unleaded gasoline, have dropped to zero cents per gallon in some areas. Recent unleaded gasoline sales show a smaller than 6 percentage points increase in unleaded gasoline demand during fiscal year 1980. This change in the growth rate of unleaded gasoline has been attributed to both the declining sales of new unleaded vehicles and the trend towards the use of smaller, more fuel efficient cars. While the data are not completely dispositive, it is sufficient to indicate that adequate supplies of unleaded gasoline (relative to leaded) will likely be available for the current quarter without the imposition of the 6%/45% production requirement.

Because of EPA's desire to avoid any unnecessary loss of energy from the overproduction of unleaded gasoline, it is revoking the production requirement for the current quarter. (See: "Controls Applicable to Gasoline Refiners; Lead Phasedown Regulations: Final Rule," elsewhere in this issue.) This should allow the market to absorb any excess unleaded gasoline that refiners produced the last quarter of 1979. The production requirement is being eliminated only for the current quarter, since EPA does not yet have enough data to appropriately assess the demand and supply for the next two quarters. For that reason, EPA solicits comments on various options available to the Agency to assure adequate supplies of unleaded gasoline. Four possible actions include: (1) leaving the regulation unchanged for the two remaining quarters, (2) adjusting the production percentages to more accurately reflect the growth in demand for unleaded gasoline, for example, but not limited to, 5.5%/43% or 5%/42%, (3) completely eliminating the unleaded gasoline production requirement, and (4) linking a modification or revocation of the 6%/45% requirement to an indicator, such as retail price differential or the ratio of unleaded sales to unleaded refinery output. EPA requests comments on these or any other option which would assure an adequate supply of unleaded gasoline.

(Sections 211, 301, Clean Air Act, as amended, 42 U.S.C. 7601)

Dated: February 20, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-7240 Filed 3-6-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 419

[FRL 1429-2]

Petroleum Refining Point Source Category Effluent Guidelines and Standards; Hearing

AGENCY: Environmental Protection Agency.

ACTION: Public hearing.

SUMMARY: Notice is hereby given of a hearing open to the public to discuss and receive comments on pretreatment regulations proposed in the Federal Register of December 21, 1979 (40 FR 75926) for the petroleum refining point source category.

DATE: A public hearing has been scheduled for the following date and place:

April 9, 1980—Washington, D.C.

ADDRESS: The public hearing will be held at the following address:

Room 3906, Waterside Mall, 401 M Street, S.W., Washington, D.C.

Anyone wishing to make an oral statement and submit written testimony at the hearing should indicate so in writing to:

Jaye Swanson, Project Officer for Public Participation, Effluent Guidelines Division (WH-552). Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jaye Swanson, (202) 426-2560.

SUPPLEMENTARY INFORMATION: Registration for the hearing will be held from 8:30 to 9:00 AM. Oral testimony will be presented as follows: 9:30 to 11:30 AM; 1:00 to 3:30 PM. Following the registration period there will be a brief presentation by an EPA official covering the development of effluent limitations and standards under the Clean Water Act of 1977. Also, opportunity will be given throughout the day for audience participants to submit written questions to the Presiding Officer. These questions will be addressed during the question and answer session which will conclude the presentations of oral testimony.

A court recorder will be present at the public hearing. Official transcripts will be available at cost.

Dated: February 29, 1980.

Swep T. Davis,

Acting Assistant Administrator for Water and Waste Management.

[FR Doc. 80-7181 Filed 3-6-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Parts 405 and 442

Medicare and Medicaid Programs; Revision of Subpart S—Certification Procedures for Providers and Suppliers of Services

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

ACTION: Notice of Public Meetings.

SUMMARY: In order to participate in the Medicare and Medicaid programs, providers and suppliers of services must meet certain Federal statutory and regulatory requirements. It is the function of each State survey agency to ascertain, on behalf of the Secretary, whether these requirements are met. The process is called certification. Certification regulations (42 CFR 405.1901–405.1913; 442.100–442.115) specify procedures which the State must follow in determining compliance and in following up on deficiencies; included are other miscellaneous provisions which providers and suppliers must meet to be certified. The Health Care Financing Administration is re-evaluating the procedures being used to survey and monitor compliance. Our aim is to make these procedures more effective in improving the quality of care, less costly, less confusing to the consumer, and less burdensome to the industry. We have identified aspects of the process which may require modification, and drafted a series of issue papers discussing issues and options. After review and consideration of comments received during the meetings announced in this document, HCFA will prepare a Notice of Proposed Rulemaking (NPRM) which will make specific proposals for changes in the regulations. This NPRM will also be published in the Federal Register. After review of written comments from the public, a final regulation will be developed and published.

DATES: All persons and organizations who do not wish to testify or are unable to do so but want to comment in writing to the HCFA proposals are invited to do so. Written testimony or comments will be accepted up to 30 days after the scheduled hearing date. For the dates and locations of the public meetings see Supplementary Information below.

ADDRESS: Written comments should be addressed to: William Hunt, Room 2-E-2, Dogwood East Building, 1849 Gwynn Oak Avenue, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: All requests by persons wishing to be heard or wishing to receive copies of the HCFA issue papers should be directed to the appropriate Regional Office contact person listed below.

SUPPLEMENTARY INFORMATION: Public meeting dates, locations, and contacts:

Region I

Date: April 22-23, 1980.
Time: 8:30-9:00—Speaker Registration. 9:00-12:00—Speakers. 1:00-4:00—Speakers.
Place: Room 2003A, JFK Federal Office Building, Boston, MA 02203.
Contact: William Robinson, DHEW Region I, Room 1203, JFK Federal Office Building, Boston, MA 02203, 223-3697.

Region II

Date: April 24, 1980.
Time: 8:30-9:00—Speaker Registration. 9:00-12:00—Speakers. 1:00-4:00—Speakers.
Place: 26 Federal Plaza, Room 305C, New York, NY 10007.
Contact: Charles Pope, DHEW Region II, Room 3821, 26 Federal Plaza, New York, NY 10007, 264-2003.

Region III

Date: April 29-May 1, 1980.
Time: 8:30-9:00—Speaker Registration. 9:00-12:00—Speakers. 1:00-4:00—Speakers.
Place: H. H. Humprey Building Auditorium, 200 Independence Avenue, S.W., Washington, D.C. 20201.
Contact: William Hunt, Room 2E2, Dogwood East Building, 1849 Gwynn Oak Avenue, Baltimore, MD 21207, 594-7940.

Region III

Date: May 6, 1980. May 7, 1980—If public response is great enough.
Time: 8:30-9:00—Speaker Registration. 9:00-12:00—Speakers. 1:00-4:00—Speakers.
Place: Mid Atlantic Program Service Center Auditorium, 300 Spring Garden Street, Philadelphia, PA 19101.
Contact: Rose Ann Marsicano, DHEW Region III, P.O. Box 8450, Philadelphia, PA 19101, 596-6575.

Region IV

Date: May 7-8, 1980.
Time: 8:30-9:00—Speaker Registration. 9:00-12:00—Speakers. 1:00-4:00—Speakers.
Place: Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, GA 30323.
Contact: Isom Herron, DHEW Region IV, 101 Marietta Tower, Suite 502A, Atlanta, GA 30323, 221-2115.

Region V

Date: June 2-3, 1980.
Time: 8:30-9:00—Speaker Registration. 9:00-12:00—Speakers. 1:00-4:00—Speakers.
Place: Room 2525, Federal Court House, 219 South Dearborn Street, Chicago, IL 60604.
Contact: Brenda Whitman, DHEW Region V, 175 West Jackson Street, Chicago, IL 60604, 353-9804.

Region VI

Date: May 21, 1980.
Time: 8:30-9:00—Speaker Registration. 9:00-12:00—Speakers. 1:00-4:00—Speakers.
Place: Earl Cabell Building, Room 7A23, 1100 Commerce Street, Dallas, Texas 75202.
Contact: Connie Gordon, Region VI, 1200 Main Tower Building, Dallas, TX 75202, 729-6301.

Region VII

Date: May 14, 1980.
Time: 8:30-9:00—Speaker Registration. 9:00-12:00—Speakers. 1:00-4:00—Speakers.
Place: Federal Building, Room 140, 601 East 12th Street, Kansas City, MO 64106.
Contact: Richard Freeman, Regional HSQ Director, Region VII, 601 East 12th Street, Rm. 275, Kansas City, MO 64106, 758-2406.

Region VIII

Date: May 15, 1980.
Time: 8:30-9:00—Speaker Registration. 9:00-12:00—Speakers. 1:00-4:00—Speakers.
Place: Federal Building, Room 239, 1961 Stout Street, Denver, CO 80294.
Contact: Ted Fasso, DHEW Region VIII, 1961 Stout Street, Denver, CO 80294, 327-4861.

Region IX

Date: May 20-21, 1980.
Time: 8:30-9:00—Speaker Registration. 9:00-12:00—Speakers. 1:00-4:00—Speakers.
Place: Federal Building, Room 2007, 450 Golden Gate Avenue, San Francisco, CA 94102.
Contact: Jerry Donnellan, DHEW HSQ, Region IX, 100 Van Ness Avenue, San Francisco CA 94102, 556-5342.

Region X

Date: May 22, 1980. May 23, 1980—If public response is great enough.
Time: 8:30-9:00—Speaker Registration. 9:00-12:00—Speakers. 1:00-4:00—Speakers.
Place: Federal Building, 4th Floor Auditorium, S.E., 912 Second Avenue, Seattle, WA 98101.
Contact: Don JaQues, Region X, M.S. 701 Arcade Plaza Building, 1321 Second Avenue, Seattle, WA 98101, 399-0540.

Each speaker will be limited to fifteen (15) minutes and must submit two copies of his or her presentation at the time of the hearing. Every effort will be made to schedule speakers as they request, subject to time constraints. Each request will be acknowledged and confirmed in writing.

Special arrangements will be made for persons with hearing impairments. Such persons should contact the HCFA Regional Office in their locality before attending.

The purpose of the issue papers is to provide a basis for further discussion and analysis within HCFA and among interested members of the public. The issues include:

1. Methods for determining compliance with regulation requirements in addition to direct surveys.

2. Flexible surveying intervals to permit more frequent surveys of poorly performing providers and less frequent ones for those performing well.

3. Routine submissison of quarterly staff reports—this requirement might be dropped except for providers undergoing significant staff turnovers.

4. Flexible application of hospital conditions to small typically rural hospitals in order to minimize difficulties with securing sufficient specialized personnel.

5. Integration of the various quality assurance programs being implemented by PSRO's and the Medicaid State agencies in the survey process and to concentrate on areas of poor compliance.

6. Automatic resurvey 90 days after surveys if dificiencies have been cited or a longer interval if required correction time must exceed 90 days.

7. Using Federal surveyors to survey Federal hospitals thereby freeing State personnel for closer or more frequent surveys in other hospitals.

8. Whether special waivers of requirements such as the Burleson Amendment (special access provision for hospitals) should be continued for small, typically rural facilities.

Before we proceed, we want to afford the States, the general public, and representatives of the provider community the opportunity to react to our proposals. Constructive comments and recommendations will assist us in refining our proposals, identifying other problem areas, and responding to public concerns.

Interested persons are invited to participate in this developmental process by testifying at the public hearings and by submitting written comments.

Dated: February 21, 1980.

Earl M. Collier, Jr.,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 80-7318 Filed 3-6-80; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 60

[Docket No. FEMA—60.3]

Criteria for Land Management and Use in the National Flood Insurance Program

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises the National Flood Insurance Program (NFIP) regulations to prohibit the use of solid breakaway walls below base flood elevation for new construction or substantial improvements in designated Coastal High Hazard Areas (V zones). Only open space or open wood constructed lattice walls would be allowed for new construction or substantial improvements in the area below base flood elevation in V zones.

DATE: Comments received on or before May 6, 1980 will be considered prior to the publication of the final rule.

ADDRESS: Send comments to Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Mr. Richard W. Krimm, Federal Insurance Administration, Washington, D.C. 20410, (202) 755–5581.

SUPPLEMENTARY INFORMATION: The NFIP regulations have been assigned a new CFR section due to the Federal Emergency Management Agency reorganization. The section affected by this proposed rule was previously 24 CFR 1910.3(e)(5). This section now appears at 44 CFR 60.3(e)(5).

The National Flood Insurance Program (NFIP) regulations for Coastal High Hazard Areas (V zones) were written to minimize the potential for damage below base flood elevation. The regulations require the lowest structural member of the lowest habitable floor to be above base flood elevation (Section 60.3(e)(4)); fill cannot be used for structural support (Section 60.3(e)(6)); and areas beneath the lowest habitable floor cannot be use for human habitation and can only be enclosed with breakaway walls (Section 60.3(e)(5)).

The regulations did not specifiy the type of breakaway wall. Many property owners have used solid breakaway walls, which have the appearance of being normal walls. As a result, numerous instances of potential violations have been reported to the Federal Insurance Administration (FIA). Property owners naturally wish to add more habitable space to their structures and often finish the lower area. Not only is the use of these lower areas after the building permit is issued very difficult to control, but also it is difficult for local building inspectors to do continuous inspections of previously approved premises. More importantly, solid breakaway walls can become detached from a structure during a hurricane and create a serious hazard. The recent hurricane in the Mobile, Alabama, area has indicated the folly of having any type of substantial wall below base flood elevation in a V zone.

Currently, a house elevated to base flood elevation in a V zone is eligible for rather low actuarial flood insurance premium rates. The expectation was the damage below base flood elevation would be negligible. The use of solid breakaway walls, which encourages the placement of such items as furnaces, hot water heaters or finished rooms in this area, indicated that the expected damages underlying the actuarial rates were underestimated.

This proposed rule change is intended to:

(1) minimize the safety hazard posed by solid breakaway walls.

(2) assure the accuracy of the actuarial rates, and

(3) ease coastal communities' problem of post-permit issuance enforcement of flood plain regulations for new construction and substantial improvements in V zones.

The rule change prohibits the use of any type of solid breakaway wall to enclose the area below base flood elevation in a V zone for new construction or substantial improvements to existing construction. The area below base flood elevation can be enclosed with open wood constructed lattice breakaway walls or remain open. The prohibition against use of the area for human habitation will remain unchanged. A column to carry utilities such as water, gas, and electricity to the upper floor areas will continue to be allowed.

FEMA has determined that an environmental impact is not needed for this rule. A copy of the finding of inapplicability is available for inspection at the above address.

Accordingly, Part 60 of Title 44 of the Code of Federal Regulations is proposed to be amended as follows:

1. Section 60.3(e)(5) is amended to read as follows:

§ 60.3 Flood plain management criteria for flood-prone areas.

* * * * *

(e) * * *

(5) Provide that all new construction and substantial improvements within Zones V1–30 on the community's FIRM have the space below the lowest floor free of obstructions or be enclosed with open wood constructed lattice "breakaway walls" intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven water is minimized. Such temporarily enclosed space shall not be used for human habitation.

(42 U.S.C. 4001 et seq., and Executive Order 12127 (44 FR 19367))

Issued: February 15, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-7112 Filed 3-6-80; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[PR Docket No. 80-9; RM-2357; RM-3094; RM-2314; FCC 80-13]

Authorizing the Use of Low Power Radio Transmitters by Police Radio Service Licenses in the 30–50 MHz, 150–174 MHz and 450–470 MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: The FCC proposes to amend Parts 2 and 90 of the Commission's rules to allow Police Radio Service licensees, without prior specific Commission approval, to operate low-power radio transmitters on a secondary, non-interference basis on frequencies in the 30–50 MHz, 150–174 MHz, and 450–470 MHz bands.

DATES: Comments must be received on or before March 31, 1980 and Reply Comments must be received on or before April 30, 1980.

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

FOR FURTHER INFORMATION CONTACT: Eugene C. Bowler, Rules Division, Private Radio Bureau, (202) 632–6497.

Adopted: January 16, 1980.
Released: January 25, 1980.

1. Before us are three rule making petitions which seek the authorization of automatic radio direction determination equipment in the private land mobile radio services. GUS Manufacturing

(RM-2357) [1] and Audio Intelligence Devices (RM-3094) [2] seek a low power trailing capability in the Police Radio Service. Wackenhut Electronics (RM-2314) [3] seeks this capability in all of the Public Safety, Industrial, General Mobile and Citizens Radio Services, as well as under Part 15 of the Commission's Rules.

2. United States Courts have held that the use of this equipment by police officers constitutes a search within the meaning of the Fourth Amendment to the U.S. Constitution, and requires a prior warrant.[4] This rule has been applied when the transmitter was placed on the vehicle's exterior,[5] and inside a closed private container.[6] It was not applied when the beeper was concealed inside a lawfully opened container.[7] The law in this area, however, is still in a state of flux.

3. Beyond the law enforcement community, the use of this equipment raises significant public benefit versus nuisance questions, as well as questions as to the extent to which the Commission should enable individuals to conduct surveillance of the activities of others. For nearly every beneficial application, there is a nefarious one: locating a lost camper, trailing a hijacked cargo, trailing a neighbor, trailing an estranged husband or wife. Many of the applications are clearly in the public interest, such as promoting industrial security and reducing unauthorized uses of company vehicles. Many of the uses are frivolous. Others are clearly undesirable, such as the criminals trailing the police. Furthermore, as has been indicated, because of the continuously radiating signal, the equipment has the potential for serious interference to primary land mobile operations. The scope of use of these bumpers, if generally authorized, would be expected to be nationwide, and to include nearly every conceivable setting and terrain from the Idaho Primitive Area to New York City.

4. We have considered these petitions, as well as the extensive comments and information which we have gathered in connection with this matter. Based on our review of the data, taking into account both the likely benefits to the public and the impact on co-channel and cross-channel users of the land mobile spectrum, we are proposing to amend the Police Radio Service rules to permit police licensees, without a need for specific authorization, to operate low power trailing or "homing" equipment on a secondary basis on any private land mobile radio service frequency in the bands 30-50 MHz, 150-174 MHz, and 450-470 MHz.

5. We have determined not to extend this capability beyond the Police Radio Service. No present need has been demonstrated for this equipment beyond this service, except in the case of motor carriers and private security companies which will be discussed below. Because of the continuously radiating nature of this transmitter signal, extensive use of this equipment in the private services raises the potential for unacceptable levels of interference to primary radio operations. Further, the equipment would greatly expand the capabilities of individuals to intrude electronically into the private affairs of others, with all of the seious ramifications this would entail in the personal privacy area. Motor carrier and private security company licensees closely cooperate with police departments in matters pertaining to security of life and property. In instances, in which they specifically require this equipment, they may operate it under the authorization issued to the police department. Until we have had the opportunity, however, to observe the impact of police use of these low power, continuous, random signals on land mobile operations, we do not think that it is desirable, or in the public interest, to extend this capability to other non-government users.

6. The rules proposed emphasize that all users of this radio equipment must conform to Federal, State and local laws and Constitutions.

7. As an alternative to § 90.19(f)(5)(v) of the rules contained in the attached Appendix limiting the bandwidth to 2 kHz, we would also like comments on the desirability of allowing any bandwidth transmission as long as 99% of the energy is contained in one of the bands identified in § 90.19(f)(5)(ii). This would allow spread spectrum techniques which might cause less interference to other users of these bands and also decrease the likelihood of unauthorized detection of these transmissions.

8. Authority of issuance of this Notice is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in § 1.415 of the rules and regulations, 47 CFR 1.415, interested persons may file comments on or before March 31, 1980, and reply comments on or before April 30, 1980. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

9. In accordance with the provisions of § 1.419 of the rules and regulations, 47 CFR 1.419, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

10. For further information concerning this rule making contact Eugene C. Bowler, Rules Division, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554, (202) 632-6497.

Federal Communications Commission.

William J. Tricarico,

Secretary.

BILLING CODE 6712-01-M

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[1] GUS Manufacturing (GUS) would like police licensees to be able to operate low-power transmitters on frequencies between 154.60 MHz and 159.10 MHz which are allocated to police use.

[2] Audio Intelligence Devices (AID) wants police licensees to be able to operate this equipment on any frequency between 136-144 MHz and 148-174 MHz.

[3] Wackenhut Electronics, Inc. (Wackenhut) wants Public Safety, Industrial and General Mobile Radio Service licensees to be able to operate this equipment in the guard band adjacent to the channel edge of the 27.495-27.545 MHz band.

[4] *United States* v. *Holmes*, 521 F. 2d. 859 (1975); *United States* v. *Bobisink*, 415 F. Supp. 1334 (1976); *United States* v. *Martynink*, 395 F. Supp. 42 (1975). But see *United States* v. *Shovea*, 580 F. 2d. 1382 (1978).

[5] *United States* v. *Holmes, supra; United States* v. *Moore*, 562 F. 2d. 106 (1977); *United States* v. *Curtis* 526 F. 2d. 1153 (1977).

[6] *United States* v. *Martynink, supra.*

[7] *United States* v. *Perez*, 526 F. 2d. 859 (1976) (dictum); *United States* v. *Carpenter*, 403 F. Supp. 361 (1975).

Worldwide		Region 2		United States		Federal Communications Commission				
Band (MHz)	Service	Band (MHz)	Service	Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services of stations
1	2	3	4	5	6	7	8	9	10	11
***										
30.01–37.75	FIXED. (228) (229) (230) (231) MOBILE. (233A)			30.56–32	NG. (NG***)	30.56–32	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL. LAND TRANSPORTATION. PUBLIC SAFETY.
				32–33 (231)	G.					
				33–34	NG. (NG***)	33–33.01	LAND MOBILE.	Base. Land mobile.		LAND TRANSPORTATION.
						33.01–33.11	LAND MOBILE.	Base. Land mobile.		PUBLIC SAFETY.
						33.11–33.41	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL.
						33.41–34	LAND MOBILE.	Base. Land mobile.		PUBLIC SAFETY.
				34–35 (231)	G.					
				35–36	NG. (NG***)	35–35.19	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL.
						35.19–35.69	LAND MOBILE.	Base. Land mobile.		DOMESTIC PUBLIC. INDUSTRIAL. PUBLIC SAFETY.
						35.69–36	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL.
				36–37 (US 220) (231)	G. (US 220)					
				37–38	NG. (NG***)	37–37.01	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL.
						37.01–37.43	LAND MOBILE.	Base. Land mobile.		PUBLIC SAFETY.
37.75–38.25	FIXED. (228) (229) (231) MOBILE. Radio astronomy. (233B)					37.43–37.89	LAND MOBILE. (NG59)	Base. Land mobile.		INDUSTRIAL.
						37.89–38	LAND MOBILE.	Base. Land mobile.		PUBLIC SAFETY.

Worldwide		Region 2		United States		Federal Communications Commission				
Band (MHz)	Service	Band (MHz)	Service	Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of SERVICES of stations
1	2	3	4	5	6	7	8	9	10	11
38.25–41 (235) (236) (236A)	FIXED. (228) (229) (230) (231) MOBILE			38–39	G. (US81)					
				39–40	NG. (US94) (NG***)	39–40	LAND MOBILE.	Base. Land mobile.		PUBLIC SAFETY.
				***	***					
41–50		41–50	FIXED. (228) (231) (237) MOBILE (233A) (236A)	42–46.6	NG. (NG***)	42–42.95	LAND MOBILE.	Base. Land mobile.		PUBLIC SAFETY.
						42.95–43.19	LAND MOBILE.	Base. Land mobile.		INDUSTRIAL.
						43.19–43.69	LAND MOBILE.	Base. Land mobile.		DOMESTIC PUBLIC. INDUSTRIAL. PUBLIC SAFETY.
						43.69–44.61	LAND MOBILE	Base. Land mobile.		LAND TRANSPORTATION.
						44.61–46.6	LAND MOBILE.	Base. Land mobile.		PUBLIC SAFETY.
				46.6–47	G.					
				47–49 6	NG (NG***)	47–47.43	LAND MOBILE	Base. Land mobile.		PUBLIC SAFETY.
						47.43–47.69	LAND MOBILE.	Base. Land mobile.		PUBLIC SAFETY. INDUSTRIAL.
						47.69–49.6	LAND MOBILE	Base. Land mobile.		INDUSTRIAL.
				49 6–50	G.					
50–54		50–54	AMATEUR	50–54	AMATEUR. (US1)	50–54	AMATEUR.	Amateur.		AMATEUR.
***										
150.05–174		150.05–174	FIXED. MOBILE.	150.05150.8	G. (US216)					
				150.8–157 0375	NG. (US216)	150 8–150.98	LAND MOBILE. (NG112) (NG***)	Base. Land mobile.		LAND TRANSPORTATION. (NG51).
						150.98–151.4825	LAND MOBILE. (NG112) (NG***)	Base. Land mobile.		PUBLIC SAFETY. (NG51).

Worldwide		Region 2		United States		Federal Communications Commission				
Band (MHz)	Service	Band (MHz)	Service	Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services of stations
1	2	3	4	5	6	7	8	9	10	11
						151.4825-151.4975	LAND MOBILE. (NG***)	Base. Land mobile.		INDUSTRIAL & PUBLIC SAFETY. (NG51).
						151.4975-152	LAND MOBILE. (NG***)	Base. Land mobile.		INDUSTRIAL.
						152-152.255	LAND MOBILE.	Base. Land mobile.		DOMESTIC-PUBLIC.
						152.255-152.465	LAND MOBILE. (NG***)	Base. Land mobile.		LAND TRANSPORTATION. (NG38) (NG116)
						152.465-152.495	LAND MOBILE. (NG***)	Base. Land mobile.		INDUSTRIAL. (NG116)
						152.495-152.855	LAND MOBILE.	Base. Land mobile.		DOMESTIC PUBLIC. (NG4)
						152.855-153.7325	LAND MOBILE. (NG***)	Base. Land mobile.		INDUSTRIAL. (NG4)
						153.7325-154.4825	LAND MOBILE. (NG***)	Base. Land mobile. Fixed.	154.2	INDUSTRIAL. PUBLIC SAFETY (NG26) (NG57) (Earth Telecommand).
						154.4825-154.6375	LAND MOBILE. (NG***)	Base. Land mobile.		INDUSTRIAL.
						154.6375-156.25	LAND MOBILE. (NG117) (NG***)	Base. Land mobile.		PUBLIC SAFETY.
						***				
				157.0375-157.1875 (US214)	G.				157.100	US Coast Guard Liaison Frequency.
(287A)		(287A)		157.1875-162.0125	NG. (US77) (US200) (NG111) (US223)	157.1875-157.450	MARITIME MOBILE. (NG5)	Ship.	157.200 157.225 157.250 157.275 157.300 157.325 157.350 157.375 157.400 157.425	MARITIME MOBILE. Do. Do. Do. Do. Do. Do. Do. Do. Do.
						157.45-157.725	LAND MOBILE. (NG***)	Base. Land mobile.		LAND TRANSPORTATION. (NG5) (NG38) (NG116)
						157.725-157.755	LAND MOBILE. (NG***)	Base. Land mobile.		INDUSTRIAL. (NG116)

Worldwide		Region 2		United States		Federal Communications Commission				
Band (MHz)	Service	Band (MHz)	Service	Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services of stations
1	2	3	4	5	6	7	8	9	10	11
						157.755-158.115	LAND MOBILE.	Base. Land mobile.		DOMESTIC PUBLIC.
						158.115-158.475	LAND MOBILE. (NG112) (NG***)	Base. Land mobile.		INDUSTRIAL.
						158.475-158.715	LAND MOBILE.	Base. Land mobile.		DOMESTIC PUBLIC.
						158.715-159.48	LAND MOBILE. (NG112) (NG***)	Base. Land mobile.		PUBLIC SAFETY. (NG70)
						159.48-161.575	LAND MOBILE. (NG112) (NG***)	Base. Land mobile.		LAND TRANSPORTATION. (NG6) (NG26) (NG28) (NG70)
						***				
						173.2-173.4	FIXED. LAND MOBILE. (NG***)	Base. Fixed mobile.		PUBLIC SAFETY. INDUSTRIAL.
***										
450-460 (318) (318D) (318C) (319A)	FIXED. MOBILE.			450-470	NG (US87) (US100) (US201) (US209) (US216)	450-451	LAND MOBILE.	Base. Land mobile.		Remote pickup broadcast base; remote pickup broadcast mobile.
						451-454 (NG112) (NG***)	LAND MOBILE.	Base. Land Mobile.		PUBLIC SAFETY. INDUSTRIAL. LAND TRANSPORTATION.
						454-455	LAND MOBILE. (NG112)	Base. Land mobile.		DOMESTIC PUBLIC. (NG12)
						455-456	LAND MOBILE.	Base. Land mobile.		Remote pickup broadcast base; remote pickup broadcast mobile.
						456-459 (NG***)	LAND MOBILE. (NG112)	Land mobile.		PUBLIC SAFETY. INDUSTRIAL. LAND TRANSPORTATION.
						459-460	LAND MOBILE. (NG112)	Base. Land mobile.		DOMESTIC PUBLIC. (NG12)

Worldwide		Region 2		United States		Federal Communications Commission				
Band (MHz)	Service	Band (MHz)	Service	Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services of stations
1	2	3	4	5	6	7	8	9	10	11
460–470 (324B)	FIXED. MOBILE. Meterological Satellite (Space-to earth) (318A)				(US100) (US201) (US209)	460–462 5375 (NG *) (NG *)	LAND MOBILE.	Base. Land mobile		PUBLIC SAFETY INDUSTRIAL. LAND TRANS PORTATION
						462 5375–462 7375	LAND MOBILE.	Base. Land Mobile.		PERSONAL.
						462.7375–465.0125 (NG *)	LAND MOBILE	Base. Land mobile		PUBLIC SAFETY INDUSTRIAL. LAND TRANS PORTATION
						465.0125–467.5375 (NG***)	LAND MOBILE	Land mobile		PUBLIC SAFETY INDUSTRIAL. LAND TRANS PORTATION
						467.5375–467 7375	LAND MOBILE.	Land mobile		PERSONAL
						467 7375–470 (NG***)	LAND MOBILE	Land mobile		PUBLIC SAFETY INDUSTRIAL. LAND TRANS PORTATION

NG In the bands 30-50 MHz 150–174 MHz, and 450–470 MHz Police Radio Service licensees are authorized to operate low powered radio transmitters on a secondary non interference basis in accordance with the provisions of §§ 2 803 and 90 19(f)(5) of the rules

BILLING CODE 6712-01-C

Part 90 of the Commission's rules is amended as follows:

Section 90.19 is amended by the addition of new language to paragraph (f).

§ 90.19 Police radio service.

* * * * *

(f) * * *

(5) A licensee in the Police Radio Service may use transmitters on the frequencies indicated below in connection with surveillance, stakeouts, officer protection and other such activities without specific authorization from the Commission, provided that such use shall be on a secondary basis and shall not cause harmful interference to services of other licensees operating on regularly assigned frequencies, and further provided that all such use complies with the requirements of Federal, State and local laws and Constitutions. The provisions of § 90.429 shall not apply to transmitters authorized under this subparagraph. To be eligible for operation in this manner, the transmitter must comply with all of the following requirements.

(i) In accordance with § 90.203 and § 2.803 of Part 2 of this chapter, the transmitter must be of a type which has been the type accepted by the Commission.

(ii) The carrier frequency shall be within the bands of 30.56–32 MHz, 33–34 MHz, 35–36 MHz, 37–38 MHz, 42–46 MHz, 47–49.6 MHz, 150.8–152 MHz, 152.255–152.495 MHz, 152.855–154.4825 MHz, 154.4825–156.26 MHz, 157.45–157.755 MHz, 158.115–158.475 MHz, 158.715–161.575 MHz, 173.2–173.4 MHz, 451–454 MHz, 456–459 MHz, 460–462.5375 MHz, 462.7375–462.975 MHz, 465.525–467.5375 MHz, 467.7375–467.975 MHz, and 469.2–470 MHz, and must be maintained with 0.005 percent of the frequency of operation. Use on assigned channels is not required.

(iii) The emitted signal shall be non-voice modulation (type PO emission).

(iv) The transmitted pulses must be separated by no less than 0.85 seconds.

(v) The maximum occupied bandwidth, containing 99 percent of the radiated power, shall not exceed 2.0 kHz.

(vi) The transmitter output power shall not exceed a mean power of 30 mW nor shall any peak exceed 1 watt peak power.

(viii) The transmitter shall contain positive means to limit the transmission time to no more than 10 days. In the event of a malfunction of this positive means, the transmitter signal shall cease. The use of battery life to accomplish this transmission time limitation is permissible.

[FR Doc. 80-7161 Filed 3-6-80; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. MMPAH 1980-1]

Taking of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Order of Administrative Law Judge.

SUMMARY: The Order modifies and supplements previous information published in the Federal Register (45 FR 10552; 45 FR 13498) concerning a formal hearing before an Administrative Law Judge. The hearing will consider proposed regulations to govern the taking of marine mammals incidental to commercial fishing operations.

DATES: The California hearing will begin on March 31, 1980. The Washington, D.C. hearing will begin on April 14, 1980.

ADDRESSES: The California hearing will be held at the Sumner Auditorium, Scripps Institution of Oceanography, La Jolla Drive, La Jolla, California. The Washington, D.C. hearing will be held at the Commerce Building, Room 6705, 14th and Constitution Avenue, NW.

FOR FURTHER INFORMATION CONTACT: Hugh J. Dolan, Administrative Law Judge, Department of Commerce (202) 377-3135.

SUPPLEMENTARY INFORMATION: This order is one of several which will be issued during this rulemaking process.

The proposed amendments to 50 CFR Part 216 are modified and supplemented as follows:

The order of February 26, 1980 (45 FR 13498) and the agency notice of February 15, 1980 (45 FR 10552) are modified and supplemented as follows:

Written direct expert testimony will be submitted in four copies by March 26, 1980. In light of the fact that some of the parties and counsel will be in Washington, D.C. and others in San Diego on that date, it is requested that counsel work together to effect prompt distribution of the testimony on that date as discussed in the pre-hearing conference on February 28, 1980.

The hearing will commence at 9:30 a.m. on Monday, March 31 in the Sumner Auditorium, Scripps Institution of Oceanography on La Jolla Drive, La Jolla, California. The hearings are scheduled to be held between 9:00 a.m. and 6:00 p.m. from that date until on or about April 11, unless sooner completed. The hearings in Washington, D.C. will be held in Room 6705 of the Commerce Building at 14th Street and Constitution Avenue, NW. They will commence there at 9:00 a.m. on April 14, 1980.

Dated: February 29, 1980.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 80-7163 Filed 3-6-80; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 216

[Docket No. MMPAH 1980-1]

Taking of Marine Mammals Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Document classification; corection.

SUMMARY: On February 29, 1980, the National Oceanic and Atmospheric Administration published a document relating to proposed regulations to govern the taking of marine mammals incidental to commercial fishing operations. That document set forth a schedule for a hearing announced in a Federal Register Proposed Rulemaking notice of February 15, 1980 (45 FR 10552). This document provides notice that FR Doc. 80-6383 published at 45 FR 13498, February 29, 1980 should have been published in the Proposed Rules section of the Federal Register rather than the Notices section.

FOR FURTHER INFORMATION CONTACT: Hugh J. Dolan, Administrative Law Judge, Department of Commerce, 202/377-3135.

Hugh J. Dolan,

Administrative Law Judge.

March 5, 1980.

[FR Doc. 80-7288 Filed 3-6-80; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Ch. VI

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council, established by

Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to discuss: Groundfish, (a) Status of Fishery, and (b) Report of oversight Hearings (O/S) Committee; Scallops; Lobster, Report of O/S Committee; Mid-Atlantic Council Report; Preparation of Fishery Management Plans (FMPs), Proposed Rulemaking; Consideration of Billfish FMP; and other business. The meeting is open to the public.

DATES: The meeting will convene on Tuesday, March 25, 1980, at approximately 10 a.m. and will adjourn on Wednesday, March 26, 1980, at approximately 5 p.m.

ADDRESS: The meeting will take place at King's Grant Inn, Route 128 at Trask Lane, Danvers, Massachusetts, telephone: (617) 774–6800.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960, Telephone: (617) 535–5450.

Dated: March 3, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-7230 Filed 3-6-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 47
Friday, March 7, 1980

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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Agency Decisional Processes; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Agency Decisional Processes of the Administrative Conference of the United States, to be held at 10:00 a.m., Monday, March 24, 1980 at the office of Ginsburg, Feldman, Weil & Bress, 1700 Pennsylvania Avenue, N.W., Suite 300, Washington, D.C.

The Committee will meet to discuss Professor Peter Strauss' study of disqualification of agency officials in rulemaking.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting contact David M. Pritzker at the Office of the Chairman of the Administrative Conference, 2120 L Street, N.W., Suite 500, Washington, D.C. 20037 (202-254-7020). Minutes of the meeting will be available on request.

Richard K. Berg,
Executive Secretary.
March 4, 1980.

[FR Doc. 80-7234 Filed 3-6-80; 8:45 am]
BILLING CODE 6110-01-M

CIVIL AERONAUTICS BOARD

[Docket 35361; Order 80-3-10]

Air Carrier Rules Governing Failure To Operate on Schedule or Failure To Carry

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 3rd day of March, 1980.

By Order 79-9-129, September 20, 1979, the Board ordered cancellation of Rule 380(H) in the domestic passenger rules tariff, CAB No. 142 (now Rule 240(H) of CAB No. 352), effective 45 days from the date of service of the order (November 9, 1979). In response to requests from several carriers and the Air Transport Association, the Board stayed the effective date of that order for 120 days (Order 79-11-23, November 1, 1979), except insofar as it applied to market withdrawals by carriers. The Board also granted discussion authority to ATA (Order 79-12-188, December 27, 1979) to permit carriers to discuss procedures for notifying passengers of the terms of non-uniform, non-tariff contract liability provisions they might develop in response to Order 79-9-129.

ATA now requests an additional stay of the effective date of Order 79-9-129. In support of its petition, ATA states that representatives of several carriers have attended a meeting on this subject and have made progress toward development of a system to notify interlining passengers that carriers' liability limits for schedule changes or cancellations may differ. Such a system, ATA asserts, must be developed carefully in order to be effective. The stay, according to ATA, would permit continuation of the carriers' efforts and avoid an "economic jolt" caused by disruption of the interline system.

As we stated in Order 79-11-23, we recognize that carriers need to develop means of dealing with the Board's cancellation of Rule 240(H) that will not adversely affect the interline ticketing system. But we are not convinced that this entire process must occur before that cancellation becomes effective. While we do not want to burden carriers excessively or unnecessarily, we also remain concerned about accomplishing the purposes of our original order. ATA has provided no specific information about the precise activities that remain to be undertaken or the amount of time they can reasonably be expected to take, nor has it offered any substantiation for its claim that cancellation of Rule 240(H) before efforts to develp a notification system are completed will impose significant costs or burdens on carriers. We believe that carriers should be able to develop, individually or jointly, interim measures to deal with the notice problem that would be reasonably effective, even if not as efficient or practical as those ultimately developed, without having to change their standard ticket stock or otherwise disrupt the interline system.

However, it is now very close to the date on which Order 79-9-129 is to go into effect. So that the carriers will have some opportunity to bring their initial efforts to fruition or, if necessary, to develop some interim means of dealing with the interline problems before the tariff rule is cancelled, we will stay the effective date of Order 79-9-129 for an additional 60 days. We do not intent to grant any further stay of the effective date of that order unless the party seeking a stay demonstrates clearly and specifically why one is necessary.

ATA also asks that we clarify the scope of the discussion authority we conferred in Order 79-12-188. ATA notes that one of the carrier representatives attending the meeting held pursuant to that authority questioned whether our order contemplated the discussion of possible uniform language notifying passengers that each carrier had its own liability rules.

In our view, Order 79-12-188 needs no clarification on this point. Specifically, we found that the discussion of *"procedures* to notify air travelers of independently developed, non-uniform liability provisions" (*emphasis added*) would be neither adverse to the public interest nor in violation of the Act. To allay the specific concern expressed, however, we now state explicitly that we believe the use of common language notifying passengers that liability provisions may differ would constitute such a procedure. The discussion of such language would not result in the development of any uniform liability rules or affect their substance.

Accordingly:

1. The effective date of ordering paragraph 1 of Order 79-9-129, insofar as extended by ordering paragraph 1 of Order 79-11-23, is extended for an additional 60 days; and

2. The petition for stay and clarification of the Air Transport Association is granted in part.

This order shall be served on all U.S. certificated carriers and shall by published in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-7168 Filed 3-6-80; 8:45 am]

BILLING CODE 6320-01-M

Application for an All-Cargo Air Service Certificate

February 25, 1980.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 37617, from Aeronaves De Puerto Rico, Inc., 333 East 138th Street, New York, New York 10454, for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of section 291.12(c) of Part 291, interested persons may file an answer in opposition to this application within twenty-one (21) days after publication of this notice in the Federal Register. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-7170 Filed 3-6-80; 8:45 am]

BILLING CODE 6320-01-M

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended February 29, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Date filed	Docket No.	Description
2-25-80.	37717	Northwest Airlines, Inc., Minneapolis/St. Paul International Airport, St. Paul, Minnesota 55111. Application of Northwest Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests an amendment of its existing certificate of public convenience and necesity for Route No. 3 or for a new certificate so as to authorize Northwest to engage in air transportation of persons, property and mail as follows: "Between the terminal point Denver, Colorado, and the alternate terminal points Las Vegas, Nevada and Phoenix, Arizona". Conforming Applications and Answers are due by March 24, 1980.
2-25-80.	37718	Air Caravane Inc., c/o J. A. Rene Brunette & Assc. Inc., P.O. Box 636, Gatineau, P.Q. Canada. J8P 7A2. Application of Air Caravane Inc. pursuant to Section 402 of the Act and Subpart Q requests a new or amended foreign air carrier permit granting Air Caravane authority to engage in charter foreign air transportation with turbo-prop Viscount Series 700 (48 Seats) aircraft. Charter flights with respect to persons and their accompanied baggage, and planeload charter flights with respect to property, between any point or points in Canada and any point or points in the United States. Answers are due by March 24, 1980.
2-27-80.	37745	Iscargo, H. F., c/o Harry A. Bowen, 234 Georgetown Building, 2233 Wisconsin Avenue, N.W., Washington, D.C. 20007. Application of Iscargo, H. F. pursuant to Section 402 of the Act and Part 211 of the Boards Economic Regulations and Subpart Q requests that its permit be renewed for an indefinite period and be amended as follows: (a) add mail to the authority conferred, (b) add the coterminal points Chicago, Illinois, Detroit, Michigan and Stewart Airport, and (c) strike the condition prohibiting the carriage of other than Iceland—U.S. O&D freight. Answers may be filed by March 26, 1980.
2-29-80.	37761	USAir, Inc., Washington National Airport, Washington, D.C. 20001. Application of USAir, Inc. pursuant to Section 401 of the Act and Part 201 and Subpart Q of Part 302 of the Economic Regulations of the Board requests amendment of its certificate of public convenience and necessity for Route 97 so as to remove its one/stop restriction between Washington, D.C. (National) and Washington, D.C. (Dulles), on the one hand, and Lexington, Kentucky, on the other hand. Conforming Applications and Answers are due March 14, 1980.
2-29-80.	37764	Windward Islands Airways International N.V., c/o Bruce H. Rabinovitz, Ginsburg, Feldman, Weil and Bress, 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20006. Application of Windward Islands Airways International N.V. pursuant to Section 402 of the Act and Parts 302 and 211 of the Board's Regulations, requests an amendment of this permit to add St. Thomas and St. Croix, U.S. Virgin Islands, as authorized U.S. terminal points. As amended, the route description in the permit would read: Between a point or points in the Netherlands Antilles and the conterminal points St. Thomas, Virgin Islands, St. Croix, Virgin Islands, and San Juan, Puerto Rico. Winair also requests authority to serve any combination of these U.S. points on a single flight, without traffic rights between them. Answers are due by March 24, 1980.
2-29-80.	37768	Sky West Aviation, Inc., c/o Harry A. Bowen, 234 Georgetown Building, 2233 Wisconsin Avenue, N.W., Washington, D.C. 20007. Application of Sky West Aviation, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Regulations requests an amendment to its certificate adding the point Pocatello, Idaho between the terminal point Salt Lake City, Utah and the terminal point Phoenix, Arizona. Conforming Applications and Answers are due March 28, 1980.
2-29-80	37048	Air Niagara (1978) Ltd., c/o William F. Clark, Hamilton, Torrance, Stinson, Campbell, Nobbs & Woods, 198 Adelaide Street West, Toronto, Ontario M5H 1W7. Application of Air Niagara (1978) Ltd., pursuant to Section 402 of the Act for a foreign air carrier permit authorizing large aircraft charter operations between Canada and the United States pursuant to the non-scheduled air service agreement. (Refiled per Order 79-11-151) Answers are due March 28, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-7169 Filed 3-6-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33363, 36432 and 36433]

Former Large Irregular Air Service Investigation Phase III, Applications of K-Air, Inc.; Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding now assigned to be held on March 6, 1980, at 10:00 a.m. (45 FR 13493, February 29, 1980) is postponed until March 14, 1980 at 10:00 a.m. (local time) in Room 1003, Hearing Room D.

Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

Dated at Washington, D.C., March 3, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-7171 Filed 3-6-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

Colorado Advisory Committee

Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a factfinding meeting of the Colorado Advisory Committee (SAC) of the Commission originally scheduled at 7:30 p.m., and will end at 9:30 p.m., on March 14, 1980, at Denver, Colorado, (FR Doc. 80-5941 on page 12465) has been changed.

The meeting now will be held from 7:30 a.m. and will end at 9:30 p.m. The place and date will remain the same.

Dated at Washington, D.C., March 4, 1980.

Thomas L. Neumann,

Advisory Committee Management Office.

[FR Doc. 80-7188 Filed 3-6-80; 8:45 am]

BILLING CODE 6335-01-M

District of Columbia 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 District of Columbia Advisory Committee (SAC) of the Commission will convene at 2:00 p.m. and will end at 5:00 p.m., on March 31, 1980, at the National Trust for Historic Preservation, 1785 Massachusetts Avenue, N.W., Washington, D.C.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Room 510, Washington, D.C. 20037.

The purpose of this meeting is the committee will continue to discuss plans for task force groups; and members will report on plans to investigate police handling of complaints and the employment profile of the D.C. police department.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 4, 1980.

Thomas L. Neumann,

Advisory Committee Management Office.

[FR Doc. 80-7185 Filed 3-6-80; 8:45 am]

BILLING CODE 6335-01-M

Georgia 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 conference of the Georgia Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m., on March 26, 1980, and will convene on 9:30 a.m. and will end at 1:30 p.m., on March 27, 1980, at Riviera Hyatt House, 1630 Peachtree Street, Class Room A, Atlanta, Georgia 30329.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Southern Regional Office, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303.

The purpose of this meeting is a SAC meeting on the 26th to review SAC film and plan for press conference; and public release of SAC film on state employment on the 27th.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 3, 1980.

Thomas L. Neumann,

Advisory Committee Management Office.

[FR Doc. 80-7184 Filed 3-6-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-664]

Lykes Bros. Steamship Co., Inc.; Time Charter of Vessels to the Military Sealift Command

Notice is hereby given that Lykes Bros. Steamship Co., Inc. (Lykes) has advised that it intends to time charter four conventional dry cargo vessels (two C3-S-37d type vessels and two C4-S-66a type vessels) to the Military Sealift Command (MSC) for a base period of two years with MSC's option for three additional one year optional periods. The range of ports will be worldwide under the charters which implies the possible use of the vessels in the domestic trade by MSC. Accordingly, Lykes has requested written permission under section 805(a) of the Merchant Marine Act, 1936, as amended, so as to permit Lykes' vessels under time charter to MSC to operate in the domestic trade.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in Lykes' request and desiring to submit comments or views concerning the request must by close of business on March 17, 1980 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petition for leave to intervene is received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in domestic service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By order of the Assistant Secretary for Maritime Affairs.

Dated: March 3, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-7055 Filed 3-6-80; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Caribbean Fishery Management Council will hold scoping meetings to discuss the preparation of a fishery management plan for the fishes commonly used as bait in both the recreational and commercial fisheries within the Council's area of jurisdiction. The scoping process is the initial step in preparing a fishery management plan and notice hereof is intended to satisfy the Notice of Intent to Prepare an

Environmental Impact Statement for bait fishes.

The scoping process is discussed in § 1501.7 of regulations (43 FR 55978) implementing the National Environmental Policy Act. A list of the species to be included in the bait fishes plan can be obtained directly from the Council.

DATES: Individuals or organizations wishing to comment on the fishery management plan may do so at scoping meetings to be held as follows:

March 25, 1980—Santurce, Puerto Rico.
March 26, 1980—St. Thomas, U.S. Virgin Islands.
March 27, 1980—Hato Rey, Puerto Rico.

HEARING LOCATIONS: March 25, 1980; Conference Room, Hotel Pierre, 105 De Diego Avenue, Santurce, Puerto Rico, 9:30 a.m.

March 26, 1980; Conference Room, U.S. Virgin Islands Legislature, St. Thomas, U.S. Virgin Islands, 7:00 p.m.

March 27, 1980; Conference Room, U.S. Virgin Islands Legislature, Christianstead, St. Croix, U.S. Virgin Islands, 7:00 p.m.

FOR FURTHER INFORMATION CONTACT: Hector M. Vega-Morera, Chairman, Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918.

Dated: March 3, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-7231 Filed 3-6-80; 8:45 am]

BILLING CODE 3510-22-M

[Docket No. MMPHA 1980-1]

Taking of Marine Mammals Incident to Commercial Fishing Operations; Document Classification; Correction

For a document correcting the classification of a document from a Notice to a Proposed Rule (45 FR 13498, February 29, 1980) see FR Doc. 80-7266 appearing in the Proposed Rules section of this issue.

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1980; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1980 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 9, 1980.

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. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 7510

Envelope, Crystal Clear Vinyl

7510-00-NIB-0003
9×14"
7510-00-NIB-0004
8½×10½"
7510-00-NIB-0005
10×5"
7510-00-NIB-0006
8¾×3½"

SIC 7349

Janitorial Service, USDA Forest Service Offices, Sequoia National Forest, Porterville, California, at: Supervisor's Office, 900 W. Grand Avenue, Warehouse Complex, 480 N. Henrahan.

Janitorial Service, Department of Energy, Technical Support Facilities: Computer Science Center, Technical Support Building, Technical Support Addition, 550 Second Street, Idaho Falls, Idaho.

C. W. Fletcher,

Executive Director.

[FR Doc. 80-7176 Filed 3-6-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1980 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: March 7, 1980.

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 January 11, 1980 and December 21, 1979, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (45 FR 2359 and 44 FR 75693) of proposed additions to Procurement List 1980, November 27, 1979 (44 FR 67925).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1980:

Class 7510

File Fronts

7510-00-NIB-0001
9 x 11½"

File Backs

7510-00-NIB-0002
9 x 11½"

Class 8105

Bag, Plastic

8105-00-NSH-0001
3½" x 5¼" Type II
8105-00-NSH-0002
3½" x 5¼" Type I
8105-00-NSH-0003
6¾" x 1½" Type II
8105-00-NSH-0004
6¾" x 1½" Type I

(The above for requirements of Naval Weapons Support Center, Crane, Indiana only)

C. W. Fletcher,

Executive Director.

[FR Doc. 80-7177 Filed 3-6-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1980; Proposed Delection

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 1980 commodities produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 9, 1980.

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. Its purpose is to provide interested parties an opportunity to submit comments on the possible impact of the proposed action.

It is proposed to delete the following commodities from Procurement List 1980, November 27, 1979 (44 FR 67925):

Class 7210

Pillowcase

7210–00–170–5478
7210–00–171–1100
7210–00–205–3101
7210–00–761–1472

C. W. Fletcher,

Executive Director.

[FR Doc. 80-7178 Filed 3-6-80; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

Product Safety Advisory Council; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council.

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council on Monday, March 24, 1980, and Tuesday, March 25, 1980. The meeting will be held at 1111 18th Street, N.W., Washington, D.C. 20207, Third Floor Conference Room.

FOR FURTHER INFORMAION CONTACT: Catherine Bolger, Office of the Secretary, Suite 300, 1111 18th Street, N.W., Washington, D.C. 20207, 202/634–7700.

SUPPLEMENTAL INFORMATION: The Product Safety Advisory Council was established by section 28 of the Consumer Product Safety Act, which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act.

The agenda schedule for the March 14–25 meeting has not yet been finalized; however, the topics of discussion tentatively scheduled include issues relating to recall effectiveness, data collection, and voluntary standards. For further information on the agenda topics and times of the meeting, contact Ms. Bolger at the address and telephone number noted above.

The meeting is open to the public; however, space is limited. Persons who wish to make oral written presentation to the Product Safety Advisory Council should notify the Office of the Secretary (see address above) by March 18, 1980. The notification should list the name of the individual who will make the presentation, the person, the company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Council may be allowed by the persiding officer.

Dated: March 5, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-7316 Filed 3-7-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 29, 1980.

The USAF Scientific Advisory Board Ad Hoc Committee on Turbine Engine Monitoring Systems will hold a meeting on April 14 and 15, 1980 from 8:30 a.m. to 5:00 p.m. at HQ ASD, Wright-Patterson Air Force Base, Ohio.

The purpose of the meeting will be to review the status of the F100 Engine Diagnostic System Development and the A–10 Turbine Engine Monitoring Systems programs.

The meeting concerns matters listed in Section 552(b) of Title 5, United States Code, specifically subparagraph (4) thereof, and that accordingly the meeting will be closed to the public.

For further information please contact the Scientific Advisory Board Secretariat at (202) 697–8845.

Carol M. Rose,

Air Force Federal Register Liaison Officer

[FR Doc. 80-7237 Filed 3-6-80; 8:45 am]

BILLING CODE 3710-01-M

Corps of Engineers, Department of the Army

Intent to prepare a Supplement for the Beach Erosion Control and Hurricane Protection Study for Dade County, Fla, North of Haulover Beach Park

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare a Supplement to an EIA.

SUMMARY: 1. The study encompasses the ocean shoreline of Dade County, north of Government Cut, to the Broward County line. The length of the study area is 14.3 miles. The purpose of the study is to survey the northern 3.8 mile shoreline of the study area so as to determine the need and feasibility of providing measures to control beach erosion and prevent hurricane-induced flooding. The study will include an economic analysis of the problem and a determination of the extent to which local interests are qualified for Federal aid under terms of Pub. L. 826, 84th Congress, as amended by Pub. L. 874, 87th Congress.

2. In addition to no action, conceivable alternatives include modification of building codes, condemnation of land and structures, beach fill with periodic nourishment, beach fill with periodic nourishment stabilized by offshore breakwaters, beach fill with periodic nourishment with hurricane surge protection sand dune.

3. a. The process for determining the scope of issues to be addressed and for identifying the significant issues related to alternative actions is underway. A public meeting was held 17 April 1978, and a final public meeting is scheduled for late spring 1980. The study is being coordinated with the Dade County Board of Commissioners, U.S. Fish and Wildlife Service, National Marine Fisheries Service, State of Florida, Florida Division of Archives, History, and Records Management, and the Interagency Archeological Services Division, Department of the Interior. Additional meetings may be held as issues become more clearly defined. Affected Federal, State, and local agencies, Indian tribes, and other interested organizations and parties are invited to participate in the identification of issues, problems and needs and the formulation of alternative courses of action by communicating with the addressee listed below.

b. Significant issues to be analyzed in depth in the Supplement to the Environmental Impact Statement include fish and wildlife habitat requisites, water quality considerations, recreation demands, archeological and historical considerations, and erosion control needs.

c. Consultation with the State Historic Officer and the U.S. Heritage Conservation and Recreation Service has been initiated in accordance with the National Historic Preservation Act of 1966 and Executive Order 11593. Planning is being coordinated with the U.S. Fish and Wildlife Service and National Marine Fisheries Service as

required by the Fish and Wildlife Coordination Act of 1973.

4. The preliminary recommended plan, to be coordinated with local, state, and Federal agencies, will be presented in the Draft Survey Report which is scheduled for completion in April, 1980.

5. The Supplement to the Environmental Impact Statement will be available for review in April 1980.

ADDRESS: Questions about the proposed action and Supplement to the Environmental Impact Statement can be answered by: Dr. Lloyd H. Saunders, Chief of the Environment and Resources Branch, U.S. Army Engineer District, P.O. Box 4970, Jacksonville, Florida 32201, telephone FTS 946–2202 or commercial (904) 791–2202.

Dated: February 25, 1980.

James W. R. Adams,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-7056 Filed 3-6-80; 8:45 am]

BILLING CODE 3710-AJ-M

Department of the Army, Corps of Engineers

Intent To Prepare a Draft Supplement to the Final Environmental Statement: Operation, Maintenance, and Minor Improvements of the Federal Facilities at Sault Ste. Marie, Mich.

AGENCY: Detroit District, U.S. Army, Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Supplement to the Final Environmental Impact Statement (FEIS).

SUMMARY: The Detroit District, U.S. Army Corps of Engineers, is considering extending Lock operations at Sault Ste. Marie, Michigan, to permit vessel transits to 31 January ± 2 weeks. The FEIS for Operations, Maintenance, and Minor Improvements of the Federal Facilities at Sault Ste. Marie, Michigan, was filed with CEQ in November 1977. A Final Supplement to the Operation and Maintenance EIS for the Federal Facilities at Sault Ste. Marie, Michigan, Addressing Limited Season Extension of Operation to 8 January ± 1 week, was filed with EPA in October 1979.

Proposed Action. The proposed action is to extend the operation season of the lock facilities at Sault Ste. Marie, to 31 January ± 2 weeks, thereby extending the inter-Great Lakes shipping season. Two of the four locks, the Poe and the MacArthur, would be utilized to accommodate winter vessel traffic. Most of the traffic would use the Poe Lock, while the MacArthur would serve as a backup unit during busy periods. Some new and proven structures and equipment would be required to insure extended season operation and a navigable environment. Specific requirements for determining the time for closure will be developed based on weather and ice cover conditions.

2. *Alternatives.* Practicable alternatives considered are:

a. No action. This entails opening the locks on approximately 1 April, and closing about 15 December. These dates are established by regulation which recognize factors such as weather conditions, lock maintenance requirements, and needs of commerce.

b. Extension of the season to about 25 December.

c. Extension of the season to about 30 December.

d. Extension of the season to about 8 January.

e. Extension of the season to year-round navigation.

3. *Scoping process.*

a. Public Involvement. No recent public workshops, hearings, or meetings have been held concerning the extended season of operation for the Federal facilities at Sault Ste. Marie, Michigan, to 31 January ± 2 weeks. However, about 30 such meetings have been held on the subject of navigation season extension in the past eight years. These meetings have addressed season extension to 31 January ± 2 weeks and other alternatives. Substantial opposition exists to extension of the navigation season. The Corps of Engineers is encouraging current public participation in identifying and resolving environmental, social, and economic issues, and meaningful views and comments are invited. If you wish to express your ideas concerning these issues, please forward your comments to the office identified below. Scoping and coordination meetings will be held as necessary with federal, State, and local agencies and organizations.

b. Significant Issues. Significant issues requiring indepth analysis include Physical Environment: shore erosion and sediment transportation, shoreline structure damage, vibrations, and noise; Biological Environment: benthos, fisheries and wildlife resources, aquatic vegetation, endangered species; oil or hazardous material spills; and, Social Environment: island transportation, winter recreation, Coastal Zone Management, and historical sites.

c. Other Environmental Review and Consultation Requirements. Review will be as outlined in CEQ regulation dated November 1978 (40 CFR 5–1500–1508) and Corps of Engineers, Department of the Army, ER 200–2–2, Environmental Quality: Policy and Procedures for Implementing NEPA (33 CFR, Part 230).

4. *Public Scoping Meeting.* A public scoping meeting is planned in April 1980 at Sault Ste. Marie, Michigan.

5. *Estimated Date of FEIS—Draft Supplement Release.* It is anticipated that the draft supplement will be available to the public in May 1980.

6. *Address.* Questions about the proposed action and FEIS supplement can be answered by Mr. Lloyd Fanter, Project Manager, Environmental Resources Branch, U.S. Army Corps of Engineers, Box 1027, Detroit, Michigan 48231, Phone: (313) 226–6237.

Robert V. Vermillion,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-7134 Filed 3-6-80; 8:45 am]

BILLING CODE 3710-GA-M

Office of the Secretary

Membership of the Inter-Defense Agency Performance Review Board

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of the membership of the Inter-Defense Agency Performance Review Board.

SUMMARY: The Department of Defense announces additional membership of the Inter-Defense Agency Performance Review Board. The purpose of the Board is to provide fair and impartial review of the Senior Executive Service performance appraisals prepared by the senior executive's immediate and second level supervisor, and make recommendations to the Directors of Defense Agencies regarding acceptance or modification of the performance rating; transfer, reassignment or removal from the SES of any senior executive whose performance is considered to be unsatisfactory; nominations for financial performance awards; and nominations for the rank of Meritorious Executive and Distinguished Executive.

EFFECTIVE DATE: March 7, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Sharon B. Brown, Chief, Senior Executive Service Division, Directorate of Personnel & Security, WHS, Office of the Secretary of Defense, Department of Defense, Pentagon (202) 695–4573 or 695–9313.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4) and DoD Directive 1434.2 (to be published as 32 CFR Part 57), the following are names and titles of the persons who have been appointed to the Inter-Defense Agency Performance Review Board. They will serve a 1-year renewable term, effective February 14, 1980.

Name and Title

Defense Investigative Service
Bernard J. O'Donnell—Director
Bernard H. Steacy—Director of Operations

O. J. Williford,

Director, Correspondence and Directives. Washington Headquarters Services. Department of Defense.

March 4, 1980.

[FR Doc. 80-7167 Filed 3-6-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Food Industry Advisory Committee; Renewal

Notice is hereby given that the Food Industry Advisory Committee (FIAC) will be renewed as an advisory committee to the Department of Energy (DOE). FIAC will continue to provide recommendations and advice to the Secretary of Energy with respect to the development and implementation of DOE programs and policies affecting efficient energy use in the food industry. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), the DOE Organization Act (Pub. L. 95-91), DOE policies and procedures, OMB Circular No. A-63 (Revised), and other directives and instructions issued in implementation of the Federal Advisory Committee Act. The renewal is necessary and in the public interest.

This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Further information regarding this Committee may be obtained from the Department of Energy Advisory Committee Management Office (202/252-5187).

Issued at Washington, DC on February 27, 1980.

John C. Sawhill,

Deputy Secretary.

[FR Doc. 80-7174 Filed 3-6-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Beta Development Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective Date: February 29, 1980. Comments by: April 7, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, SW District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, S.W. District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone (214) 767-7745.

SUPPLEMENTARY INFORMATION: On February 29, 1980, the Office of Enforcement of the ERA executed a Consent Order with Beta Development Company (Beta) of Farmington, New Mexico. Under 10 CFR 205.199J(b) the Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Beta with its office located in Farmington, New Mexico, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Beta entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the Audit was September 1, 1973 through December 31, 1975, and it included all sales of crude oil which were made during that period.

2. Beta allegedly misapplied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.

3. In order to expedite resolution of the disputes involved, the DOE and Beta have agreed to a settlement in the amount of $128,000, plus interest. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and Beta.

4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with 10 CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order Beta agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.(1) above, the sum of $128,000, plus interest, within fifteen (15) months of the execution of the Consent Order. Refunded overcharges will be in the form of certified checks made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition. The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have becomes so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission or Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice May

result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Coments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, S.W. District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Beta Development Company Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on April 7, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 29th day of February 1980.

Wayne I. Tucker,

District Manager, Southwest District of Enforcement, Economic Regulatory Administration.

[FR Doc. 80-7165 Filed 3-6-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-31-NC; DOE/ERA Opinion and Order No. 15]

Border Gas, Inc.; Order Denying Applications for Rehearing of Opinion and Order No. 12

February 29, 1980.

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I. Background
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I. Background

In Opinion and Order No. 12, issued on December 29, 1979, the Economic Regulatory Administration (ERA) authorized Border Gas, Inc. (Border), a concern formed by six U.S. energy companies,[1] to import up to approximately 300 million cubic feet per day (MMcf/d) of natural gas from Mexico into the United States through existing facilities. An initial base price of $3.625 (U.S.) per million Btu, subject to quarterly escalation in accordance with a pre-established formula, was approved.

ERA granted the import authorization for the initial 300 MMcf/d pursuant to the terms of Border's Contract of Purchase and Sale of Natural Gas (Purchase Contract) entered into with Petroleos Mexicanos (Pemex), the Mexican state oil company, on October 19, 1979.

Opinion No. 12 stated that the ERA approval of December 29, 1979, is limited to the initial deliveries of approximately 300 MMcf/d through the "Secondary Point of Delivery" and that nothing in the approval should be read as implying any decision on further imports through any new facilities that would have to be constructed to increase imports above the approved 300 MMcf/d. The opinion made it clear that the sale and delivery of quantities of natural gas in excess of approximately 300 MMcf/d will require Border Gas to file with ERA applications for authority to import increased volumes pursuant to Section 3 of the NGA.

II. The Applications for Rehearing

Natural Gas Pipeline Company of America (Natural), United Gas Pipeline Company (United), and the State of Louisiana (Louisiana) (collectively, "the petitioners") filed applications for rehearing of Opinion No. 12 by January 28, 1980.

On February 14, 1980, Border filed a response in opposition to the applications for rehearing, and on February 24, 1980, United filed an opposition to the Border response.

The three petitioners support Opinion No. 12 to the extent it authorized Border's initial importation of 300 MMcf/d of Mexican natural gas, but request rehearing on the limited issue of ERA's failure to institute promptly a proceeding to determine whether the exclusivity clause in the Purchase Contract between Border and Pemex is inconsistent with the public interest insofar as it applies to future imports of Mexican gas.

The exclusivity clause in question gives Border the exclusive right to purchase from Pemex all future imports of Mexican natural gas above the initial 300 MMcf/d. Such provision, the petitioners contend, is contrary to the public interest, anti-competitive, and discriminatory. They assert, for example, that the exclusionary provision raises serious restraint of trade and monopolization issues under Sections 1 and 2 of the Sherman Act. The petitioners argue that resolution of these issues should not be deferred until Border makes application to import additional volumes of Mexican gas, for they claim that other U.S. companies are effectively precluded from direct contract negotiations with Pemex as long as the Border/Pemex contractual provisions are in effect. The three petitioners therefore request a "second phase" hearing to explore the exclusivity issues.

United and Louisiana state that they are also concerned about the geographic effect of the contractual provisions. They submit that the six Border companies sell only insignificant volumes of natural gas to Louisiana and other portions of the Gulf Coast region and that discrimination against any interstate pipeline company automatically means discrimination against the particular area it serves.

Border, in its response,[2] stated that applications for rehearing under Section 19 of the Natural Gas Act (NGA) are permitted to be filed with ERA only with respect to an ERA order which finds that a proposed gas import is not consistent with the public interest, and that all other requests for rehearing under Section 19 of the NGA must be filed with the FERC. Since ERA held in this proceeding that the importation of the initial 300 MMcf/d was in the public interest, and deferred consideration of other issues, Border asserted that applications for rehearing of the order do not lie with ERA. Border further asserted that United and Louisiana, in their applications for rehearing, raise for the first time issues relating to national antitrust laws, which they claim fall within the residual jurisdiction of the FERC in gas import cases, and that in any event no case has been made on the merits that there is presented here an unlawful restraint of trade in violation of the antitrust law.

III. Conclusions

ERA recognized, in Opinion No. 12, that interveners in the proceeding (the three petitioners plus Panhandle Eastern Pipeline Company and Trunkline Gas Company) raised objections to the contract between Pemex and Border insofar as it purported to limit future deliveries above 300 MMcf/d exclusively to Border. In that opinion we specifically indicated that our approval was limited to the initial volumes of gas imported through the Secondary Point of Delivery.

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[1] Tennessee Gas Pipeline Company, Texas Eastern Transmission Corporation, El Paso Natural Gas Company, Transcontinental Gas Pipeline Corporation, Southern Natural Gas Company, and Florida Gas Transmission Company.

[2] Although 18 CFR 1.34(d) specifically provides that responses to applications for rehearing will not be entertained, we believe it appropriate to consider and dispose of Border's response because it raises fundamental issues regarding the jurisdiction of ERA to rule on the applications for rehearing.

We are mindful of the argument made by the petitioners that unless and until the exclusionary provisions of the Purchase Contract are expressly voided by a U.S. regulatory agency, they and other companies not affiliated with Border may be effectively precluded from negotiating with Pemex the purchase of additional volumes of Mexican gas. However, we continue to believe that it would be premature to address the issues raised in the applications for rehearing in the absence of a specific application to import specific volumes of additional gas. We emphasize that we did not intend in Opinion No. 12 to indicate that we were giving even tacit approval to the exclusion provisions or any other features of the Purchase Contract insofar as they apply to volumes of gas in excess of the initial 300 MMcf/d.

The petitioners are not likely to be prejudiced by deferral of the issues they raised until an application has been filed to import additional volumes, since they are free to discuss with Pemex the purchase of gas in the event ERA does not approve the exclusivity provisions.[3] It is also not clear that the petitioners would be prejudiced if Pemex refused to deal with them until after an ERA decision on a future application is issued, since Border is not able to import additional volumes of gas under the current contract or to construct facilities to deliver such volumes until ERA and Federal Energy Regulatory Commission (FERC) approval is obtained. If ERA ultimately determines that the petitioners or other companies should have access to Mexican gas, we see no reason why that could not be accomplished through the attachment of appropriate conditions to any future import approval.

One final issue raised in Border's response to the applications for rehearing should be addressed. Contrary to Border's assertion, we believe the petitioners' applications for rehearing lie with ERA, at least to the extent they seek rehearing of issues decided by the ERA in Opinion No. 12. If applications for rehearing of all issues resolved by ERA in a case in which import approval was granted lie only with the FERC, there would effectively be created a right to appeal ERA decisions in such cases to the FERC. That right clearly was not intended by the Secretary of Energy's orders delegating functions to the ERA and the FERC, respectively. DOE Delegation Order No. 0204-54 (44 FR 56735, October 2, 1979) delegates to ERA the authority granted the Secretary by Sections 301 and 402(f) of the Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565, and states that ERA shall determine whether a natural gas import is in the public interest by considering certain enumerated criteria and "[s]uch other matters within the scope of Section 3 * * * as the Administrator shall find in the circumstances of a particular case to be appropriate for his determination. The issue of alleged anticompetitive effect is an issue which we deemed appropriate to consider and was addressed in Opinion No. 12.

[3] We also note that Pemex's willingness to negotiate at this time with companies not affiliated with Border cannot be dictated by any order issued by ERA. Even if ERA followed the course of action suggested by the petitioners, there is no assurance that Pemex would negotiate with them for the sale of gas.

Order

In consideration of the foregoing, the Economic Regulatory Administration hereby orders:

Pursuant to Section 19 of the Natural Gas Act and Delegation Order No. 0204-54, the applications of Natural Gas Pipeline Company of America, United Gas Pipeline Company, and the State of Louisiana for rehearing of DOE/ERA Opinion and Order No. 12 are hereby denied.

Issued in Washington, D.C., on February 29, 1980.

Douglas G. Robinson,

Deputy Administrator for Policy, Economic Regulatory Administration.

[FR Doc. 80-7058 Filed 3-6-80; 8:45 am]

BILLING CODE 6450-01-M

Energy Reserve Group, Inc.; Issuance of Proposed Remedial Order

Notice is hereby given that on February 19, 1980, the Proposed Remedial Order (PRO) summarized below was issued by the Central Enforcement District of the Economic Regulatory Administration (ERA) of the Department of Energy to Energy Reserves Group, Inc. (ERG), P.O. Box 1201, Wichita, Kansas 67201.

The PRO includes findings that ERG, a crude oil producer, overcharged $863,781.00 in sales of crude oil during the period September 1, 1973 through September 30, 1974. The overcharges occurred with respect to six properties located in the States of Mississippi, Kansas, Nebraska, Texas and New Mexico. Specifically, the Office of Enforcement of the ERA has found that ERG overcharged $68,465.00 in sales of crude oil produced from the USA Rubie Bell property located in Scott County, Mississippi; $84,683.00 in sales of crude oil produced from the Ames Unit property located Barton County, Kansas; $40,462.00 in sales of crude oil produced from the Ostgren Unit located in Kimball County, Nebraska; $23,930.00 in sales of crude oil produced from the Navajo property located in San Juan County, New Mexico; $957.00 in sales of crude oil produced from the Laura A. Chapman property located in Stafford County, Kansas; and $645,284.00 in sales of crude oil produced from the Wright Mountain/Lower Pettit property located in Sioux County, Texas.

The reason for the overcharges was ERG's erroneous characterization of said properties, with the exceptions of the USA Rubie Bell, as a stripper well lease, as defined at 6 CFR § 150.54(s) during the period November 16, 1973, through January 14, 1974, and at 10 CFR § 210.32 during the period January 15, 1974 through January 31, 1976. The reason for the overcharge on the USA Rubie Bell was ERG's sale of old oil at price in excess of the ceiling price. The specific periods during which the violations occurred with respect to each property are set forth in the PRO.

The Office of Enforcement of the ERA has proposed in the PRO that ERG be required to refund the full amount of overcharges (plus interest) found with respect to each property as the Department of Energy shall direct. Refunds shall be made over a period of time as specified in the PRO. In addition, the Office of Enforcement of the ERA has proposed in the PRO that ERG be required to submit to the Office of Enforcement of the ERA, with respect to the above-named properties, except the USA Rubie Bell, certain data and calculations necessary for the Office of Enforcement of the ERA to determine whether the violations continued after September 1974.

A copy of the PRO, with any confidential information deleted, may be obtained from the ERA at the following address: Chief, Crude Products Program Management Branch, Central Enforcement District, Economic Regulatory Administration, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

Any aggrieved person may, on or before March 24, 1980, file a Notice of Objection with the Office of Hearings and Appeals in accordance with 10 CFR 205.193. Pursuant to 10 CFR 205.193, a Notice of Objection must be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the PRO as a final Remedial Order, and shall state the person's intention to file a Statement of Objections pursuant to 10 CFR 205.196. No confidential information shall be included in a Notice of Objection. A Notice of Objection must be filed at the following

address: Office of Hearings and Appeals, Department of Energy, 2000 M Street NW., Washington, D.C. 20461.

In addition, a copy of each filing must be submitted to the ERA Central Enforcement District office at the address set forth herein, and to: Assistant General Counsel for Administrative Litigation, Office of General Counsel, Department of Energy, Room 7149, 12th & Pennsylvania Avenue NW., Washington, D.C. 20461.

Issued this 22nd day of February, 1980 in Kansas City, Missouri.

William D. Miller,

Manager Central Enforcement District, Economic Regulatory Administration.

I, David H. Jackson, Chief Enforcement Counsel, Central Enforcement District, concur in the issuance of the Proposed Remedial Order to Energy Reserve Group, Inc. and in the Notice prepared for publication in the Federal Register.

Dated: February 22, 1980.

David H. Jackson,

Chief Enforcement Counsel, Central Enforcement District.

[FR Doc. 7173 Filed 3-6-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP79-424]

Pacific Gas Transmission Co., Intent To Prepare an Environmental Impact Statement and Request for Comment on its Scope

March 3, 1980.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission intends to prepare an environmental impact statement (EIS) that will address the application by Pacific Gas Transmission Company (PGT) in Docket No. CP79-424 for a certificate of public convenience and necessity. This certificate, requested pursuant to section 7 of the Natural Gas Act, would authorize construction and operation of a gas transmission system to be known as the "Rocky Mountain Pipeline Project." Natural gas would be obtained from the Overthrust Belt and the Green River, Uintah, and Piceance Basins in Idaho, Wyoming, Utah, and Colorado, which have proven reserves and where exploration and development are continuing. The gas would be transported through the proposed pipeline and delivered to Pacific Gas and Electric Company (PG&E).

The Rocky Mountain Pipeline Project would consist of two pipeline laterals and a main line section with four compressor stations, four maintenance bases, an operating headquarters, and related communications facilities. The Kemmerer Lateral would consist of 143.6 miles of 24-inch diameter pipeline beginning at a connection point with the facilities of Northwest Pipeline Corporation near Kemmerer, Wyoming, and extending southwesterly to a junction with the main line and the Uintah lateral about 10 miles southeast of Provo, Utah. The Uintah Lateral would consist of 128.5 miles of 20-inch diameter pipeline beginning at a connection point with Northwest Pipeline Corporation facilities near Bonanza, Utah, and extend westerly to the junction of the main line with the Kemmerer Lateral. The main line would consist of 422.7 miles of 30-inch diameter pipeline beginning at the junction of the laterals and extending southwesterly to a delivery point on the Nevada-California border near Searchlight, Nevada. At this point, the proposed 694.8 mile long pipeline would link with 40 miles of new 30-inch diameter pipeline constructed by PG&E to connect the proposed project with PG&E's existing transmission system west of Needles, California. The proposed pipeline would traverse Lincoln and Uinta Counties, Wyoming; Summit, Wasatch, Utah, Duchesne, Uintah, Sanpete, Juab, Millard, Beaver, Iron and Washington Counties, Utah; and Lincoln and Clark Counties, Nevada. PG&E's 40-mile long segment of pipeline would be located in San Bernardino County, California.

A construction right-of-way of 75 feet wide would be required for the proposed pipeline. After construction, a permanent 50-foot wide right-of-way would be maintained. Approximately 6,734 acres of land would be affected by this proposal.

Typical natural gas pipeline construction procedures would be followed. Contruction would begin in late 1984 or early 1985. The proposed pipeline system is designed to transport initial volumes of 300 million cubic feet per day and could eventually be expanded by installing additional compression to an ultimate capacity of 700 million cubic feet per day.

Possible alternatives that will be considered include using existing pipelines, realigning the proposed Rocky Mountain Pipeline Project, and postponing or denying the proposed action.

The Federal Energy Regulatory Commission will be the lead agency responsible for preparing the EIS and will seek the participation of other agencies. Federal, state, and local agencies, private interest groups, and the public are encouraged to submit comments relative to the scope of the proposed project. Comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426. Recommendations that specific issues be addressed in the EIS should be supported by detailed rationale or a showing of the need to consider specific issues. Comments are requested by April 22, 1980. All comments will be considered by the Federal Energy Regulatory Commission staff in determining the scope of the EIS. Additional environmental information and maps on the proposal are available from Mr. Kenneth Frye, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, at the same address, telephone (202) 357-9039.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-6942 Filed 3-6-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[CFR 1430-5]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), US Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EISS) which have been officially filed with the EPA and distributed to federal agencies and interested groups, organizations and individuals for review pursuant to the council on environmental quality's regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of February 25, 1980 to February 29, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from March 7, 1980 and will end on April 21, 1980. The 30-day review period for final EIS's as calculated from March 7, 1980 will end on April 7, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the federal agency which prepared the EIS. This notice will give a contact person for each federal agency which has filed an EIS during the period covered by the notice. If a federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which

are no longer available from the originating agency are available with charge from the following sources:

For hard copy reproduction: Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

For hard copy reproduction or microfiche: Information Resources Press, 2100 M Street, NW, Suite 316, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ regulations became effective. Pursuant to section 1506.10(A), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of February 25, 1980 to February 29, 1980 the 30-day review period will be calculated from March 7, 1980. The review period will end on April 7, 1980.

Appendix I sets forth a list of EIS's filed with EPA during the week of February 25, 1980 to February 29, 1980. The federal agency filing the EIS, the name, address, and telephone number of the federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS, was filed with EPA, the title of of the EIS, the state(s) and county(ies) of the proposed action and a brief summary of the proposed federal action and the federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The appendix II includes the federal agency responsible for the EIS, the name, address, and telephone number of the federal agency contact, the title, state(s) and county(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous notices of availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: March 4, 1980.

William N. Hedeman, Jr.

Director, Office of Environmental Review (A-104).

Appendix I.—EIS's Filed With EPA During The Week of February 25 Through 29, 1980

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Att: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

Cedar Point Navigation Improvement, McIntosh County, Ga., Feb. 29: Proposed are navigation improvements for Cedar Creek and Cresent River in McIntosh County, Georgia. Four modification plans for dredging of the channels has been developed which include: (1) disposal in open water at two sites; (2) disposal inside a diked upland area; (3) disposal at both the upland and open water sites; and (4) disposal into an undiked, 120 acre wetland area. (Savannah District) (EIS order No. 800143.)

Upper Wayne and MaComb Counties Flood Protection, Wayne and Macomb Counties, Mich., Feb. 29: Proposed is a shoreline flood protection plan for Upper Wayne and Macomb Counties, Michigan, on the shore of Lake St. Clair. The alternatives for the St. Clair shores are: (1) a shoreline seawall/levee, and (2) an inland seawall/levee along Jefferson Avenue. The alternatives considered for the Grosse Pointe Park are: (1) a shoreline seawall/levee, and (2) a shoreline earth fill of low-lying areas. Additionally, the banks of Milk River would be lined with steel sheet piling along with the installation of a pump station and other interior drainage facilities. (Detroit District) (EIS order No. 800147.)

Draft Supplement

Libby Dam Additional Units/Regulating Dam (DS-5), Lincoln County, Mont., Feb. 28: This statement supplements a final EIS, No. 721739, filed 1-28-72. Proposed are alternatives for the Libby Dam additional units and reregulating dam in Lincoln County, Montana. This statement examines the need for peaking power and assesses a variety of nongenerating and generating alternatives. These include: conservation, load management, importing power, combustion turbine, combined cycle, coal-fired steam, nuclear fission, cogeneration, hydropower, solar thermal, solar electric, wind, geothermal, biomass conversion, nuclear breeder, magnetohydrodynamics, ocean thermal, ocean tidal, delay of action and no action. (Seattle District) (EIS order No. 800139.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.

National Oceanic and Atmospheric Administration

Draft

Hawaiian Monk Seal Critical Habitat, Hawaii, Feb. 29: Proposed is the designation of critical habitat for the Hawaiian monk seal in the northwest Hawaiian Islands. Essential habitat requirements for the monk seal include pupping and hauling beaches, shallow, reef-protected lagoon waters adjacent to these beaches, and the deeper inner reef waters, lagoon waters and all other surrounding water areas to a depth of 10-20 fathoms. (EIS order No. 800151.)

DEPARTMENT OF DEFENSE, Navy

Contact: Mr. Ed Johnson, Head, Environmental Impact Statement/RDT&E Branch, Office of the Chief of Naval Operations, Department of the Navy, Washington, D.C. 20350, (202) 697-3689.

Final Supplement

Kahoolawe Island Target Complex (FS-1), Hawaii, Feb. 29: This statement supplements a FEIS originally filed with CEQ in March 1972. This supplement provides a more complete table of contents and updates the information contained in the final statement. Three new targets have been added to the target complex and overall use of the island for ground operations of the U.S. Marine Corps has increased. (EIS order No. 791203.)

ENVIRONMENTAL PROTECTION AGENCY

EPA, Headquarters

Contact: Mr. Jeff Allson, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Harbor, Michigan 48105, (313) 668-4317.

Final

Light-Duty Diesel Particulate Regulation, Regulatory, Feb. 29: Proposed are Federal light-duty diesel particulate emission standards for 1981 and later model year vehicles. The changes to the existing regulations include: (1) the addition of a dilution tunnel and other equipment to measure particulate emission, (2) implementation of exhaust emission standards for particulate matter from light-duty vehicles and trucks of 0.60 grams per mile beginning with MY 1982, and (3) reduction of standards to 0.20 g/mi for vehicles and to 0.26 g/mi for trucks beginning with MY 1985. Comments made by: (EIS order No. 800149.)

GREAT LAKES BASIN COMMISSION

Contact: Mrs. Lee Botts, Chairman, Great Lakes Basin Commission, P.O. Box 999, 3475 Plymouth Road, Ann Arbor, Michigan 48106, (313) 668-2300, FTS 8 378-2300.

Draft

Great Lakes Basin, Water Conservation Assessment, several counties, Feb. 28: Proposed is the water conservation assessment for the Great Lakes Basin. The conservation measures to be considered are: (1) municipal demand reduction and improvement of existing municipal systems;

(2) discouragement of excessive water consumption, mining aquifers, diversions and consumptive use of water from rivers and streams during low flow periods; (3) ensurance of compliance of environmental quality laws; (4) reduction of investments in municipal water supply and wastewater facilities; (5) reduction of energy demands; and (6) reduction of phosphorus and pollutants into the Great Lake. (EIS order No. 800138.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755-6300.

Draft

Golden Meadows Housing Development, Fort Collins, Larimer County, Colo., Feb. 26: Proposed is the issuance of HUD home mortgage insurance for the Golden Meadows housing development in Fort Collins, Larimer County, Colorado. The insurance is requested for 550 units of the 1475 unit development. The development would be located on 130 acres. (HUD-RO8-EIS-80-VD) (EIS order No. 800132.)

Rockrimmon Lake Area, Colorado Springs, El Paso County, Colo., Feb. 26: Proposed is the issuance of HUD home mortgage insurance for the Lake Area of the Rockrimmon planned development in Colorado Springs, EL Paso County, Colorado. The insurance has been requested for 402 single-family homes on 151 acres. The total development encompasses 2,380 acres and will contain approximately 5,500 dwelling units as well as commercial, school and park areas. (HUD-RO8-EIS-80-IVD) (EIS order No. 800134.)

Lafayette Park Housing Development, Lafayette, Boulder County, Colo., Feb. 29: Proposed is the issuance of HUD home mortgage insurance for the Lafayette Park housing development located in Lafayette, Boulder County, Colorado. The development would encompass 272 acres and contain 2,175 dwelling units. (HUD-RO8-EIS-80-VI-D) (EIS order No. 800146.)

Draft

Carrolltowne planned development, Carroll County, Md., February 6: Proposed is the issuance of HUD home mortgage insurance for the Carrolltowne planned development in Carroll County, Maryland. The development would contain 700 dwelling units on a 188 acre tract of land. The development will include: school, open space, and police/fire stores; and a shopping mall. The units will include single family dwellings, townhouses and apartments. (EIS Order No. 800133.)

Final

The Foothills planned development, Salt Lake County, Utah, February 29: Proposed is the issuance of HUD home mortgage insurance for the construction of 650 single-family detached units located within the Foothills Planned Unit Development, Riverton City, Salt Lake County, Utah. The development in total will include; 1) 1,800 single-family homes, 2) 200 multi-family homes, 3) 80 acres of parks and open space, and 4) a 15 acre shopping center. (HUD-RO8-EIS-79XCIIF.) Comments made by: USDA, DOI, EPA, COE, DOC, State and local agencies. (EIS order No. 8001148.)

Draft Supplement

Wagon Wheel development, Fort Collins, (DS-1), Larimer County, Colo., February 29: This statement supplements a draft EIS, no. 800102, filed 2-12-80. Proposed is the issuance of HUD home mortgage insurance for the Wagon Wheel housing development in Fort Collins, Larimer County, Colorado. The development will encompass 114 acres and will consist of approximately 375 single-family homes. (HUD-RO8-EIS-80-IIID-1) (EIS order No. 800145.)

The Woodlands development, Fort Collins, (DS-2), Larimer County, Colo., February 29: This statement supplements a draft EIS, No. 800102, filed 2-12-80. Proposed is the issuance of HUD home mortgage insurance for the Woodlands housing development in Fort Collins, Larimer County, Colorado. The development would encompass 81 acres and will consist of 400 single and multifamily dwellings and apartments. (HUD-RO8-EIS-IIID-2) (EIS order No. 800150.)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Final

St. Johns Riverfront development (UDSG), Multnomah County, Oregon, February 29: Proposed is the awarding of a UDA grant for the residential and recreational development of 98 acres of waterfront property on the Willamette River in the St. Johns district of the City of Portland, Multnomah County, Oregon. Major features of the project will include: utility and street improvements, relocation assistance to on-site residents and businesses, development of a greenway trail system, four public parks, land disposition for the construction of 630 residential dwellings, two restaurants, and a public marina. Comments made by: USDA, EPA, DOI, State and local agencies, groups and businesses. (EIS order No. 800144.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Bureau of Land Management

Draft

Great Rift Wilderness Area, several counties, February 29: Proposed is the designation of the Great Rift Wilderness Area as part of the National Wilderness Preservation System. The area, which encompasses 341,000 acres, is located in Blaine, Butte, Minidoka and Power Counties, Idaho. The alternatives consider designating an additional 33,400 acres of public land as wilderness and no action which would continue administration of the Grassland Kipuka as a natural area and the Craters of the Moon and Wapi lava flows for multiple use. (EIS order No. 800142.)

Cowhead-Massacre planning unit, Washoe County, Nev., Lassen and Modoc Counties, Calif. February 28: Proposed is the implementation of livestock grazing management plan for the Cowhead/Massacre planning units in Washoe County, Nevada and Lassen and Modoc Counties, California. Components of the program are: 1) constraint of livestock grazing use; 2) grazing treatment including no grazing on 97,000 acres, rest-rotation with light forage use on 237,000 acres rest-rotation with moderate forage use on 368,000 acres, fall/winter grazing on 159,000 acres, grazing on 23,000 acres. Eight alternatives are considered. (DES-80-6.) (EIS order No. 800140.)

Draft

Surface management of public lands, regulatory, February 27: Proposed is the issuance of regulations for the surface management of public lands under the Mining Law of 1972 as restricted by the Federal Land Policy and Management Act. The procedures established will include: 1) prevention of unnecessary or undue degradation of public lands, 2) protection of the California Desert Conservation Area against undue impairment, and 3) management of wilderness study areas for suitability as preserved wilderness. (DES-80-5.) (EIS order No. 800137.)

Fish and Wildlife Service

Draft

Sheldon National Wildlife Refuge management plan, Lake County, Oreg., Washoe and Humboldt Counties, Nev., February 26: Proposed is a renewable natural resources management plan for the Sheldon National Wildlife Refuge in Lake County, Oregon and Washoe and Humboldt Counties, Nevada. The plan will include: 1) intensive grazing management on 367,000 acres, 2) control of livestock movements, 3) development of springs and water reservoirs, 4) a 197,000 acre special area, and 5) special management emphasis of sensitive habitats. (EIS order No. 800135.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357

Federal Highway Administration

Draft

Great Falls South Arterial, Great Falls, Cascade County Montana, February 27: Proposed is the construction of the Great Falls South Arterial in Cascade County, Montana. The facility would be four-lanes, access controlled and would extend from the Gore Hill Interchange of I-15 to the intersection of 10th Avenue South and 57th Street. Major features include two railroad crossings, a Missouri River crossing, descent of the Sun River Bench and five major access interchanges. The length varies between 8.37 and 9.06 miles depending on the alignment. (FHWA-MI-EIS-80-01-D) (EIS Order No. 800136)

Final

Riverdale Avenue Arterial, Yonkers, Westchester County, New York, February 26: This proposal is part of a long range improvement program in Yonkers City, Westchester County, New York. The project begins on Riverdale Avenue at the New York City line, and continues in a northerly direction for 1.6 miles to Manor House Square. The improvements proposed are, widening, resurfacing, construction of raised medians, separation of sanitary and storm sewers, signalization, channelization and installation of traffic signs. (FHWA–NY–EIS–77–04–F) Comments made by: EPA DOT DOI, State and Local Agencies, Businesses (EIS Order No. 800131)

Klamath Falls Southside Bypass, Kalmath County, Oregon, February 28: Proposed is the construction of the Southside Bypass (FAS–959) in Klamath County, Oregon. The bypass would ultimately link US–97 with OR–140 at Olene. The project will be divided into three segments. The first segment, which is the subject of this EIS would extend 2.8 miles from US 97 to Washburn Way. The roadway would have controlled access. The alernatives consider: 1) no action, 2) new construction from the Green Springs intersection at US 97, 3) alignment following Joe Wright Road, and 4) the Johns Avenue Extension. (FHWA–OH–EIS–78–4–F) Comments made by: DOT DOI EPA DOE COE (EIS Order No. 800141)

WY–139 (Snowy Range Road), Reconstruction, Albany, and Carbon Counties, Wyoming, February 25: Proposed is the reconstruction of WY–130 beginning at a point 1½ miles west of Headquarters Park access road and continuing 13 miles eastward to the Green Rock Picnic Ground in the Counties of Albany and Carbon, Wyoming. Reconstruction will include grading, installation of new drainage structures, and asphalt pavement. Scenic overlooks and off-road parking will be developed at various locations along this section. Existing culverts at stream crossings will be replaced and a 300-foot sectin of the existing channel of North French Greek will be relocated. (FHWA–FPWY–EIS–79–1–F) Comments made by: COE HEW HUD AHP USDA DOI EPA, State and Local Agencies Group (EIS Order No. 800130)

EISs Field During the Week of February 25–29, 1980

[Statement Title Index—By State and County]

State	County	Status	Statement title	Accession No.	Date filed	Orig. Agency No.
California		Draft	Cowhead-Massacre Planning Unit	800140	02–28–80	DOI.
Colorado	Boulder	Draft	Lafayette Park Housing Development, Lafayette	800145	02–29–80	HUD.
	El Paso	Draft	Rockrimmon Lake Area, Colorado Springs	800134	02–26–80	HUD.
	Larimer	Draft	Golden Meadows Housing Development, Fort Collins.	800132	02–26–80	HUD.
		Supple	Wagon Wheel Development, Fort Collins, (DS–1)	800145	02–29–80	HUD.
		Supple	The Woodlands Development, Fort Collins (DS–2)	800150	02–29–80	HUD.
Georgia	McIntosh	Draft	Cedar Point Navigation Improvement	800143	02–29–80	COE.
Hawaii		Draft	Hawaiian Monk Seal Critical Habitat	800151	02–29–80	DOC.
		Supple	Kahoolawe Island Target Complex (FS–1)	791203	02–29–80	USN.
Idaho	several	Draft	Great Rift Wilderness Area	800142	02–29–80	DOI.
Maryland	Carroll	Draft	Carrolltowne Planned Development	800133	02–26–80	HUD.
Michigan	Macomb	Draft	Upper Wayne and Macomb Counties Flood Protection.	800147	02–29–80	COE.
	Wayne	Draft	Upper Wayne and Macomb Counties Flood Protection.	800147	02–29–80	COE.
Montana	Cascade	Draft	Great Falls South Arterial, Great Falls	800136	02–27–80	DOT.
	Lincoln	Supple	Libby Dam Additional Units/Regulating Dam	800139	02–28–80	COE.
Nevada	Humboldt	Draft	Sheldon National Wildlife Refuge Mgmt. Plan	800135	02–26–80	DOT.
	Washoe	Draft	Sheldon National Wildlife Refuge Mgmt. Plan	800135	02–26–80	DOI.
	Lassen	Draft	Cowhead-Massacre Planning Unit	800140	02–28–80	DOI.
	Modoc	Draft	Cowhead-Massacre Planning Unit	800140	02–28–80	DOI.
New York	Westchester	Final	Riverdale Avenue Arterial, Yonkers	800131	02–26–80	DOT.
Oregon	Lake	Draft	Sheldon National Wildlife Refuge Mgmt. Plan	800135	02–26–80	DOI.
	Kalmath	Final	Klamath Falls Southside Bypass	800141	02–28–80	DOT.
	Multnomah	Final	St. Johns Riverfront Development (UDAG)	800144	02–29–80	HUD.
Regulatory		Draft	Surface Management of Public Lands	800137	02–27–80	DOT.
		Final	Light-Duty Diesel Particulate Regulation	800149	02–29–80	EPA.
Several	several	Draft	Great Lakes Basin, Water Conservation Assessment.	800138	02–28–80	GLBC.
Utah	Salt Lake	Final	The Foothills Planned Development	800148	02–29–80	HUD.
Wyoming	Albany	Final	WY–130 (Snowy Range Road), Reconstruction	800130	02–25–80	DOT.
	Carbon	Final	WY–130 (Snowy Range Road), Reconstruction	800130	02–25–80	DOT.

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF TRANSPORTATION					
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426–4357.	I–675, I–75 to Existing I–675, Near Dayton, Montgomery and Greene Counties, Ohio.	Final 800004	January 11, 1980.	Extension	March 24,1980
U.S. ARMY CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN–CWR–P, Office of the Chief of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314 (202) 272–0121.	Cedar Point Navigation Study, McIntosh County, Georgia.	Draft 800143	March 7, 1980 (see appendix I).	Extension	April 30, 1980
GREAT LAKES BASIN COMMISSION					
Mrs. Lee Botts, Chairman, Great Lakes Basin Commission, P.O. Box 999, 3475 Plymouth Road, Ann Arbor, Michigan 48106 (313) 668–2300.	Water Conservation Assessment.	Draft 800138	March 7, 1980 (see appendix I).	Extension	May 26, 1980

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*—Continued

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/ extension	Date review terminates
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT					
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755-6306.	Wagon Wheel Planned Development, Fort Collins, Larimer Co., Colorado.	Draft Supp 800145	March 7, 1980 (see appendix I).	Extension	April 27, 1980
	Lafayette Park Housing Development, Lafayette, Boulder Co., Colorado.	Draft 800146	March 7, 1980 (see appendix I).	Extension	April 27, 1980
	The Woodlands Housing Development, Fort Collins, Larimer Co., Colorado.	Draft 800150	March 7, 1980 (see appendix I).	Extension	April 27, 1980
DEPARTMENT OF THE INTERIOR					
Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of Interior, Washington, D.C. 20240 (202) 343-3891.	Salmon Falls Division, Upper Snake River Project, Idaho-Wyoming.	Draft 791247	December 21, 1979.	Extension	March 7, 1980

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Date of withdrawal
None.				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/number	Date notice published in "Federal Register"	Reason for retraction
None.				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal Agency Contact	Title of Report	Date made available to EPA	Accession No.
None.			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Correction
DEPARTMENT OF COMMERCE				
Dr. Sidney R. Galler, Deputy Assistant Secretary of Environmental Affairs, Department of Commerce, Washington, D.C. 20210 (202) 377-4335.	Taking Of Marine Mammals, Tuna Purse Seining Operations, Regulatory.	Draft 800089	February 15, 1980.	EIS was published with the incorrect Agency. The correct Agency and Bureau is DOC and NOAA.
U.S. ARMY CORPS OF ENGINEERS				
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314 (202) 272-0121.	Wilmington Harbor, NE Cape Fear River Navigational Improvement, North Carolina.	Final 800064	February 5, 1980.	A correction was published for these EIS's in the FR Notice dated February 15, 1980. The correction incorrectly stated that the comment period would terminate on March 10, 1980. The comment period begin on February 1, 1980 and was terminated on March 3, 1980.
	Mississippi River Additional Harbor Facilities and Improvement, Memphis, Shelby County, Tennessee.	Final 800065	February 5, 1980.	

[FR Doc. 80-7217 Filed 3-6-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1430-4; OPTS-51031]

Trisubstituted Acetophenone; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish in the Federal Register within 5 working days, after receipt, certain information about each PMN the Agency receives. This Notice announces receipt of a PMN on the chemical substance trisubstituted acetophenone and provides a summary of certain information provided in the PMN.

DATE: Written comments by March 21, 1980.

ADDRESS: Written comments to: Documents Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-755-8050.

FOR FURTHER INFORMATION CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202-426-3936.

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notice of availability of the Initial Inventory was published in the Federal Register of May 15, 1979 (44 FR 28558). The requirement to submit a PMN for new chemical substances manufactured or imported for a commercial purpose became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the Federal Register of January 10, 1979 (44 FR 2242). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the Federal register of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the Federal Register nonconfidential information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use, and the potential exposure descriptions in the Federal Register.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended Federal Register notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

Once received, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) Federal Register notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the Federal Register.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, EPA is issuing the PMN set forth below.

PMN 80-15.

Close of Review Period. April 20, 1980.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential. Generic name provided: Trisubstituted acetophenone.

Data. The following summary is taken from data submitted by the manufacturer in support of claims made in the application.

Use. Chemical intermediate.

Production Estimates.

Production Year, Minimum and Maximum (Kilograms)

First year: 200—500.
Second year: 750—1,500.
Third year: 1,000—2,000.

Physical/Chemical Properties.

Melting point: 125-129° C.
Minimum purity: 95%.
Physical state: yellow solid.
Reaction: Stable to ambient conditions.

Test Data. Results of the following tests performed on the PMN substance were supplied.

Mutagenicity—Ames test.
Primary skin irritation and sensitization tests on guinea pigs.
Eye and skin irritation tests on rabbits.
Rat oral lethal dose test (LD_{50} 6,065 mg/kg).

Occupational Exposure and Disposal.

Site

Wilmington, DE.

Exposure Route(s); Number of Employees Exposed; and Maximum Duration of Exposure

Inhalation: 2—16 hr/da; 130 da/yr.
Dermal: 2—16 hr/da; 130 da/yr.

Disposal. The following methods of disposal will occur incidental to manufacture, processing, or use of the substance.

Primary method: Destruction by incineration.
Minimal release to the air and water.

Interested persons may, on or before March 21, 1980, submit to the document Control Officer (TS-793), Rm. E-447, Office of Pesticides and Toxic Substances, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51031]". Comments received may be seen in the above office

between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: March 1, 1980.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

[FR Doc. 80-7228 Filed 3-6-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-8; Released: February 29, 1980]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Cutoff Date: April 18, 1980.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after April 18, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on April 18, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on April 18, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on April 18, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BP-780728AZ, KVOX, Moorhead, Minnesota, Valley Communications Corporation. Has: 1280 kHz, 0.5 kW, 1 kW-LS, DA-N, U. Req: 1280 kHz, 1 kW, 5 kW-LS, DA-2,U.

BP-790612AE (new), Barranquitas, Puerto Rico Torrecillas Broadcasting Corp. Req: 1380 kHz, 500 W, DA-2,U.

BP-790720AF, WGIV, Charlotte, North Carolina, New Giv, Inc. Has: 1600 kHz, 0.5 kW, 1 kW-LS, DA-N,U. Req: 1600 kHz, 1 kW, 2.5 kW-LS, DA-2,U.

[FR Doc. 80-7125 Filed 3-6-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1217; February 26, 1980]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

Docket or RM No.	Rule No.	Subject and date received
21504, RM-2929, RM-3065, RM-3066.	73.202(b)	Amendment of Section 73.202(b) Table of Assignments, FM Broadcast Stations (Mayfield and Wickliffe, Kentucky, Blytheville, Arkansas, and Henderson, Tennessee). (Filed by James Alan Cook and David C. Jatlow, Attorneys for Sudbury Services, Inc., (KHLS-FM)), 2-15-80.
BC 78-207, RM-3208, RM-3209.		Amendment of Section 73.606(b) Table of Assignments, Television Broadcast Stations (Miami, West Palm Beach, Boca Raton, and Hollywood, Florida). (Filed by Edward S. O'Neill, Attorney for Coral Television Corporation, (WCIX-TV)), 2-14-80.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before March 24, 1980. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-7123 Filed 3-6-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1219; March 3, 1980]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

Docket or RM No.	Rule No.	Subject and date received
BC 78-143	73.202(b)	Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations (El Dorado, Arkansas). (Filed by R. Russell Eagan, James R. Bayes & Rodney L. Joyce, Attorneys for Lowery Broadcasting Company, (KDMS-AM & KLBQ-FM)), 2-22-80.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before March 24, 1980. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-7124 Filed 3-6-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-615-DR]

California; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of California (FEMA-615-DR), dated February 21, 1980, and related determinations.

DATED: February 22, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7845.

NOTICE: The Notice of a major disaster for the State of California dated February 21, 1980, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 21, 1980.

The following County for Individual Assistance only:

Santa Barbara

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

William H. Wilcox,

Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-7106 Filed 3-6-80; 8:45 am]

BILLING CODE 8010-01-M

[FEMA-615-DR]

California; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of California (FEMA-615-DR), dated February 21, 1980, and relate determinations.

DATED: February 22, 1980.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response snd recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7845.

NOTICE: The Notice of a major disaster for the State of California dated February 21, 1980, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 21, 1980.

The following Counties for Public Assistance in addition to Individual Assistance:

LosAngeles	San Bernardino
Orange	San Diego
Riverside	Ventura

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance)

Thomas R. Casey,

Acting Associate Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 80-7107 Filed 3-6-80; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Docket No. 80-12]

Dart Containerline Co., Ltd. Possible Violations; Order of Investigation and Hearing

Based upon information assembled by the Commission's Bureau of Enforcement, the Commission has reason to believe that Dart Containerline Company, Ltd. (Dart) paid rebates to at least one shipper in the westbound trades from the Iberian Peninsula to the United States.[1]

Accordingly, the Commission believes an investigation and hearing is necessary in order to determine whether Dart has violated section 16, second paragraph, and section 18(b)(3) of the Shipping Act, 1916, and, if so, whether penalties should be assessed for such violations in accordance with Pub. L. 96-25 (93 Stat. 71). Through such a proceeding it will be possible to investigate Dart's rebating activities in the trade between the United States and the Iberian Peninsula during the period beginning November 1, 1973 and continuing to the present, and to assess appropriate civil penalties.

Now, therefore, it is ordered, That pursuant to section 16, second and penultimate paragraphs (46 U.S.C. 815, second and penultimate paragraphs), section 18(b)(3) and (6) (46 U.S.C. 817a(b)(3) and (6)) and section 22 (46 U.S.C. 821) of the Shipping Act, 1916, this proceeding is hereby instituted to determine: (1) Whether or not Respondent violated section 16, second paragraph, by permitting any person to obtain transportation for property at less than the rates and charges then established in its tariffs on file with the Commission by any unjust or unfair device or means; (2) Whether or not Respondent violated section 18(b)(3) by rebating, refunding or remitting in any manner or by any device any portion of the rates or charges specified in its tariffs on file with the Commission; and (3) Whether penalities should be assessed against Respondent if found to have violated section 16, second paragraph, or section 18(b)(3) or both, and, if so, the amount of such penalties.

It is further ordered, That Dart Containerline Company, Ltd., 5 World Trade Center, New York, N.Y. 10048, is hereby made Respondent in this proceeding and that the matter be assigned for public hearing before an Administrative Law Judge at a date and place to be determined by the Administrative Law Judge presiding;

It is further ordered, That in accordance with Rule 42 of the Commission's rules of practice and procedure (46 CFR 502.42), the Commission's Bureau of Hearing Counsel shall be a party to this proceeding; and

It is further ordered, That notice of this Order be published in the Federal Register, and a copy be served upon all parties of record.

By the Commission.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80-7059 Filed 3-6-80; 8:45 am]

BILLING CODE 6730-01-M

[1] The Commission entered into a Settlement Agreement with Monsieur Henri Wines, Ltd. on July 9, 1979 for $12,500. The Commission's claim charged that Monsieur Henri's subsidiary, Bodegus Riojas Santiago, S.A., received rebates in violation of Section 16 of the Shipping Act, 1916, from Dart and other common carriers in the U.S./Iberian Peninsula trade.

[Independent Ocean Freight Forwarder License No. 794-R]

Interamerican Forwarding Corp.; Order of Revocation

On February 27, 1980, Interamerican Forwarding Corporation, 500 North Nash, El Segundo, California 90245, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 794-R for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, That Independent Ocean Freight Forwarder License No. 794-R issued to Interamerican Forwarding Corporation, be and is hereby revoked effective February 27, 1980.

It is further ordered, That a copy of this Order be published in the Federal Register and served upon Interamerican Forwarding Corporation.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-7060 Filed 3-6-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Transmittal Rules; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Dynamics Corporation of America is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain stock of Unitrode Coporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Dynamics Corporation. Neither agency intends to take any action with respect to this acquisition dirung the waiting period.

EFFECTIVE DATE: February 28, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894)

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(A)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-7183 Filed 3-6-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center For Disease Control

Minority Workers and Health; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health of the Center for Disease Control and will be open to the public, limited only by space available:

Date: March 14, 1980.
Time: 9:00 a.m. to 1:00 p.m.
Place: Room 8A-03, Parklawn Building 5600 Fishers Lane, Rockville, Md. 20857.
Purpose: To discuss the development of a comprehensive initiative to identify and enumerate occupational health related issues affecting black and other minority workers in the United States.

Additional information may be obtained from: Dr. Roscoe M. Moore, Jr., Office of the Director, National Institute for Occupational Safety and Health, Center for Disease Control, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: 301/443-3843.

Dated: February 28, 1980.

J. D. Millar,

Acting Director, Center for Disease Control.

[FR Doc. 80-7296 Filed 3-6-80; 8:45 am]

BILLING CODE 4110-87-M

Food and Drug Administration

[Docket No. 79N-0185]

Medical Devices Voluntary Stardards Development; Request for Data and Information

Correction

In FR Doc. 80-2992 appearing on page 7489 in the issue of Friday, February 1, 1980, make the following corrections:

1. The Docket Number given in the heading as "Docket No. 79-0185" should have been "Docket No. 79N-0185".

2. In the third line from the bottom of the "Summary" paragraph, ". . . standards for medical divices. . . " should have read ". . . standard policy for medical devices. . . ".

3. In the paragraph "For further information contact", the zip code now reading "2091" should have read "20910".

4. In the third colum of page 7489, the fourth entry under *"C. Obstetric Gynecologic Devices"* now reading "Laproscopic insufflator" should have read "Laparoscopic insufflator".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-37850]

Alaska Native Claims Selection

On December 10, 1979, Cook Inlet Region, Inc., filed selection application AA-37850 under the provisions of Secs. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151) and I.C.(2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976, for the surface and subsurface estates of a portion of Air Navigation Site Withdrawal No. 4, located near Haines, Alaska.

Section 12(b)(6) of the act of January 2, 1976, authorizes conveyance of lands to Cook Inlet Region, Inc., from a selection pool established by the Secretary of the Interior and the General Services Administrator.

The lands are located outside the boundaries of Cook Inlet Region. With the concurrence of the State of Alaska and Cook Inlet Region, Inc., the lands within selection AA-37850 were placed in the pool of properties available for selection by Cook Inlet Region, Inc., subject to valid existing rights, by notice dated May 14, 1979.

The selection application of Cook Inlet Region, Inc., as to the lands described below is properly filed and meets the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands are considered proper for acquisition by Cook Inlet Region, Inc., and are hereby approved for conveyance pursuant to Sec. 12(b)(6) of the act of January 2, 1976:

Copper River Meridian, Alaska (Surveyed)

T. 31 S., R. 59 E.
Sec. 2, N½NE¼NW¼ (also known as N½ of lot 6).
Containing approximately 20.00 acres.

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act (ANCSA).

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands; and

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)(2) (ANSCA)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

Section 12(b)(6) of Pub. L. (Pub. L.) 94-204 provides that conveyances pursuant to this section shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in Sec. 12(b)(5) of this act and on the basis of values determined by appraisal. The lands described above have been appraised at a value of $34,351. Under Sec. I.C.(2)(e) of the Terms and Conditions, this property constitutes 68.70 acre/equivalents. Upon acceptance of title to these lands, Cook Inlet Region, Inc., will relinquish its selection rights to 68.70 acres of its out-of-region entitlement.

Conveyance of the remaining entitlement to Cook Inlet Region, Inc., shall be made at a later date.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the SOUTHEAST ALASKA EMPIRE. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, 701 C Street, P.O. Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision by mail shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until April 7, 1980 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the Notice of Appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Judith Kammins Albietz,

Chief, Division of ANCSA Operations.

[FR Doc. 80-7099 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-84-M

[AA-14015]

Alaska Native Claim Selection

On December 13, 1977, Sealaska Corporation amended selection application AA–14015, under the provisions of Sec. 14(h)(8)(B) of the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971, as amended, (43 U.S.C. 1601, 1613(h)(8)(B)) to include the surface and subsurface estates of certain lands withdrawn pursuant to Sec. 16(d) for the Native village of Klukwan.

The application identified certain lands including Tps. 80 S., Rs. 83 and 84 E., Copper River Meridian. The application did not specifically and properly exclude Mineral Surveys 648 and 2237 as provided in 43 CFR 2651.4(e). Therefore, these lands are deemed to be selected by Sealaska Corporation. On June 9, 1906, the Limestone, Champion, W. H. Dall and Table Rock lode claims in Mineral Survey 648A were patented to the Alaska Industrial Company by Mineral Certificate No. 60. On December 1, 1970, the O.P.C. Cleva Bay placer claims in Mineral Survey 2237 were patented to the Oregon Portland Cement Company by Patent No. 50–71–0023. The Bureau of Land Management has no jurisdiction over these lands.

Therefore, selection application AA–14015 must be and is hereby rejected as to the following described lands:

Mineral Survey 648A, Alaska, known as the Limestone, Champion, W. H. Dall and Table Rock lode claims situate in the Ketchikan Mining District.
Containing 82.644 acres.

Mineral Survey 2237, Alaska, known as the O.P.C. Cleva Bay claims (placers) situate in the Ketchikan Mining District, Long Island.
Containing 228.066 acres.

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands, selected pursuant to Sec. 14(h)(8) of ANCSA, as amended, aggregating approximately 35,745 acres, are considered proper for acquisition by Sealaska Corporation and are hereby approved for conveyance pursuant to Sec. 14(h)(8) of ANCSA as amended:

Copper River Meridian, Alaska (Unsurveyed)

T. 79 S., R. 81 E.,
Sec. 1, all;
Secs. 2 and 3 (fractional), all;
Secs. 12 and 13, all.
Containing approximately 3,075 acres.

T. 79 S., R. 82 E.,
Sec. 5, (fractional), all;
Secs. 6 and 7, all;
Secs. 8 to 13, (fractional), inclusive, all;
Secs. 17 and 18, all;
Sec. 24 (fractional), all;
Secs. 25 and 36, all.
Containing approximately 7,507 acres.

T. 79 S., R. 83 E.,
Secs. 18, 19, 30, 31 and 32 (fractional), all.
Containing approximately 1,680 acres.

T. 80 S., R. 82 E.,
Secs. 1, 2 and 11, all;
Sec. 12 (fractional), N½ excluding U.S. Survey 1982.
Containing approximately 2,170 acres.

T. 80 S., R. 83 E.,
Sec. 5 (fractional), excluding AA-31241, Alaska Native Claims Settlement Act, Sec. 3(e) application for the Rose Inlet Lighthouse;
Sec. 6 (fractional), all;
Sec. 7 (fractional), N½ excluding U.S. Survey 1982;
Sec. 18, SW¼
Sec. 19, all;
Sec. 20 (fractional), W½W½ excluding Mineral Survey 648A;
Sec. 27 (fractional), all;
Sec. 28 (fractional), NE¼, S½;
Sec. 29 (fractional), S½;
Sec. 30 to 34, inclusive, all;
Sec. 35 (fractional), all.
Containing approximately 6,421 acres.

T. 81 S., R. 83 E.,
Secs. 1, 2, 11 and 12, all;
Sec. 13 (fractional), all;
Sec. 14, all.
Containing approximately 3,595 acres.

T. 81 S., R. 84 E.,
Sec. 2 (fractional), SW¼;
Secs. 3 and 4 (fractional), all;
Secs. 5 to 10, inclusive, all;
Secs. 11, 13, 14, and 15 (fractional), all;
Secs. 16 and 17, all;
Secs. 18 and 19 (fractional), all;
Secs. 20, 22, 23 and 24, all.
Containing approximately 10,992 acres.

T. 81 S., R. 85 E.,
Sec. 18 (fractional), SW1/4;
Sec. 19 (fractional), all.
Containing approximately 305 acres.
Aggregating approximately 35,745 acres.

The conveyance issued for the surface and subsurface estates of the lands described above shall contain no reservations to the United States. There are no public easements to be reserved pursuant to Sec. 17(b) of ANCSA.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2) (ANCSA)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k)) that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands.

Sealaska Corporation is entitled to conveyance of a minimum of 220,201 acres of land selected pursuant to Sec. 14(h)(8) of ANCSA, as amended. Together with the lands herein approved approximately 197,580 acres of this entitlement have been approved for conveyance; the remaining entitlement will be conveyed at a later date.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the KETCHIKAN DAILY NEWS. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until April 7, 1980 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801.

Judith Kammins Albietz,

Chief, Division of ANCSA Operations.

[FR Doc. 80-7100 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-84-M

[AA-8909 A]

Alaska Native Claims Selection

The purpose of this decision is to correct an easement to be reserved on lands approved for conveyance to Kenai Natives Association, Inc., in the decision dated February 5, 1980.

The last sentence of easement identification number 4 L (EIN 4 L), to be reserved pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C., 1601, 1616(b)), now reads:

"The uses allowed are those activities which are necessary for the construction, operation and maintenance of a buried powerline."

That sentence is hereby corrected and amended to read as follows:

"The uses allowed are those activities which are necessary for the construction, operation and maintenance of the powerline."

All other terms and conditions of the February 5, 1980, decision remain unchanged.

Judith Kammins Albietz,

Chief, Division of ANCSA Operations.

[FR Doc. 80-7101 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-84-M

[AA-6707-A]

Alaska Native Claims Selection

On February 27, 1915, certain lands located on the west side of Cook Inlet were withdrawn from disposal and reserved by Executive Order No. 2141 from the use of the U.S. Bureau of Education. These lands, formerly known as the Moquawkie Indian Reservation, were surveyed in 1930 and described as U.S. Survey No. 1865, containing 26,918.56 acres.

This reserve was revoked by Sec. 19(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 710; 43 U.S.C. 1601, 1618 (1976)), hereinafter ANCSA.

Section 19(b) of ANCSA provided for those reserves existing on December 18, 1971, the option of acquiring title to the surface and subsurface estates of the lands in the reserve or receiving the other benefits under ANCSA. By letter dated March 22, 1974, to former Secretary of the Interior, Roger Morton, Tyonek Native Corporation elected for itself and its members to receive the benefits under ANCSA.

On May 9, 1974, Tyonek Native Corporation filed selection application AA-6707-A under the provisions of Sec. 12(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611) for the surface estate of lands in the Tyonek area described as U.S. Survey 1865. Title to the lands within U.S. Survey 1865, excluding U.S. Coast Guard Navigation Aid AA-14290, was issued to Tyonek Native Corporation for the surface estate, and to Cook Inlet Region, Inc., for the subsurface estate, on March 31, 1978, for approximately 26,917.56 acres.

On May 28, 1975, the U.S. Coast Guard notified the Bureau of Land Management that the North Foreland Navigation Aid, serialized AA-14290, was held and used by the U.S. Coast Guard. Therefore, the navigation aid was excluded from conveyance to Tyonek Native Corporation. By letter to the Bureau of Land Management on July 5, 1978, the U.S. Coast Guard stated that use of the navigation aid was discontinued and the one acre parcel was no longer required by the U.S. Coast Guard. Therefore, case file AA-14290 is hereby closed and the lands within the former navigation aid site are now available for conveyance to Tyonek Native Corporation.

As to the lands described below, the application is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, is considered proper for acquisition by Tyonek Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

That portion of U.S. Survey 1865 formerly described as U.S. Coast Guard Navigation Aid AA-14290 (North Foreland Light).
Containing approximately 1.00 acre.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United States.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinafter granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Conveyance of the remaining entitlement to Tyonek Native Corporation shall be made at a later date. Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Cook Inlet Region, Inc., when the surface estate is conveyed to Tyonek Native Corporation, and shall be subject

to the same conditions as the surface coveyance.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days form the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until April 7, 1980 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of the requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Tyonek Native Corporation, 445 East Fifth Avenue, Suite 9, Anchorage, AK 99501
Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, AK 99509

Judith Kammins Albietz,

Chief, Division of ANCSA Operations.

[FR Doc. 80-7103 Filed 3-6-80; 8:45 am]
BILLING CODE 4310-84-M

Utah Vernal District; Preparation of Bookcliffs Resource Area Management Plan

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with the Code of Federal Regulations, Title 43, Part 1601.3, that the Bookcliffs Resource Area of the Vernal District is starting the preparation of a Resource Managment Plan for the Bookcliffs Resource Area.

The Bookcliffs Resource Area is located in northeastern Utah within Uintah County. It contains 1,032,000 acres, of which 8% is privately owned, 17 percent is state owned and 75 percent is administered by the BLM. It is bounded on the east by the State of Colorado, on the south by the Bookcliffs Mountains and the Moab District BLM, on the west by Duchesne County, and on the north by Dinosaur National Monument.

The General Issues which have been identified at this time which will be addressed in the plan are: (1) Competative Forage Demand (2) Wilderness (3) Energy Resource Development (4) Endangered Species (5) Range Improvement (6) Wild Horse Management (7) Wildlife Habitat (8) Archaeological and Historical Resources (9) Wood Product Harvest (10) Water Resources (11) Land Withdrawal Review (12) Access (13) Recreation (14) Economics.

The disciplines to be represented on the interdisciplinary team are: Range Conservationist, Geologist, Botanist, Wilderness Specialist, Wildlife Biologist, Archaelogist, Aquatic Biologist, Lands Specialist, and Recreation Planner.

Public participation activities will take place at least five times throughout the planning process; during identification of issues, comment on planning criteria, upon publication of a draft plan and draft environmental impact statement with protest period and a public notice of any signification change made to the plan as a result of a protest. Public participation activities will include requests for written comments, meetings, workshops, tours and similar events scheduled and held to foster public reactions and suggestions. The dates, times and locations of public participation activities will be announced by local media and mailings to interested parties prior to each activity.

Dean Evans, Bookcliffs Area Manager, may be contacted for further information at the Vernal District Office, 170 South 500 East, Vernal, Utah 84078, or (801) 789–1362. Documents relevant to the planning process can be examined at the Vernal District Office during regular office hours, 8:00 a.m. to 5:00 p.m.

L. H. Ferguson,

District Manager.

February 28, 1980.

[FR Doc. 80-7136 Filed 3-6-80; 8:45 am]
BILLING CODE 4310-84-M

Moab District Office, Utah; Restriction of Use of Motorized Vehicles on Public Lands

February 27, 1980.

Notice is hereby given that use of motorized vehicles on certain public lands in the Goblin Valley area is temporarily restricted, in accordance with the provisions of 43 CFR, Subpart 8364. These restrictions do not apply to emergency, law enforcement, and Federal or other government vehicles while being used for official or emergency purposes, or vehicles authorized by permit, contract or statute.

The area affected by this restriction is located approximately 13 miles north of Hanksville, Utah. The area is accessible from the entrance road to Goblin Valley State Reserve and lies adjacent to the State Reserve at its entrance. The area comprises 20 acres of the eastern slope of Wild Horse Butte and the flats to the east connecting with the entrance road to Goblin Valley State Reserve.

The purpose of this emergency closure is to prevent excessive erosion, unnecessary destruction of plant life, public health and safety and the natural environment. The area has been excessively used by ORV's resulting in conditions which necessitate this closure. This action has resulted from consultation with the Utah Division of Parks and Recreation and complaints received from visitors to Goblin Valley State Reserve.

The entire area will be signed at common points of ORV access.

Maps showing the area are available at the Moab District Office in Moab, Utah, and the Price Area Office in Price, Utah.

This notice is effective March 7, 1980, and will be in effect until June 1, 1980.

Kenneth V. Rhea,

Assistant District Manager.

[FR Doc. 80-7063 Filed 3-6-80; 8:45 am]
BILLING CODE 4310-84-M

[NM 39657]

New Mexico; Order Providing for Opening of Public Lands to Mineral and Geothermal Leasing

February 26, 1980.

1. In an exchange of lands made under the provision of Section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following lands have been reconveyed to the United States:

New Mexico Principal Meridian

T. 20 S., R. 1 W.,
Sec. 2, lots 1 to 4 inclusive, S½N½ and S½;
Sec. 16, lots 1 to 4 inclusive, E½ and SW¼;
Sec. 26, N½NE¼ and NE¼NW¼;
Sec. 32, lot 1, N½ and N½S½;
Sec. 36.
T. 20 S., R. 1 E.,
Secs. 16, 32 and 36.
T. 21 S., R. 1 E.,
Secs. 2 and 16.

The described lands aggregate 5,721.41 acres in Dona Ana County.

2. The subject land is a part of a State exchange whereby the Bureau of Land Managment acquired State lands within the boundary of the New Mexico State University's College Ranch.

3. Subject to valid existing rights, the provisions of existing withdrawals and requirements of applicable law, the lands described above shall at 10 a.m. on April 7, 1980 be open to application and offers under the mineral and geothermal leasing laws. All valid applications received at or prior to 10 a.m. on April 7, 1980, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

Inquiries concerning the lands should be addressed to the Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501.

Stella V. Gonzales,
Chief, Lands Section.

[FR Doc. 80-7064 Filed 3-6-80; 8:45 am]
BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board; Alaska Regional Technical Working Group Committee; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92-643.

The Alaska Regional Technical Working Group Committee of the National Advisory Board will hold a meeting on April 2-3, 1980, beginning at 9:00 a.m. in Suite 311, Sheraton Hotel, 446 E. 5th, Anchorage, Alaska.

The meeting will cover the following principal subjects:

—Discussion of sale 57 scoping issues
—Discussion of sale 70 scoping issues
—A presentation of the State of Alaska's Five-Year Leasing Schedule
—A presentation on the Coastal Energy Impact Program

The meeting is open to the public. Public attendance may be limited by the space available. Summary minutes of the meeting will be available at the Alaska OCS Office for public inspection and copying three weeks after the meeting.

For further information, contact Gordy Euler at the Alaska OCS Office, (907) 276-2955.

Dated: February 28, 1980.

Esther C. Wunnicke,
Manager, Alaska OCS Office.

[FR Doc. 80-7061 Filed 3-6-80; 8:45 am]
BILLING CODE 4310-84-M

[U-0133555]

Utah; Order Providing for Opening of Lands

By Pub. L. Order 3344 dated March 4, 1964, and published in the Federal Register March 6, 1964, page 3111, the Secretary of the Interior partially revoked Power Site Reserve No. 34, and opened the lands to state selection only.

Under the Authority delegated by Bureau Order No. 701 dated July 23, 1964 (29 FR 10526) as amended, the lands described in Public Land Order 3344 dated March 4, 1964, are hereby opened to the operation of the public land laws generally at 10:00 a.m. on March 19, 1980 subject to valid existing rights, provision of existing withdrawals and provision of the Bureau of Land Management classification for multiple use management.

Dated: February 26, 1980.

Lexie S. Pollick,
Acting Chief, Branch of Lands and Mineral Operations.

[FR Doc. 80-7064 Filed 3-6-80; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Availability of Environmental Assessments for Wildlife Restoration Projects

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of Availability for Inspection and Public Comment.

SUMMARY: This notice provides a listing of Environmental Assessments available for public review to supplement those previously listed in the Federal Register July 20, August 3, September 6; October 5, November 16, and December 27, 1979. The Assessments and Findings of No Significant Impact were prepared on certain projects conducted by State fish and wildlife agencies under the Federal Aid in Wildlife Restoration program. The public is invited to comment, and information is provided on the locations at which the documents may be reviewed.

DATE: Comments must be received at the locations indicated by (30 days after publication).

ADDRESSES: The assessments are available for inspection at the following locations:

FWS Federal Aid Office, 1000 N. Glebe Road, Arlington, Virginia 22201
Region 1, FWS, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232
Region 2, FWS, 500 Gold Avenue, S.W., P.O. Box 1306, Albuquerque, New Mexico 87103
Region 3, FWS, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111
Region 4, FWS, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303
Region 5, FWS, 1 Gateway Center, Suite 700, Newton Corners, Massachusetts 02158
Region 6, FWS, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225
Alaska Area Office, FWS, 1011 E. Tudor Road, Anchorage, Alaska 99507
Central headquarters office of the State fish and wildlife agency

Interested persons are invited to submit comments to the appropriate Regional Director at the above regional addresses within 30 days. Copies of the assessment may be obtained at the Regional Offices upon payment of reasonable reproduction costs pursuant to 43 CFR, Part 2, Appendix A. Copies of any Finding of No Significant Impact will be provided free of cost.

FOR FURTHER INFORMATION CONTACT: Mr. Charles K. Phenicie, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703-235-1526.

SUPPLEMENTARY INFORMATION: On June 26, 1979, the U.S. District Court for the District of Columbia issued an order dismissing Civil Action No. 780-430 involving the Federal Aid in Wildlife Restoration program. The dismissal effected an agreement by plaintiffs and defendants which included a provision that the Fish and Wildlife Service would publish in the Federal Register a notice of availability of certain Environmental Assessments for inspection and public comment. Pursuant to the stipulated agreement, this notice lists Environmental Assessments prepared to date and will be supplemented as other assessments are prepared.

The principal author of this notice is Dr. Robert J. Sousa, U.S. Fish and Wildlife Service, Division of Federal

Aid, Washington, D.C. 20240, telephone 703–235–1526.

Notice is hereby given of availability for inspection and comment of environmental assessments for the following Federal Aid projects funded in part by the U.S. Fish and Wildlife Service (FWS) under the Pittman-Robertson Federal Aid in Wildlife Restoration Act, 16 U.S.C. 669 et seq: (Activities listed are not exclusive.)

Addendum

Region 2

Arizona W–53–R

This supplemental EA covers studies on the life history and ecology of the Arizona grey squirrel; restoring antelope, bighorn sheep and river otter into quality habitat of their historic range; and influence of livestock grazing on Gambel quail populations.

Oklahoma W–43–D

Activities in this supplemental Environmental Assessment involve the use of hypo-hatchet injections of 2–4–D to thin dense stands of hardwood timber in southeastern Oklahoma (Pushmataha Game Management Area). Thinning of 500 acres is proposed during the next five years. Select trees, streamside timber and areas susceptible to erosion will not be altered.

Oklahoma W–54–D

This assessment describes a project amendment to establish 17 miles of 16-foot wide firebrake and approximately 20,000 linear feet of agricultural water diversion terraces. These activities are proposed for the Fort Gibson Public Hunting area.

Dated: March 4, 1980.

Robert S. Cook,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-7116 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil, Gas, and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This notice announces that Shell Oil Company, lessee of OCS oil and gas leases OCS–G 3467 and OCS–G 3468, Blocks A–7 and A–8, respectively, Mustang Island Area, submitted February 5, 1980, a proposed Development and Production Plan describing the development and production activities it proposes to conduct on leases OCS–G 3467 and OCS–G 3468. The proposed Development and Production Plan for leases OCS–G 3467 and OCS–G 3468 is available for review at the offices of the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002. This notice solicits the submission of the comments and recommendations by interested parties for the consideration of the Geological Survey during its review and disposition of Shell's proposed Development and Production Plan for OCS oil and gas leases OCS–G 3467 and OCS–G 3468.

DATES: Comments and recommendations must be received by April 21, 1980.

ADDRESS: Comments and recommendations must be written and submitted in sufficient time to insure their receipt by the date specified above. Comments and recommendations must be submitted to the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, Post Office Box 7944, Metairie, Louisiana 70010.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Terry V. Hight, Petroleum Engineer, Post Office Box 7944, Metairie, Louisiana 70010, Phone 837–4720, Ext. 206.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979. (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

The regulations in § 250.34, Exploration, Development, and Production Plans, are specifically designed, among other things, to assist affected States in their efforts to protect the marine, coastal, and human environments. They recognize that the OCS oil and gas development and production activities described in proposed Development and Production Plans may have identifiable effects on the environment and provide for the participation of the Governors of affected States, the executives of affected local governments, and other interested parties, together with the U.S. Geological Survey, in its review and decision-making process.

The U.S. Geological Survey encourages the involvement of representatives of affected States and local governments and other interested parties in the Federal decision-making process relating to OCS oil and gas exploration, development, and production activities. It views as essential the establishment of an effective information exchange and consultation and coordination mechanisms between jurisdictions to the maximum extent possible without infringing upon the special responsibilities of the respective jurisdictions. It also views as essential the establishment of uniform practices and procedures for review and disposition of proposed Development and Production Plans which conform with the requirements of applicable laws, regulations, and lease terms.

It believes that it is important to provide documentation of the careful consideration given comments and recommendations made by others during the decision-making process relating to OCS oil and gas development and production activities (e.g., during the review and disposition of proposed Development and Production Plans and revisions of approved Development and Production Plans).

Public Availability

At the time that copies of a proposed Development and Production Plan are transmitted to other Federal Bureaus and Agencies for review, a copy of the proposed Development and Production Plan (except for those portions that have been determined to be exempt from disclosure in accordance with the Freedom of Information Act) and a copy of the accompanying Environmental Report (Development/Production), when there is an Environmental Report (Development/Production), are made available to the public.

The Conservation Manager is responsible for assuring that proposed Development and Production Plans submitted in accordance with the provisions of 30 CFR 250.34 are reviewed and acted upon in accordance with established practices and procedures which include a comprehensive review of the environmental impacts of the proposed activities and a comprehensive review of the technological aspects of the proposed activities. Both reviews must be completed in time for the Survey to approve, disapprove, or require modification of a proposed Development and Production Plan within 60 calendar days after the period of time provided for comments by the Governors of affected States and the executives of affected local governments or within 60 calendar days following the release of the final Environmental Impact Statement prepared pursuant to the National Environmental Policy Act of 1969.

Reviewers of proposed Development and Production Plans are encouraged to expedite their review of the plans and to submit their comments and recommendations on the plans as quickly as possible. Comments and recommendations received in connection with a proposed Development and Production Plan are considered carefully during the decision-making process. The consideration given to each comment and recommendation received before the deadline stated in this notice will be documented either in the written materials prepared in connection with the environmental impact review process or in the decision document which sets forth the decision on the disposition of the proposed Development and Production Plan (i.e., approved, disapproved, or modification required) and the reasons behind that decision.

Dated: February 25, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico Region.

[FR Doc. 80-7090 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-31-M

Oil, Gas, and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This notice announces that Amoco Production Company, lessee of OCS oil and gas lease OCS–G 3018, Block 755, Mustang Island Area, submitted January 14, 1980, a proposed Development and Production Plan describing the development and production activities it proposes to conduct on lease OCS–G 3018. The proposed Development and Production Plan for lease OCS–G 3018 is available for review at the offices of the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, 3301 N. Causeway Blvd., room 147, Metairie, Lousiana 70002. This notice solicits the submission of the comments and recommendations by interested parties for the consideration of the Geological Survey during its review and disposition of Amoco Production Company's proposed Development and Production Plan for OCS oil and gas lease OCS–G 3018.

DATES: Comments and recommendations must be received by April 21, 1980.

ADDRESS: Comments and recommendations must be written and submitted in sufficient time to insure their receipt by the date specified above. Comments and recommendations must be submitted to the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, Post Office Box 7944, Metairie, Louisiana 70010.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Emile H. Simoneaux, Petroleum Engineer, Post Office Box 7944, Metairie, Louisiana 70010, Phone 837–4720, Ext. 206.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979. (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

The regulations in § 250.34, Exploration, Development, and Production Plans, are specifically designed, among other things, to assist affected States in their efforts to protect the marine, coastal, and human environments. They recognize that the OCS oil and gas development and production activities described in proposed Development and Production Plans may have identifiable effects on the environment and provide for the participation of the Governors of affected States, the executives of affected local governments, and other interested parties, together with the U.S. Geological Survey, in its review and decision-making process.

The U.S. Geological Survey encourages the involvement of representatives of affected States and local governments and other interested parties in the Federal decision-making process relating to OCS oil and gas exploration, development, and production activities. It views as essential the establishment of an effective information exchange and consultation and coordination mechanisms between jurisdictions to the maximum extent possible without infringing upon the special responsibilities of the respective jurisdictions. It also views as essential the establishment of uniform practices and procedures for review and disposition of proposed Development and Production Plans which conform with the requirements of applicable laws, regulations, and lease terms.

It believes that it is important to provide documentation of the careful consideration given comments and recommendations made by others during the decision-making process relating to OCS oil and gas development and production activities (e.g., during the review and disposition of proposed Development and Production Plans and revisions of approved Development and Production Plans).

Public Availability

At the time that copies of a proposed Development and Production Plan are transmitted to other Federal Bureaus and Agencies for review, a copy of the proposed Development and Production Plan (except for those portions that have been determined to be exempt from disclosure in accordance with the Freedom of Information Act) and a copy of the accompanying Environmental Report (Development/Production), when there is an Environmental Report (Development/Production), are made available to the public.

The Conservation Manager is responsible for assuring that proposed Development and Production Plans submitted in accordance with the provisions of 30 CFR 250.34 are reviewed and acted upon in accordance with established practices and procedures which include a comprehensive review of the environmental impacts of the proposed activities and a comprehensive review of the technological aspects of the proposed activities. Both reviews must be completed in time for the Survey to approve, disapprove, or require modification of a proposed Development and Production Plan within 60 calendar days after the period of time provided for comments by the Governors of affected States and the executives of affected local governments or within 60 calendar days following the release of the final Environmental Impact Statement prepared pursuant to the National Environmental Policy Act of 1969.

Reviewers of proposed Development and Production Plans are encouraged to expedite their review of the plans and to submit their comments and recommendations on the plans as quickly as possible. Comments and recommendations received in connection with a proposed Development and Production Plan are considered carefully during the decision-making process. The consideration given to each comment and recommendation received before the deadline stated in this notice will be documented either in written materials prepared in connection with the environmental

impact review process or in the decision document which sets forth the decision on the disposition of the proposed Development and Production Plan (i.e., approved, disapproved, or modification required) and the reason behind that decision.

Dated: February 25, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico Region.

[FR Doc. 80-7091 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This notice announces that Natomas, lessee of OCS oil and gas lease OCS–G 3502, Block 281, West Cameron Area, submitted February 7, 1980, a proposed Development and Production Plan describing the development and production activities it proposes to conduct on lease OCS–G 3502. The proposed Development and Production Plan for lease OCS–G 3502 is available for review at the offices of the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002. This notice solicits the submission of the comments and recommendations by interested parties for the consideration of the Geological Survey during its review and disposition of Natomas's proposed Development and Production Plan for OCS oil and gas lease OCS–G 3502.

DATES: Comments and recommendations must be received by April 21, 1980.

ADDRESS: Comments and recommendations must be written and submitted in sufficient time to insure their receipt by the date specified above. Comments and recommendations must be submitted to the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, Post Office Box 7944, Metairie, Louisiana 70010.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Terry V. Hight, Petroleum Engineer, Post Office Box 7944, Metairie, Louisiana 70010, Phone 837–4720, Ext. 206.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979. (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

The regulations in § 250.34, Exploration, Development, and Production Plans, are specifically designed, among other things, to assist affected States in their efforts to protect the marine, coastal, and human environments. They recognize that the OCS oil and gas development and production activities described in proposed Development and Production Plans may have identifiable effects on the environment and provide for the participation of the Governors of affected States, the executives of affected local governments, and other interested parties, together with the U.S. Geological Survey, in its review and decision-making process.

The U.S. Geological Survey encourages the involvement of representatives of affected States and local governments and other interested parties in the Federal decision-making process relating to OCS oil and gas exploration, development, and production activities. It views as essential the establishment of an effective information exchange and consultation and coordination mechanisms between jurisdictions to the maximum extent possible without infringing upon the special responsibilities of the respective jurisdictions. It also views as essential the establishment of uniform practices and procedures for review and disposition of proposed Development and Production Plans which conform with the requirements of applicable laws, regulations, and lease terms.

It believes that it is important to provide documentation of the careful consideration given comments and recommendations made by others during the decision-making process relating to OCS oil and gas development and production activities (e.g., during the review and disposition of proposed Development and Production Plans and revisions of approved Development and Production Plans).

Public Availability

At the time that copies of a proposed Development and Production Plan are transmitted to other Federal Bureaus and Agencies for review, a copy of the proposed Development and Production Plan (except for those portions that have been determined to be exempt from disclosure in accordance with the Freedom of Information Act) and a copy of the accompanying Environmental Report (Development/Production), when there is an Environmental Report (Development/Production), are made available to the public.

The Conservation Manager is responsible for assuring that proposed Development and Production Plans submitted in accordance with the provisions of 30 CFR 250.34 are reviewed and acted upon in accordance with established practices and procedures which include a comprehensive review of the environmental impacts of the proposed activities and a comprehensive review of the technological aspects of the proposed activities. Both reviews must be completed in time for the Survey to approve, disapprove, or require modification of a proposed Development and Production Plan within 60 calendar days after the period of time provided for comments by the Governors of affected States and the executives of affected local governments or within 60 calendar days following the release of the final Environmental Impact Statement prepared pursuant to the National Environmental Policy Act of 1969.

Reviewers of proposed Development and Production Plans are encouraged to expedite their review of the plans and to submit their comments and recommendations on the plans as quickly as possible. Comments and recommendations received in connection with a proposed Development and Production Plan are considered carefully during the decision-making process. The consideration given to each comment and recommendation received before the deadline stated in this notice will be documented either in the written materials prepared in connection with the environmental impact review process or in the decision document which sets forth the decision on the disposition of the proposed Development and Production Plan (i.e., approved, disapproved, or modification required) and the reasons behind that decision.

Dated: February 25, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico Region.

[FR Doc. 80-7092 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This notice announces that Texoma, lessee of OCS oil and gas leases OCS–G 2950 and OCS–G 2951, Blocks 148 and 151, respectively, Main Pass Area, submitted December 26, 1979, a proposed Development and Production Plan describing the development and production activities it proposes to conduct on leases OCS–G 2950 and OCS–G 2951. The proposed Development and Production Plan for leases OCS–G 2950 and OCS–G 2951 is available for review at the offices of the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002. This notice solicits the submission of the comments and recommendations by interested parties for the consideration of the Geological Survey during its review and disposition of Texoma Production Company's proposed Development and Production Plan for OCS oil and gas leases OCS–G 2950 and OCS–G 2951.

DATES: Comments and recommendations must be received by April 21, 1980.

ADDRESS: Comments and recommendations must be written and submitted in sufficient time to insure their receipt by the date specified above. Comments and recommendations must be submitted to the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, Post Office Box 7944, Metairie, Louisiana 70010.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Emile H. Simoneaux, Petroleum Engineer, Post Office Box 7944, Metairie, Louisiana 70010, Phone 837–4720, Ext. 206.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979. (44 FR 53685). Those practices and procedures are set out in a revised §250.34 of Title 30 of the Code of Federal Regulations.

The regulations in § 250.34, Exploration, Development, and Production Plans, are specifically designed, among other things, to assist affected States in their efforts to protect the marine, coastal, and human environments. They recognize that the OCS oil and gas development and production activities described in proposed Development and Production Plans may have identifiable effects on the environment and provide for the participation of the Governors of affected States, the executives of affected local governments, and other interested parties, together with the U.S. Geological Survey, in its review and decision-making process.

The U.S. Geological Survey encourages the involvement of representatives of affected States and local governments and other interested parties in the Federal decision-making process relating to OCS oil and gas exploration, development, and production activities. It views as essential the establishment of an effective information exchange and consultation and coordination mechanisms between jurisdictions to the maximum extent possible without infringing upon the special responsibilities of the respective jurisdictions. It also views as essential the establishment of uniform practices and procedures for review and disposition of proposed Development and Production Plans which conform with the requirements of applicable laws, regulations, and lease terms.

It believes that it is important to provide documentation of the careful consideration given comments and recommendations made by others during the decision-making process relating to OCS oil and gas development and production activities (e.g., during the review and disposition of proposed Development and Production Plans and revisions of approved Development and Production Plans).

Public Availability

At the time that copies of a proposed Development and Production Plan are transmitted to other Federal Bureaus and Agencies for review, a copy of the proposed Development and Production Plan (except for those portions that have been determined to be exempt from disclosure in accordance with the Freedom of Information Act) and a copy of the accompanying Environmental Report (Development/Production), when there is an Environmental Report (Development/Production), are made available to the public.

The Conservation Manager is responsible for assuring that proposed Development and Production Plans submitted in accordance with the provisions of 30 CFR 250.34 are reviewed and acted upon in accordance with established practices and procedures which include a comprehensive review of the environmental impacts of the proposed activities and a comprehensive review of the technological aspects of the proposed activities. Both reviews must be completed in time for the Survey to approve, disapprove, or require modification of a proposed Development and Production Plan within 60 calendar days after the period of time provided for comments by the Governors of affected States and the executives of affected local governments or within 60 calendar days following the release of the final Environmental Impact Statement prepared pursuant to the National Environmental Policy Act of 1969.

Reviewers of proposed Development and Production Plans are encouraged to expedite their review of the plans and to submit their comments and recommendations on the plans as quickly as possible. Comments and recommendations received in connection with a proposed Development and Production Plan are considered carefully during the decision-making process. The consideration given to each comment and recommendation received before the deadline stated in this notice will be documented either in the written materials prepared in connection with the environmental impact review process or in the decision document which sets forth the decision on the disposition of the proposed Development and Production Plan (i.e., approved, disapproved, or modification required) and the reasons behind that decision.

Dated: February 25, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico Region.

[FR Doc. 80-7093 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-31-M

Oil, Gas, and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This notice announces that McMoRan Offshore Exploration Company, lessee of OCS oil and gas lease OCS–G 4070, Block A–126, Galveston Area, submitted on January

15, 1980, a proposed Development and Production Plan describing the development and production activities it proposes to conduct on lease OCS–G 4070. The proposed Development and Production Plan for lease OCS–G 4070 is available for review at the offices of the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002. This notice solicits the submission of the comments and recommendations by interested parties for the consideration of the Geological Survey during its review and disposition of McMoRan Offshore Exploration Company's proposed Development and Production Plan for OCS oil and gas lease OCS–G 4070.

DATES: Comments and recommendations must be received by April 21, 1980.

ADDRESS: Comments and recommendations must be written and submitted in sufficient time to insure their receipt by the date specified above. Comments and recommendations must be submitted to the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, Post Office Box 7944, Metairie, Louisiana 70010.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, David J. Patz, Petroleum Engineer, Post Office 7944, Metairie, Louisiana 70010, Phone 837–4720, Ext. 206.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979. (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

The regulations in § 250.34, Exploration, Development, and Production Plans, are specifically designed, among other things, to assist affected States in their efforts to protect the marine, coastal, and human environments. They recognize that the OCS oil and gas development and production activities described in proposed Development and Production Plans may have identifiable effects on the environment and provide for the participation of the Governors of affected States, the executives of affected local governments, and other interested parties, together with the U.S. Geological Survey, in its review and decision-making process.

The U.S. Geological Survey encourages the involvement of representatives of affected States and local governments and other interested parties in the Federal decision-making process relating to OCS oil and gas exploration, development, and production activities. It views as essential the establishment of an effective information exchange and consultation and coordination mechanisms between jurisdictions to the maximum extent possible without infringing upon the special responsibilities of the respective jurisdictions. It also views as essential the establishment of uniform practices and procedures for review and disposition of proposed Development and Production plans which conform with the requirements of applicable laws, regulations, and lease terms.

It believes that it is important to provide documentation of the careful consideration given comments and recommendations made by others during the decision-making process relating to OCS oil and gas development and production activities (e.g., during the review and disposition of proposed Development and Production Plans and revisions of approved Development and Production Plans).

Public Availability

At the time that copies of a proposed Development and Production Plan are transmitted to other Federal Bureaus and Agencies for review, a copy of the proposed Development and Production Plan (except for those portions that have been determined to be exempt from disclosure in accordance with the Freedom of Information Act) and a copy of the accompanying Environmental Report (Development/Production), when there is an Environmental Report (Development/Production), are made available to the public.

The Conservation Manager is responsible for assuring that proposed Development and Production Plans submitted in accordance with the provisions of 30 CFR 250.34 are reviewed and acted upon in accordance with established practices and procedures which include a comprehensive review of the environmental impacts of the proposed activities and a comprehensive review of the technological aspects of the proposed activities. Both reviews must be completed in time for the Survey to approve, disapprove, or require modification of a proposed Development and Production Plan within 60 calendar days after the period of time provided for comments by the Governors of affected States and the executives of affected local governments or within 60 calendar days following the release of the final Environmental Impact Statement prepared pursuant to the National Environmental Policy Act of 1969.

Reviewers of proposed Development and Production Plans are encouraged to expedite their review of the plans and to submit their comments and recommendations on the plans as quickly as possible. Comments and recommendations received in connection with a proposed Development and Production Plan are considered carefully during the decision-making process. The consideration given to each comment and recommendation received before the deadline stated in this notice will be documented either in the written materials prepared in connection with the environmental impact review process or in the decision document which sets forth the decision on the disposition of the proposed Development and Production Plan (i.e., approved, disapproved, or modification required) and the reasons behind that decision.

Dated: February 25, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico Region.

[FR Doc. 80-7004 Filed 3-6-80; 8:45 am]
BILLING CODE 4310-31-M

Oil, Gas, and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: This notice announces that C & K Petroleum Inc., lessee of OCS oil and gas lease OCS–G 1130, Block 171, Vermilion Area, submitted January 21, 1980, a proposed Development and Production Plan describing the development and production activities it proposes to conduct on lease OCS–G 1130. The proposed Development and Production Plan for lease OCS–G 1130 is available for review at the offices of the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002. This notice solicits the submission of the comments and recommendations by interested parties for the consideration of the Geological Survey during its review and disposition of C & K Petroleum Inc.'s proposed

Development and Production Plan for OCS oil and gas lease OCS–G 1130.

DATES: Comments and recommendations must be received by April 21, 1980.

ADDRESS: Comments and recommendations must be written and submitted in sufficient time to insure their receipt by the date specified above. Comments and recommendations must be submitted to the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, Post Office Box 7944, Metairie, Louisiana 70010.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Terry V. Hight, Petroleum Engineer, Post Office Box 7944, Metairie, Louisiana 70010, Phone 837–4720, Ext. 206.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979. (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

The regulations in § 250.34, Exploration, Development, and Production Plans, are specifically designed, among other things, to assist affected States in their efforts to protect the marine, coastal, and human environments. They recognize that the OCS oil and gas development and production activities described in proposed Development and Production Plans may have identifiable effects on the environment and provide for the participation of the Governors of affected States, the executives of affected local governments, and other interested parties, together with the U.S. Geological Survey, in its review and decision-making process.

The U.S. Geological Survey encourages the involvement of representatives of affected States and local governments and other interested parties in the Federal decision-making process relating to OCS oil and gas exploration, development, and production activities. It views as essential the establishment of an effective information exchange and consultation and coordination mechanisms between jurisdictions to the maximum extent possible without infringing upon the special responsibilities of the respective jurisdictions. It also views as essential the establishment of uniform practices and procedures for review and disposition of proposed Development and Production Plans which conform with the requirements of applicable laws, regulations, and lease terms.

It believes that it is important to provide documentation of the careful consideration given comments and recommendations made by others during the decision-making process relating to OCS oil and gas development and production activities (e.g., during the review and disposition of proposed Development and Production Plans and revisions of approved Development and Production Plans).

Public Availability

At the time that copies of a proposed Development and Production Plan are transmitted to other Federal Bureaus and Agencies for review, a copy of the proposed Development and Production Plan (except for those portions that have been determined to be exempt from disclosure in accordance with the Freedom of Information Act) and a copy of the accompanying Environmental Report (Development/Production), when there is an Environmental Report (Development/Production), are made available to the public.

The Conservation Manager is responsible for assuring that proposed Development and Production Plans submitted in accordance with the provisions of 30 CFR 250.34 are reviewed and acted upon in accordance with established practices and procedures which include a comprehensive review of the environmental impacts of the proposed activities and a comprehensive review of the technological aspects of the proposed activities. Both reviews must be completed in time for the Survey to approve, disapprove, or require modification of a proposed Development and Production Plan within 60 calendar days after the period of time provided for comments by the Governors of affected States and the executives of affected local governments or within 60 calendar days following the release of the final Environmental Impact Statement prepared pursuant to the National Environmental Policy Act of 1969.

Reviewers of proposed Development and Production Plans are encouraged to expedite their review of the plans and to submit their comments and recommendations on the plans as quickly as possible. Comments and recommendations received in connection with a proposed Development and Production Plan are considered carefully during the decision-making process. The consideration given to each comment and recommendation received before the deadline stated in this notice will be documented either in the written materials prepared in connection with the environmental impact review process or in the decision document which sets forth the decision on the disposition of the proposed Development and Production Plan (i.e., approved, disapproved, or modification required) and the reasons behind that decision.

Dated: February 25, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico Region.

[FR Doc. 80-7095 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This notice announces that Transco Exploration Company, lessee of OSC oil and gas lease OCS–G 3951, Block A–284, High Island Area, submitted February 5, 1980, a proposed Development and Production Plan describing the development and production activities it proposes to conduct on lease OCS–G 3951. The proposed Development and Production Plan for lease OCS–G 3951 is available for review at the offices of the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002. This notice solicits the submission of the comments and recommendations by interested parties for the consideration of the Geological Survey during its review and disposition of Transco Exploration Company's proposed Development and Production Plan for OCS oil and gas lease OCS–G 3951.

DATES: Comments and recommendations must be received by April 21, 1980.

ADDRESS: Comments and recommendations must be written and submitted in sufficient time to insure their receipt by the date specified above. Comments and recommendations must be submitted to the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, Post Office Box 7944, Metairie, Louisiana 70010.

FOR FURTHER INFORMATION CONTACT:
U.S. Geological Survey, Emile H. Simoneaux, Petroleum Engineer, Post Office Box 7944, Metairie, Louisiana, 70010, Phone 837–4720, Ext. 206.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979. (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the code of Federal Regulations.

The regulations in § 250.34, Exploration, Development, and Production Plans, are specifically designed, among other things, to assist affected States in their efforts to protect the marine, coastal, and human environments. They recognize that the OCS oil and gas development and production activities described in proposed Development and Production Plans may have identifiable effects on the environment and provide for the participation of the Governors of affected States, the executives of affected local governments, and other interested parties, together with the U.S. Geological Survey, in its review and decision-making process.

The U.S. Geological Survey encourages the involvement of representatives of affected States and local governments and other interested parties in the Federal decision-making process relating to OCS oil and gas exploration, development, and production activities. It views as essential the establishment of an effective information exchange and consultation and coordination mechanisms between jurisdictions to the maximum extent possible without infringing upon the special responsibilities of the respective jurisdictions. It also views as essential the establishment of uniform practices and procedures for review and disposition of proposed Development and Production Plans which conform with the requirements of applicable laws, regulations, and lease terms.

It believes that it is important to provide documentation of the careful consideration given comments and recommendations made by others during the decision-making process relating to OCS oil and gas development and production activities (e.g., during the review and disposition of proposed Development and Production Plans and revisions of approved Development and Production Plans).

Public Availability

At the time that copies of a proposed Development and Production Plan are transmitted to other Federal Bureaus and Agencies for review, a copy of the proposed Development and Production Plan (except for those portions that have been determined to be exempt from disclosure in accordance with the Freedom of Information Act) and a copy of the accompanying Environmental Report (Development/Production), when there is an Environmental Report (Development/Production), are made available to the public.

The Conservation Manager is responsible for assuring that proposed Development and Production Plans submitted in accordance with the provisions of 30 CFR 250.34 are reviewed and acted upon in accordance with established practices and procedures which include a comprehensive review of the environmental impacts of the proposed activities and a comprehensive review of the technological aspects of the proposed activities. Both reviews must be completed in time for the Survey to approve, disapprove, or require modification of a proposed Development and Production Plans within 60 calendar days after the period of time provided for community by the Governors of affected States and the executives of affected local governments or within 60 calendar days following the release of the final Environmental Impact Statement prepared pursuant to the National Environmental Policy Act of 1969.

Reviewers of proposed Development and Production Plans are encouraged to expedite their review of the plans and to submit their comments and recommendations on the plans as quickly as possible. Comments and recommendations received in connection with a proposed Development and Production Plans are considered carefully during the decision-making process. The consideration given to each comment and recommendation received before the deadline stated in this notice will be documented either in the written materials prepared in connection with the environmental impact review process or in the decision document which sets forth the decision on the disposition of the proposed Development and Production Plans (i.e., approved, disapproved, or modification required) and the reasons behind that decision.

Dated: February 25, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico Region.

[FR Doc. 80-7096 Filed 3-6-80; 8:45 am]
BILLING CODE 4310-31-M

Oil, Gas, and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This notice announces that Conoco Inc., lessee of OCS oil and gas lease OCS–G 2306, Block 261, South Marsh Island Area, submitted January 9, 1980, a proposed Development and Production Plan describing the development and production activities it proposes to conduct on lease OCS–G 2306. The proposed Development and Production Plan for lease OCS–G 2306 is available for review at the offices of the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002. This notice solicits the submission of the comments and recommendations by interested parties for the consideration of the Geological Survey during its review and disposition of Conoco Inc.'s proposed Development and Production Plan for OCS oil and gas lease OCS–G 2306.

DATES: Comments and recommendations must be received by April 21, 1980.

ADDRESS: Comments and recommendations must be written and submitted in sufficient time to insure their receipt by the date specified above. Comments and recommendations must be submitted to the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, Post Office Box 7944, Metairie, Louisiana 70010.

FOR FURTHER INFORMATION CONTACT:
U.S. Geological Survey, Terry V. Hight, Petroleum Engineer, Post Office Box 7944, Metairie, Louisiana 70010, Phone 837–4720, Ext. 206.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979. (44 FR 53685). Those practices and procedures are set out in a revised

§ 250.34 of Title 30 of the Code of Federal Regulations.

The regulations in § 250.34, Exploration, Development, and Production Plans, are specifically designed, among other things, to assist affected States in their efforts to protect the marine, coastal, and human environments. They recognize that the OCS oil and gas development and production activities described in proposed Development and Production Plans may have identifiable effects on the environment and provide for the participation of the Governors of affected States, the executives of affected local governments, and other interested parties, together with the U.S. Geological Survey, in its review and decision-making process.

The U.S. Geological Survey encourages the involvement of representatives of affected States and local governments and other interested parties in the Federal decision-making process relating to OCS oil and gas exploration, development, and production activities. It views as essential the establishment of an effective information exchange and consultation and coordination mechanisms between jurisdictions to the maximum extent possible without infringing upon the special responsibilities of the respective jurisdictions. It also views as essential the establishment of uniform practices and procedures for review and disposition of proposed Development and Production Plans which conform with the requirements of applicable laws, regulations, and lease terms.

It believes that it is important to provide documentation of the careful consideration given comments and recommendations made by others during the decision-making process relating to OCS oil and gas development and production activities (e.g., during the review and disposition of proposed Development and Production Plans and revisions of approved Development and Production Plans).

Public Availability

At the time that copies of a proposed Development and Production Plan are transmitted to other Federal Bureaus and Agencies for review, a copy of the proposed Development and Production Plan (except for those portions that have been determined to be exempt from disclosure in accordance with the Freedom of Information Act) and a copy of the accompanying Environmental Report (Development/Production), when there is an Environmental Report (Development/Production), are made available to the public.

The Conservation Manager is responsible for assuring that proposed Development and Production Plans submitted in accordance with the provisions of 30 CFR 250.34 are reviewed and acted upon in accordance with established practices and procedures which include a comprehensive review of the environmental impacts of the proposed activities and a comprehensive review of the technological aspects of the proposed activities. Both reviews must be completed in time for the Survey to approve, disapprove, or require modification of a proposed Development and Production Plan within 60 calendar days after the period of time provided for comments by the Governors of affected States and the executives of affected local governments or within 60 calendar days following the release of the final Environmental Impact Statement prepared pursuant to the National Environmental Policy Act of 1969.

Reviewers of proposed Development and Production Plans are encouraged to expedite their review of the plans and to submit their comments and recommendations on the plans as quickly as possible. Comments and recommendations received in connection with a proposed Development and Production Plan are considered carefully during the decision-making process. The consideration given to each comment and recommendation received before the deadline stated in this notice will be documented either in the written materials prepared in connection with the environmental impact review process or in the decision document which sets forth the decision on the disposition of the proposed Development and Production Plan (i.e., approved, disapproved, or modification required) and the reasons behind that decision.

Dated: February 25, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico Region.

[FR Doc. 80-7097 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-31-M

Oil, Gas, and Sulphur Operations in the Outer Continental Shelf; Receipt of Proposed Development and Production Plan

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This notice announces that Exxon Company, USA, lessee of OCS oil and gas lease OCS–G 1084, Block 74, West Delta Area, submitted January 10, 1980, a proposed Development and Production Plan describing the development and production activities it proposes to conduct on lease OCS–G 1084. The proposed Development and Production Plan for lease OCS–G 1084 is available for review at the offices of the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002. This notice solicits the submission of the comments and recommendations by interested parties for the consideration of the Geological Survey during its review and disposition of Exxon's proposed Development and Production Plan for OCS oil and gas lease OCS–G 1084.

DATES: Comments and recommendations must be received by April 21, 1980.

ADDRESS: Comments and recommendations must be written and submitted in sufficient time to insure their receipt by the date specified above. Comments and recommendations must be submitted to the Conservation Manager, Gulf of Mexico Region, U.S. Geological Survey, Post Office Box 7944, Metairie, Louisiana 70010.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Terry V. Hight, Petroleum Engineer, Post Office Box 7944, Metairie, Louisiana 70010, Phone 837–4720, Ext. 206.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979. (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

The regulations in § 250.34, Exploration, Development, and Production Plans, are specifically designed, among other things, to assist affected States in their efforts to protect the marine, coastal, and human environments. They recognize that the OCS oil and gas development and production activities described in proposed Development and Production Plans may have identifiable effects on the environment and provide for the participation of the Governors of affected States, the executives of affected local governments, and other interested parties, together with the U.S.

Geological Survey, in its review and decision-making process.

The U.S. Geological Survey encourages the involvement of representatives of affected States and local governments and other interested parties in the Federal decision-making process relating to OCS oil and gas exploration, development, and production activities. It views as essential the establishment of an effective information exchange and consultation and coordination mechanisms between jurisdictions to the maximum extent possible without infringing upon the special responsibilities of the respective jurisdictions. It also views as essential the establishment of uniform practices and procedures for review and disposition of proposed Development and Production Plans which conform with the requirements of applicable laws, regulations, and lease terms.

It believes that it is important to provide documentation of the careful consideration given comments and recommendations made by others during the decision-making process relating to OCS oil and gas development and production activities (e.g., during the review and disposition of proposed Development and Production Plans and revisions of approved Development and Production Plans).

Public Availability

At the time that copies of a proposed Development and Production Plan are transmitted to other Federal Bureaus and Agencies for review, a copy of the proposed Development and Production Plan (except for those portions that have been determined to be exempt from disclosure in accordance with the Freedom of Information Act) and a copy of the accompanying Environmental Report (Development/Production), when there is an Environmental Report (Development/Production), are made available to the public.

The Conservation Manager is responsible for assuring that proposed Development and Production Plans submitted in accordance with the provisions of 30 CFR 250.34 are reviewed and acted upon in accordance with established practices and procedures which include a comprehensive review of the environmental impacts of the proposed activities and a comprehensive review of the technological aspects of the proposed activities. Both reviews must be completed in time for the Survey to approve, disapprove, or require modification of a proposed Development and Production Plan within 60 calendar days after the period of time provided for comments by the Governors of affected States and the executives of affected local governments of within 60 calendar days following the release of the final Environmental Impact Statement prepared pursuant to the National Environmental Policy Act of 1969.

Reviewers of proposed Development and Production Plans are encouraged to expedite their review of the plans and to submit their comments and recommendations on the plans as quickly as possible. Comments and recommendations received in connection with a proposed Development and Production Plan are considered carefully during the decision-making process. The consideration given to each comment and recommendation received before the deadline stated in this notice will be documented either in the written materials prepared in connection with the environmental impact review process or in the decision document which sets forth the decision on the disposition of the proposed Development and Production Plan (i.e., approved, disapproved, or modification required) and the reasons behind that decision.

Dated: February 25, 1980.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico Region.

[FR Doc. 80-7066 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Proposed Yosemite National Park General Management Plan and Revised Draft Environmental Impact Statement

The National Park Service is now circulating a proposed Yosemite National Park General Management Plan and a revised Draft Environmental Impact Statement for public comment. These documents contain additional or revised proposals not contained in the previous drafts, including a proposal to promulgate Federal zoning regulations for the Wawona area of the Park.

In order to preserve the status quo during the public comment and decision-making period, a temporary moratorium on new private construction is necessary on that area of Wawona described as Section 35 of Township 4 South, Range 21 East, Mount Diablo Base and Meridian.

Temporary Moratorium

In order to provide for consideration of use of the lands in the Section 35 area of Wawona in Yosemite National Park that may be compatible with management of the Park, the National Park Service is amending its proposed General Management Plan and its accompanying EIS to incorporate proposals not contained in the previous draft. For the period during which this Plan and EIS are being prepared and reviewed, there will be a moratorium on new private construction in Section 35. This moratorium will end 30 days after the publication of the EIS containing the alternatives. Exempt from this moratorium is that construction that is permitted under the National Park Service land acquisition policy published in the Federal Register on April 26, 1979 (44 FR 24790). The National Park Service will initiate appropriate action to prevent new construction subject to this moratorium.

Dated: January 23, 1980.

John H. Davis,

Acting Regional Director, Western Region, National Park Service.

[FR Doc. 80-7065 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Outer Continental Shelf Advisory Board—Policy Committee; Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. No. 92-643, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised.

The Policy Committee of the Outer Continental Shelf Advisory Board will meet during the period 8:30 a.m. to 5:15 p.m., April 9, 1980, and 8:30 a.m. to 12:00, April 10, 1980, at the Holiday Inn—Emerald Beach, 1102 S. Shoreline Blvd., Corpus Christi, Texas.

The meeting will cover the following principal subjects:

April 9, 1980

(1) OCS Lease Sale Update
(2) 5-Year OCS Oil and Gas Leasing Program
(3) OCSLAA Status of Implementation
  (a) DOI Regulations
  (b) DOE Regulations
  (c) OCS State Participation Grants
  (d) Fishermen's Contingency Fund
  (e) Coast Guard Activities
(4) Federal Ocean Pollution Plan
(5) Muds and Cuttings
(6) Oil Spills in Arctic Conditions
(7) International Oil Spill Agreements

April 10, 1980

(1) CEIP Eligibility Requirements
(2) Campeche Oil Spill Update
(3) Damage Assessment Project

The meeting is open to the public. Interested persons may make oral or

written presentations to the Committee. Such requests should be made no later than March 28 to: Alan D. Powers, Office of OCS Program Coordination, Department of the Interior, Room 5150, Washington, D.C. 20240 (202/343-9311).

Requests to make oral statements should be accompanied by a summary of the statement to be made.

Minutes of the meeting will be available for public inspection and copying eight weeks after the meeting at the Office of OCS Program Coordination, Room 5150, Department of the Interior, 18th and C Streets NW., Washington, D.C.

Dated: March 4, 1980.

Alan D. Powers,

Director, Office of OCS Program Coordination.

[FR Doc. 80-7166 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-10-M

Office of Surface Mining

Availability of Mine Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Surface mining and reclamation plan.

SUMMARY: Pursuant of § 211.5(b) of Title 30, CFR, Notice is hereby given that the Office of Surface Mining has received the following mine plan for a coal mining and reclamation operation on Federal Coal Lands:

Location of Lands

Applicant: Lone Star Steel Company
Mine property name: Milton Strip Mine-Holmes Tract
State: Oklahoma
County: LeFlore
OSM Reference No.: 36:0004
General description of affected lands: Approximately 18 Acres under coal leases BLM-C-016820 LSS and BLM-NM/059992 LSS, located in Lots 1 & 2, Section 18, T8N, R24E.

This mine plan is available for public review at Region IV, Office of Surface Mining, 818 Grand Avenue, Scarritt Building, Fifth Floor, Kansas City, Missouri 64106.

This Notice is issued at this time for the convenience of the public. The OSM has not yet determined whether the plan is adequate and may, during the course of its review, request additional information. Any additional information so obtained will also be available for public review. Prior to a final decision on this mine plan, the Office of Surface Mining will issue a Notice of Pending Decision pursuant to § 211.5(c)(2) of Title 30, Code of Federal Regulations.

DATES: Comments on or objections to the plan should be received by the Region IV Office not later than April 7, 1980.

ADDRESSES: Comments should be sent to the Regional Director, Office of Surface Mining Reclamation and Enforcement, Region IV, 818 Grand Avenue, Scarritt Building, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Assistant Regional Director, Division of Technical Services and Research, Office of Surface Mining, Region IV, 818 Grand Avenue, Room 426 Scarritt Building, Kansas City, Missouri 64106. Telephone: 816/374-5109 or FTS 758-5109.

Allyn O. Lockner,

Deputy Regional Director.

[FR Doc. 7175 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-05-M

Water and Power Resources Service

Off-Road Vehicle (ORV) Use at Horsetooth Reservoir, Colorado-Big Thompson Project, Colorado

A decision has been made to open a 15.5 acre parcel of Water and Power Resources Service lands north of Horsetooth Reservoir to ORV use. The remainder of the Reservoir lands will remain closed. This decision was made following an intensive study of the potentials and impacts of ORV use at Horsetooth Reservoir. The decision and study were made in compliance with the authorities and requirements of Title 43, Part 420 of the Code of Federal Regulations, Executive Orders 11644 and 11989, and the Department of the Interior's Final Environmental Impact Statement (FES) 78-5 of April 21, 1978.

Copies of the proposal and Finding of No Significant Impact environmental assessment for ORV use at Horsetooth Reservoir may be examined at the following addresses. Drawing number 245-713-1315 which depicts the area to be opened may also be inspected at these addresses.

Water and Power Resources Service, South Platte River Projects, 995 Wilson Avenue, Loveland, CO 80537.

Water and Power Resources Service, Lower Missouri Regional Office, Building 20, Room E-2421, Denver Federal Center, Denver, CO 80225.

EFFECTIVE DATE: April 7, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Peterson, Natural Resources Specialist, Division of Water and Land Operations, Water and Power Resources Service, P.O. Box 25247, Building 20, Denver Federal Center, Denver, CO 80225, 303-234-3358.

Dated: February 27, 1980.

Orrin Ferris,

Acting Commissioner, Water and Power Resources.

[FR Doc. 80-6881 Filed 3-6-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 172]

Assignment of Hearings

March 3, 1980.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135078 (Sub-48F), American Transport, Inc., now assigned for hearing on March 20, 1980 at Omaha, NE., is canceled and transferred to Modified Procedure.

MC 112801 (Sub-224F), Transport Service Company, now assigned for hearing on March 3, 1980 at New Orleans, LA. is canceled and transferred to Modified procedure.

MC 108119 (Sub-127F), E. L. Murphy Trucking Company, Application Dismissed.

MC 41432 (Sub-156F), East Texas Motor Freight Lines, Inc., now being assigned for hearing on September 8, 1980 (5 Days), at Dallas, TX., and continued to September 29, 1980 (10 Days), at Nashville, TN., continued to October 27, 1980 (10 Days), at Knoxville, TN., and continued to November 17, 1980 (5 Days), at Los Angeles, CA., in a hearing room to be designated later.

MC 113678 (Sub-787F), Curtis, Inc., transferred to Modified Procedure.

MC 4963 (Sub-67F), Jones Motor Co., Inc., now being assigned for hearing on April 15, 1980 (9 Days), at Pittsburgh, PA. in a hearing room to be designated later.

MC 115826 (Sub-454F), W. J. Digby, Inc., now being assigned for hearing on May 1, 1980 (2 Days), at Denver, CO., in a hearing room to be designated later.

MC 106887 (Sub-10F), A. D. Ray Trucking, Inc., now being assigned for hearing on May 5, 1980 (1 Week), at Denver, CO., in a hearing room to be designated later.

MC 145399 (Sub-1F), Shay Distributing Co., Inc., now assigned for hearing on March 11, 1980 is canceled and Application Dismissed.

MC 133485 (Sub-26F), International Detective Service, Inc., now assigned for hearing on March 19, 1980 at Providence, RI. is postponed indefinitely.

MC 133485 (Sub-27F), International Detective Service, Inc., now assigned for hearing on March 6, 1980 at Providence, RI. is postponed indefinitely.
MC 128273 (Sub-326F), Midwestern Distribution, Inc., now being assigned for hearing on May 27, 1980 (4 Days); at Orlando, FL., in a hearing room to be designated later.
MC 29904 (Sub-4F), Suddath Van Lines, Inc., now being assigned for hearing on June 2, 1980 (5 Days), at Jacksonville, FL. in a hearing room to be designated later.
MC 94265 (Sub-288F), Bonney Motor Express, Inc., now assigned for hearing on March 12, 1980 will be held at the U.S. District Court, Ceremonial Court Room 382, 517 East Wisconsin Avenue, Milwaukee, WI.
MC 105733 (Sub-72F), H. R. Ritter Trucking Co., Inc., now being assigned for hearing on April 14, 1980 (1 Week), at the Hilton Gateway Hotel, Gateway Center, Raymond Blvd., Newark, NJ.
MC 26377 (Sub-25F), Leonardo Truck Lines, Inc., now assigned for hearing on March 19, 1980 will be held in Room No. 103, Pionier Courthouse, 555 S.W. Yamhill Street, Portland, OR.
MC 112822 (Sub-469F), Bray Lines Incorporated and MC 113678 (Sub-797F), Curtis, Inc., now assigned for hearing on March 24, 1980 will be held in Room No. 103, Pionier Courthouse, 555 S.W. Yamhill Street, Portland, OR.
MC 65802 (Sub-65F), Lynden Transport, Inc., now assigned for continued hearing on April 9, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 59583 (Sub-171F), the Mason & Dixon Lines, Inc., now being assigned for continued hearing on April 18, 1980, and continued to April 22, 1980, and continued to May 5, 1980, and continued to June 10, 1980 at the Offices of the Interstate Commerce Commission in Washington, DC.
MC 140094 (Sub-1F), Latin Express Service, Inc., now assigned for hearing on April 9, 1980 at Miami, FL. will be held at the State Office Building, Ruth B. Rhode Building, Date Regional Service Center, Room 165, 401 N.W. 2nd Avenue, Miami, FL.
MC C 9913, American Van and Storage, Inc., Investigation and Revocation of Certificates, now assigned for hearing on April 14, 1980 will be held at the State Office Building, Ruth B. Rhode Building, Date Regional Service Center, Room 165, 401 N.W. 2nd Avenue, Miami, FL.
MC 146619 F, Richard E. Arnold, now assigned for hearing on April 16, 1980 will be held at the State Office Building, Ruth B. Rhode Building, Date Regional Service Center, Room 165, 401 N.W. 2nd Avenue, Miami, FL.
MC 147323 F, Haddad Transportation, Inc., now being assigned for hearing on May 1, 1980 (2 Days), at Chicago, IL. in a hearing room to be designated later.
MC 138432 (Sub-14F), Garland Gehrke, now being assigned for hearing on May 5, 1980 (1 Day), at Chicago, IL. in a hearing room to be designated later.
MC 109533 (Sub-105F), Overnite Transportation Company, now assigned for continued hearing on May 6, 1980 (3 Days), at Chicago, IL. in a hearing room to be designated later.
MC 51146 (Sub-686F), Schneider Transport, Inc., now being assigned for hearing on May 9, 1980 (1 Day), at Chicago, IL. in a hearing room to be designated later.
MC 135797 (Sub-200F), J. B. Hunt Transport, Inc., is transferred to Modified Procedure.
MC 140829 (Sub-216F), Cargo, Inc., now assigned for hearing on March 12, 1980 is canceled and transferred to Modified Procedure.
MC 146310 (Sub-1F) Rainbow Transport, Inc., is transferred to Modified Procedure.
MC 107403 (Sub-1186F), Matlack, Inc., now being assigned for hearing on May 28, 1980 (3 Days), at Louisville, KY. in a hearing room to be designated later.
MC 110525 (Sub-1296F), Chemical Leaman Tank Lines, Inc., now being assigned for hearing on June 2, 1980 (2 Days) at Cincinnati, OH. in a hearing room to be designated later.
MC 146677 (Sub-2F), Granny's Express, Inc., now being assigned for hearing on June 4, 1980 (3 Days), at Cincinnati, OH. in a hearing room to be designated later.
AB 43 (Sub-61F), Illinois Central Gulf Railroad Company Abandonment Between McRaven and Hermanville, MS., now assigned for hearing on March 24, 1980 will be held at the Federal Building, Suite 924, 100 West Capitol Street, Jackson, MS.
MC 143775 (Sub-82F), Paul Yates, Inc., transferred to Modified Procedure.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7121 Filed 3-6-80; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-75F]

Burlington Northern Inc. Abandonment Near East Alton and Whitehall, Ill; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided January 28, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.–Abandonment Goshen,* 360 I.C.C. 91 (1979), and further that BN shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from the effective date of the certificate and decision 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, the present and future public convenience and necessity permit the abandonment by the Burlington Northern Inc. of a line of railroad known as the East Alton to Whitehall line extending from railroad milepost 26.63 near East Alton, IL, to railroad milepost 72.37 near Whitehall, IL, a total distance of 45.74 miles, in Greene, Macoupin, Madison, and Jersey Counties, IL. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern Inc. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective on or before April 21, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7119 Filed 3-6-80; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-77F)]

Burlington Northern Inc., Abandonment and Discontinuance of Service Between St. Regis and Haugan, Mont; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decisions decided February 4, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment and discontinuance of service by the Burlington Northern Inc. over a line of railroad known as the St. Regis to Haugan, MT, line extending from BN railroad milepost 0.00 near St. Regis, MT, and BN railroad milepost 19.57 near Haugan, MT, a distance of 19.57 miles in Mineral County, MT. The portions of the line to be abandoned extend from BN milepost 0.00, 917.7 feet to Milwaukee milepost Number 1716.55 near St. Regis, MT, and also from BN milepost 18.96 (Milwaukee milepost

Number 1735.12) 3,236.31 feet to BN milepost number 19.57 near Haugan, MT. The portion of the line over which service via trackage rights is to be discontinued extends from Milwaukee milepost number 1716.55 near St. Regis to Milwaukee milepost number 1735.12 (BN milepost 18.96) near Haugan, MT. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern Inc. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the Federal Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than March 24, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7120 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Operating Decision Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before March 27, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an affective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, The Motor Carrier Board, Members Krock, Pohost, and Taylor.

Agatha L. Mergenovich,

Secretary.

MC-FC-78096, filed April 2, 1979. Transferee: TAYLOR TRUCK LINES, INC., 404 Clay St., Drawer 416, Charleston, MS 38921. Transferors: JULIUS R. TAYLOR, JR., NED R. TAYLOR, AND ALEX TAYLOR, d.b.a. TAYLOR TRUCK LINE, Drawer 416, Charleston, MS 38921. Representative: Hoyt McKarem, 150 E. Olive St., Memphis, TN 38106. Authority sought for the purchase by transferee of the operating rights of transferor set forth in Certificates MC-106565 (Sub-Nos. 2, 11, and 13), issued December 19, 1973, October 21, 1974, and June 18, 1976, as follows: *General commodities,* with exceptions, over specified regular routes, between (1) Memphis, TN and Charleston, MS; (2) Greeenwood and Itta Bena, MS; (3) Hopsons and Charleston, MS; (4) Titwiler and Webb, MS; (5) Holcomb and Greenwood, MS; (6) Charleston and Holcomb, MS; (7) Memphis, TN and Greenville, MS; (8) junction U.S. Hwys 61 and 82 and junction U.S. Hwy 82 and MS Hwy 7; (9) Ruleville and Indianola, MS; and (10) Memphis, TN and Clarksdale, MS. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78182, filed June 11, 1979. Transferee: GEO. W. NOFFS MOVING & STORAGE, INC., 1735 E. David Street, Arlington Heights, Illinois 60005. Transferor: AMODIO MOVING, INC., 1199 Whitney Avenue, Hamden, Connecticut 06517. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, D.C. 20036. Authority sought to purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate MC 107229, issued March 26, 1972, as follows: *Household Goods* as defined by the Commission, between points in Chicago, IL, and points in IL, IN, MI, and WI, within 100 miles of Chicago, on the one hand, and, on other, points in KS, MO, IA, MN, WI, MI, IL, IN, KY, TN, AL, FL, GA, SC, NC, VA, WV, OH, PA, DE, NJ, NY, CT, RI, MA, VT, NH, and ME. Transferee presently holds no authority from this Commission. Application has been filed under Section 210 a(b) for Temporary Authority.

MC-FC-78268, filed August 14, 1979. Transferee: YASTE TRANSPORTATION CO., INC., 2619 Cherry Street, Hoquiam, WA 98550. Transferor: FRANK Y, INC., 1111 Lincoln Street, Hoquiam, WA 98550. Representative: Henry C. Winters, 525 Evergreen Building, Renton, WA 98055. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificate MC 124978, issued February 18, 1969, to Yaste Transportation Co., Inc., (name changed October 1, 1978), transporting *shakes* and *shingles* (1) between points in Clallam, Jefferson, and Grays Harbor Counties, WA, restricted to shipments having a subsequent movement by rail, and (2) from points in Clallam, Jefferson, and Grays Harbor Counties, WA, to Seattle, Tacoma, Everett, Bellingham, Olympia, Port Angeles, Port Townsend, Hoquiam, and Aberdeen, WA, restricted to traffic having a subsequent movement by water. Transferee holds no authority from the Commission. An application for temporary authority has been filed.

MC-FC-78304, filed September 18, 1979. Transferee: HERRIOTT TRUCKING CORP., 815 W. Pershing Road, Chicago, IL 60609. Transferor: HERRIOTT TRUCKING CO. (Lewis Zipkin, Receiver), Bond Court Bldg., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. Authority sought for purchase by transferee of the operating rights held by transferor in MC 7920 and all subs thereunder, including subs 5, 8, and 9, issued 2/14/68, 5/7/63, 3/19/68, and 3/12/74, authorizing general commodities (usual exceptions), and also iron and steel articles, over a network of regular and irregular routes, from and to named points in OH, WV, IL, PA, and NY. Transferee holds no authority from the

Commission. An application seeking TA lease has been filed.

MC-FC-78306, filed September 25, 1979. Transferee: EDDY MESSENGER SERVICE, INC., 4 Warehouse Lane, Elmsford, NY 10523. Transferor: EDDY MOVING & STORAGE CO., INC., 4 Warehouse Lane, Elmsford, NY 10523. Representative: John L. Alfano and Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528. Authority sought for purchase by transferee of operating authority held by transferor in Certificate MC 94901, issued April 16, 1975, authorizing general commodities (except household goods) between Port Chester, NY, and points in NY and CT within ten miles of Port Chester; in (Sub-1), issued January 17, 1969, of computer tapes, cards, documents and records, between points in Bergen County, NJ, on the one hand, and, on the other, points in Westchester, Dutchess, and Ulster Counties, NY; and in (Sub-5), issued November 15, 1973, of printed matter, machine parts, computer tapes, cards, documents, and records, and equipment, materials and supplies, between points in Dutchess, Orange, Rockland, Ulster, and Westchester Counties, NY, and New York, NY. Transferee is not a carrier. No application seeking TA lease has not been filed.

MC-FC-78309, filed September 25, 1979. Transferee: MONTGOMERY TRUCKING COMPANY, Route 93, Wellston, OH 45692. Representative: Andrew Jay Burkholder, Beery & Spurlock Co., L.P.A., 275 East State Street, Columbus, OH 43215. Authority sought for purchase by transferee of the operating rights of Transferor, as set forth in Certificate MC 141791 (Sub-1), as issued February 28, 1977, as follows: *commodities* dealt in by manufacturers and builders of coal and coke processing facilities (except commodities in bulk), from Wellston, Ohio, to points in Alabama, Illinois, Indiana, Kansas, Kentucky, Michigan, New York, Pennsylvania, Tennessee, Virginia, and West Virginia; and (2) *Equipment, materials and supplies* used in the production, manufacture and sale of commodities described above (except commodities in bulk), from the above destinations to Wellston, Ohio. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with the McNally Pittsburgh Manufacturing Corporation of Wellston, Ohio. Transferor: ARTHUR G. MONTGOMERY, d.b.a. MONTGOMERY TRUCKING COMPANY (Mary Lou Montgomery, Executrix), Route 93, Wellston, OH 45692. Transferee is not a carrier. No application seeking TA lease has been filed.

MC-FC-78313 filed 8/31/79. Transferee: NORMAN GROSLAND, d.b.a. GROSLAND TRUCKING, Marshfield, WI 54440. Transferor: ALLEN BEYER, Box 1, Stetsonville, WI 54480. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. Authority sought for purchase by transferee of operating rights held by transferor in Permit No. MC-123641 Sub 3, issued March 23, 1978, authorizing lumber products, between Dorchester, WI, on the one hand, and, on the other, points in MN, IA, IN, IL, and the Lower Peninsula of MI, under contract with Bennett Lumber Co., Inc., and Dorchester Hardwood, Inc., both of Dorchester, WI; and also of rights conditionally granted in No. MC 123641 Sub 5F on July 2, 1979, involving the transportation of lumber, (1) from Dorchester, WI, to Lexington, MO, under contract with Bennett-Daniels Lumber Co., Inc., Wausau, WI; and (2)(a) from points in WI to Chicago, IL, Tell City, IN, Ownesboro, KY, and Amasa, Bessemer, Menominee, and Wallace, MI, and (b) from Fordsville, KY, Jefferson City and St. Joseph, MO, and points in IN to points in WI, under contract with Hastreiter Hardwoods, Inc., Wausau, WI, and (3)(a) from Wisconsin Dells, WI, to Leeds and Minot, ND, Dallas, Everman, and Fort Worth, TX, and (b) from points in IL, IN, KY, MO, OH, PA, and TN, to points in WI, under contract with Kilbourn Lumber and Supply, Ltd, Wisconsin Dells, WI. Transferee is not a carrier, and no TA lease application has been filed.

MC-FC-78314, filed September 11, 1979. Transferee: OVERLAND STAGES, INC. (Formerly known as HAMILTON CITY LINES, INC.), P.O. Box 26040, Trotwood, OH 45426. Transferor: DAVID P. DUBERSTEIN d.b.a. DAY-BROOK BUS LINES, 10047 Upper Lewisburg-Salem Rd., Brookville, OH 45309. Representative: Edgar M. Hymans, 1587 Elizabeth Place, Cincinnati, OH 45237. Authority sought for the purchase by transferee of the operating rights of transferor set forth in Certificate No. MC-140390 (Sub-No. 3), issued December 23, 1977, as follows: Passengers and their baggage, and express and newspapers, in the same vehicle with passengers, over specified regular routes, serving all intermediate points, between Dayton and Xenia, OH and between Dayton and Lewisburg, OH; and *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at points (1) on the north of Little Richmond Rd., in Madison and Perry Townships, Montgomery County, OH (except Dayton), and (2) on and north of U.S. Highway 40 in Preble County, OH, and (3) on U.S. Highway 35 and Dayton-Xenia Pike, between Dayton and Xenia, OH (except Dayton and Xenia), and extending to points in the United States (except AK and HI). Transferee presently holds authority from this Commission under MC-119640. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC-FC-78325, filed September 20, 1979. Transferee: RUSSELL F. LYNDE, EDWARD A. LYNDE, AND JOE L. LYNDE, a partnership, d.b.a. LYNDE & SONS, Jordan Valley, OR 97910. Transferor: OLIVER WENDELL COLLINS, d.b.a. COLLINS TRUCKING, P.O. Box 185, Jordan Valley, OR 97910. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought for the purchase by transferee of the operating rights of transferor set forth in Certificate No. MC-141695 (Sub-No. 4), issued February 13, 1978, as follows: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring the use of special equipment), over a specified regular route between Caldwell, ID and Jordan Valley, OR, serving all intermediate points and the off-route point of Rockville, OR; *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk and those requiring the use of special equipment), between Jordan Valley, OR, and points in OR within 40 miles of Jordan Valley, on the one hand, and, on the other, Ontario, OR, and points in Owyhee, Canyon, and Ada Counties, ID; *Commodities,* in bulk (except chemical and petroleum products, in tank vehicles), from points in Owyhee, Canyon, and Ada Counties, ID, to points in that part of Malheur County, OR east of the Owynee River. Transferee presently holds no authority from this Commission. Application for temporary authority has been filed under 49 U.S.C. 11349.

MC-FC-78360 By decision of January 29, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to James Princl, an individual d.b.a. James Princl Trucking of Green Bay, WI, of Certificate No. MC-103786 (Sub-No. 7), issued November 30, 1973, to Schjoneman Trucking, Inc., of Colby, WI, authorizing the transportation of *petroleum products,* in bulk, in tank vehicles, from

Winona, MN, to points in WI (except points in Jackson, Clark, Wood, Marathon, Portage, Adams, Juneau, Monroe, and Vernon Counties), in MC-103786 (Sub-No. 7) and *petroleum products,* in bulk, in tank vehicles, from Minneapolis, St. Paul, New Brighton, and Winona, MN, to points in Jackson, Clark, Wood, Marathon, Portage, Adams, Juneau, Monroe, and Vernon Counties, WI; and *damaged, defective rejected or returned shipments* of the above-designed origin points in MC-103786 (Sub-No. 4). Applicant's representative is: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, Madison, WI 53705.

MC-FC-78389 By decision of January 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to CMX, Inc., of Elkridge, MD, of Certificate No. MC-7840, issued June 5, 1979 to Russell Earl Pearce, d.b.a. Pete's Sunoco, of Baltimore, MD, authorizing the transportation of (1) *paper boxes,* from New York, NY, to Baltimore, MD; (2) *furniture frames,* from Jersey City, NJ, to Baltimore, MD; (3) *new furniture,* from Baltimore, MD, to Newark and Jersey City, NJ, New York, NY, and Washington, DC; (4) *New upholstered furniture,* uncrated, from Baltimore, MD, to points in Pennsylvania, West Virginia, Virginia, Connecticut, Rhode Island, Maine, and Delaware, New York (except NY City), and New Jersey (except Newark and Jersey City); (5) *new furniture* (except new upholstered furniture) in crates or cartons, from Baltimore, MD, to Atlantic City, Trenton, Beverly, Vineland, Haddonfield, Woodbury, Lakewood, and Moorestown, NJ, and Montgomeryville, Paoli, Philadelphia, West Chester, and Willow Grove, PA; and (6) *new furniture* (except new upholstered furniture uncrated), from Baltimore, MD, to points in Delaware, Maryland, New Jersey (except Atlantic City, Beverly, Haddonfield, Jersey City, Lakewood, Moorestown, Newark, Trenton, Vineland, and Woodbury), PA (except Paoli, Montgomeryville, Philadelphia, West Chester, and Willow Grove), and VA, restricted in (6) above to the transportation of shipments having an immediately prior movement by rail or motor carrier. Applicant's representative is: Chester A. Zyblut, 1030-11th St., NW. Suite 366, Washington, DC 20005. Transferee holds no authority from the Commission. An application seeking temporary lease has been filed.

MC-FC-78417. By decision of January 28, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Luna Truck Lines, Inc., of Gainesville, MO, of Certificate MC 145488F issued (date) June 5, 1979 to Randall R. Vaught, d.b.a. West Plains Motor Lines, of West Plains, MO, authorizing the transportation of Regular Routes: General Commodities, except HHG as defined by the Commission, commodities in bulk, classes A and B explosives, and articles which because of their size or weight require the use of special equipment, Between Mountain Home, AR and West Plains, Mo; From Mountain Home, AR north on AR Hwy 5 to the MO/AR State Line, then north on MO Hwy 5 to its intersection with U.S. Hwy 160 west of Gainesville, MO, then east on U.S. Hwy 160 to West Plains, MO and return over the same route, serving all intermediate points. Between Mountain Home, AR and Junction U.S. Hwy 160 and MO Hwy 101: From Mountain Home, AR east on U.S. Hwy 62 to its junction at or near Henderson, AR with AR Hwy 101, then north on AR Hwy 101 to the AR/MO State Line, then north on MO Hwy 101 to its junction with U.S. Hwy 160 and return over the same route, serving all intermediate points. Between Bakersfield, MO and West Plains, MO: From Bakersfield, MO east on MO Hwy 142 to its junction at or near Lanton, MO with MO Hwy 17 then north over MO Hwy 17 to West Plains, MO and return over the same route, serving all intermediate points. Between Moody, MO and South Fork, MO: From Moody, MO north on County Road E to its junction with U.S. Hwy 160 at or near South Fork, MO and return over the same route, serving all intermediate points. Transferee holds no authority from the Commission. An application seeking temporary lease authority has not been filed. Applicant's representative is: James C. Swearengen, P.O. Box 456, Jefferson City, MO 65102.

MC-FC-78422. By decision of January 29, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Hamett Truck Lines, Inc., of Houston, TX, of Certificate MC 8907, issued April 16, 1968 to Oil Field Truckers, Inc., of Houston, TX, authorizing the transportation of oil field equipment and supplies, Between Winks, Odessa, and Monahans, TX, and oil fields in Winkler, Ector, Ward, and Crane Counties, TX, on the one hand, and, on the other, oil fields in Leo County, NM (except service not authorized to towns or stations in Lea County NM) MC 116178 (Sub-2), *wrecked and disabled motor vehicles and trailers* and *replacement motor vehicles and trailers,* by use of wrecker equipment, between points in the Kansas City, MO, Kansas City, KS Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in Arizona, Illinois, Indiana, Ohio, New Mexico, and Texas. Applicant's representative is: M. Ward Bailey, 2412 Continental Bldg., Fort Worth, TX 76102. Transferee is not a carrier. An application seeking temporary lease authority has not been filed.

MC-FC-78423. By decision of February 13, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 The Motor Carrier Board approved the transfer to Jon J. Pollock, d.b.a. A.B. Pollock Transfer & Storage, of Emsworth, PA, of Certificate MC 33998, issued October 21, 1957 to Jamison Pollock, Jon J. Pollock, executor, and John F. Pollick, d.b.a. A.B. Pollock Transfer and Storage, at Emsworth, PA, authorizing the transportation of household goods between points in Allegany County, PA, on the one hand, and, on the other, points in OH, WV, NY, NJ, MD, and DC. Applicant's representative is: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222.

MC-FC-78429. By decision of February 4, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, the Motor Carrier Board approved the transfer to Timothy Dawson and Jerry A. Dawson, Partnership d.b.a. H.R. Liedkie Moving & Storage of Mechanicville, NY, of Permit MC 135505 issued May 16, 1972, and Certificate MC 100385 issued June 5, 1951, and MC 100385 (Sub-1) issued February 4, 1952, respectively, to Henry R. Liedkie, Jr. Individual, d.b.a. H.R. Liedkie & Son of Schenectady, NY, authorizing the transportation in Permit MC 135505 of *telephone equipment, materials, and supplies,* between Schenectady, NY, on the one hand, and, on the other, points in Albany, Schenectady, Saratoga, Schoharie, Fulton, Montgomery, Rensselaer, and Washington Counties, NY. Restriction: Said operations are limited to a transportation service to be performed, under a continuing contract, or contracts, with Western Electric Co., Inc.; and in Certificate MC 100385 of *household goods,* as defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, between Gloversville, NY, and points within 15 miles of Gloversville, on the one hand, and, on the other, points in Connecticut, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, and Vermont, and MC 100385 (Sub-1) of *household goods* as

defined in *Practices of Motor Common Carriers of Household Goods,* 17 M.C.C. 467, between points in Schenectady County, NY, on the one hand, and, on the other, points in Connecticut, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, and Vermont. Applicant's Representative is: Neil D. Breslin, 600 Broadway, Albany, NY 12207 (518) 465–3391.

MC–FC–78434. By decision of January 29, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Mid-Am Towing, Inc., of Kansas, City, MO, of Certificate MC 116178 (Sub-1) and MC 116178 (Sub-2) issued November 14, 1974, and February 25, respectively to A-Emergency Tow Service, Inc., of Kansas City, MO, authorizing the transportation in MC 116178 (Sub-1) of *wrecked, damaged or disabled motor vehicles and trailers,* and *replacement motor vehicles and trailers* to points of wreck, damage or disablement, by the use of wrecking equipment only, between points in Iowa, Kansas, Missouri, Nebraska, and Oklahoma; and as set forth in Certificate MC 116178 (Sub-2), *wrecked and disabled motor vehicles and trailers* and *replacement motor vehicles and trailers,* by use of wrecker equipment, between points in the Kansas City, MO, Kansas City, KS Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in Arizona, Illinois, Indiana, Ohio, New Mexico, and Texas. Applicant's representative is: Donald J. Quinn, Attorney, Suite 900, 1012 Baltimore, Kansas City, MO 64105. Application has been filed for authority. Transferee holds no authority.

MC–FC–78436. By decision of January 29, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to International Transportation Company, a corporation of Del Rio, TX, of Certificate MC 104452 issued September 18, 1974 to show partnership as set out in effective notice International Transportation Company of Del Rio, TX, authorizing the transportation of Passengers and their baggage, between Del Rio, TX, and the United States-Mexico Boundary Line, serving no intermediate points, from Del Rio over U.S. Highway 277 to the International Bridge across the Rio Grande River, then over the International Bridge to the United States-Mexico Boundary line; and return over the International Bridge to South Loop Road, and then over South Loop Road to Del Rio. Applicant's representative is: Mert Starnes, Attorney, P.O. Box 2207, Austin, TX 78768. TA Application has been filed. Transferee holds no authority.

MC–FC–78438. By decision of January 29, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Railco Multi Construction, Inc. of Sherwood, OR of Permit MC 145303F issued November 8, 1979 to Railco Inc. of Sherwood, OR authorizing the transportation of (1) rail track and accessories for rail track, and (2) materials, equipment, and supplies used in the installation and removal of rail track, between Portland, OR, on the one hand, and, on the other, points in the United States, including Alaska and Hawaii, under contract with Pacific Railway Supply Company, of Portland, OR. Applicant's representative is: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 0–7210. TA application has not been filed. Transferee hold no authority.

MC–FC–78439. By decision of January 29, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Carr Trucking, Inc. of Keyser, WV of Permit MC 127780 issued May 2, 1968, to Diubaldo Trucking Company of Keyser, WV authorizing the transportation of (1) wood residuals, from Newcreek, WV, and Oakland (Garrett County, Mountain Lake Part, and Shaft, MD, to Beryl, WV, and (2) Charcoal from Luke, MD, to the plant site of the Kingsford CO, at or near Parsons, WV (1) above is under contract with Cumberland Charcoal Corporation, and (2) above is under contract with the Kingsford CO. Applicant's representative is: Lester R. Gutman, 666 Eleventh St. NW., Washington, DC 20001. TA Application has not been filed/ Transferee holds no authority.

MC–FC–78443. By decision of January 29, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to J. D. Anderson Trucking, Inc. of Industry, PA of Permit MC 144216 issued July 11, 1978 to Roger L. Anderson and J. Dale Anderson, d.b.a. Anderson Trucking of Industry, PA authorizing the transportation of copper tubing and coils, pre-charged tubing, air cool coils, and cooling towers, from Zelienople, PA, to points in Illinois, Michigan, Indiana, New Jersey, New York, Ohio, Massachusetts, Rhode Island, Connecticut, Vermont, and Arkansas and copper tubing and coils, pre-charged tubing, air cool coils, ingot bars, copper cathodes, copper scrap, and cooling towers, from points in Illinois, Michigan, Indiana, New Jersey, New York, Ohio, Massachusetts, Rhode Island, Connecticut, Vermont and Arkansas, to the plant site of Halstead & Mitchell Co., and Halstead Metal Products, Inc., located at Zelienople, PA under a continuing contract with Halstead & Mitchell Co., and Halstead Metal Products, Inc. Applicant's representative is: Arthur J. Diskin, 9–6 Frick Building, Pittsburgh, PA 15219. TA Application has not been filed. Transferee holds no authority.

MC–FC–78446. By decision of February 13, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 The Motor Carrier Board approved the transfer to James Transport, Inc. of Permit MC 135795 (Sub-1) issued July 10, 1978 to William J. James, d.b.a. Bill James, of Comanche, TX authorizing the transportation of dry animal and poultry feeds and farm implements, equipment and supplies used in the raising of livestock in mixed loads with dry animal and poultry feed; from Hereford and Comanche, TX, to points in OK, NM, KS, AR, LA, and CO; and materials, equipment, and supplies used in the manufacture and distribution of dry animal and poultry feeds (except liquid commodities in bulk, in tank vehicles, from points in OK, NM, KS, AR, LA, and CO, to Hereford and Comanche, TX; under contract with Moorman Mfg. Company. Applicant's representative is: Mest Starnes, P.O. Box 2207, Austin, TX 78768.

MC–FC–78447. By decision of January 29, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Ram Truck Line, Inc., d.b.a. Ram Trucking Line of Certificate MC 70082 issued July 30, 1974 to Lyle Doberer and Howard M. Habluetzel, d.b.a. Ram Truck Line of Clay Center, Kansas authorizing the transportation of livestock, general commodities, seeds, feed, petroleum products in Missouri and Kansas. Applicant's representative is: Lyle Doberer, Rural Route #3, Clay Center, Kansas 67432. TA Application has not been filed. Transferee holds no authority.

MC–FC–78448. By decision of January 29, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Les Schwall, Inc. of Atlanta, GA of Certificate MC 17002 issued December 23, 1971 to Case Driveway, Inc. of Huntington, WV, authorizing the transportation of automobiles, trucks, bodies, cabs, chassis and unfinished automobiles, between points in Wayne County and Warren Township (Macomb County), MI; *New automobiles, new trucks, new bodies, new cabs, new chassis,* and

unfinished automobiles, in initial movements, in truckaway and driveaway service, from places of manufacture and assembly in Wayne County, MI, and toledo, OH, to Ashland, Louisiana, Paintsville, and Pikeville, KY; Richmond and Knightstown, IN; and Lima, Piqua, and Elyria, OH; points in Meigs, Gallia, Lawrence, Washington, and Scioto Counties, OH; Cabell, Putnam, Kanawha, Fayette, Greenbrier, Monroe, Summers, Raleigh Mercer, McDowell, Wyoming, Logan, Boone, Mingo, Wayne, Lincoln, Mason, Jackson, Wood, Ritchie, Roane, Webste, and Nicholas Counties, WV; points in that part of Virginia west of U.S. Highway 220 and south of U.S. Highway 60; and points in North Carolina and South Carolina; and from places of manufacture in Willow Run Washtenaw County), MI; to Ashland, Louisia, Paintsville, and Pikeville, KY; Richmond and Knightstown, IN; Lima, Piqua, and Elyria, Ohio; points in Meigs, Gallia, Lawrence, Washington, and Scioto Counties, OH; points in Cabell, Putnam, Kanawha, Fayette, Greenbrier, Monroe, Summers, Raleigh, Mercer, McDowell, Wyoming, Logan, Boone, Mingo, Wayne, Lincoln, Mason, Jackson, Wood, Ritchie, Roane, Webster, and Nicholas Counties, WV; points in that part of Virginia west of U.S. Highway 220 and south of U.S. Highway 60, including points on indicated portions of the Highways specified, and points in North Carolina and South Carolina, and returned or rejected shipments of the above-specified commodities, from the immediately above-specified destination points in Willow Run (Washtenaw County) MI; Automobiles, trucks, bodies, cabs, and chassis, new used, unfinished, and/or wrecked, in secondary movement, in truckaway and driveaway service, between points in Wayne County, MI; Ashland, Louisia, Paintsville, and Pikeville, KY; Richmond and Knightstown, IN; Toledo, Lima, Piqua, Elyria, Cincinnati, Dayton, Springfield, Zenia, and Columbus, OH, points in Meigs, Gallia, Lawrence, Washington, and Scioto Counties, OH; Cabell, Putnam, Kanawha, Fayette, Greenbrier, Monroe, Summers, Raleigh, Mercer, McDowell, Wyoming, Logan, Boone, Mingo, Wayne, Lincoln, Mason, Jackson, Wood, Ritchie, Roane, Webster, and Nicholas Counties, WV; points in that part of Virginia west of U.S. Highway 220 and south of U.S. Highway 60; and points in North Carolina and South Carolina. Applicant's representative is: K. Edward Wolcott, P.O. Box 56387, Atlanta GA 30343. TA Application has not been filed. Transferee holds no authority.

MC-FC-78450. By decision of January 25, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132. The Motor Carrier Board approved the transfer to Dunn Van & Storage, Inc., of Junction City, KS, of Certificate MC 126713 (Sub 4) issued December 27, 1976, as corrected, to Allstar Van Lines, Inc., of Salina, KS, First National Bank and Trust Company, Successor-In-Interest), authorizing the transportation of used household goods, between points in Norton, Phillips, Graham, Rooks, Trego, Ness, Rush, Pawnee, Stafford, Washington, Marshall, Republic, Jewell, Smith, Osborne, Mitchell, Cloud, Clay, Riley, Pottawatomie, Ellis, Russell, Lincoln, Ottawa, Geary, Webaunesse, Ellsworth, Saline, Dickinson, Morris, Barton, Rice, McPherson, Marion, Chase, Lyon, Reno, Hawery, and Sedgwick Counties, KS subject to the following conditions: First National Bank and Trust Company must furnish the Commission proof of its legal right to act for Allstar Van Lines, Inc. in this proceeding. Applicant's representative is: Alan F. Wohlstetter, 1700 K St. NW., Washington, D.C. 20006.

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[Volume No. 3]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Dated: February 29, 1980.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

Notice

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission on or before April 7, 1980, with a copy being furnished the applicant. Protests to these applications will be *rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 70832 (MlF) (notice of filing of petition to modify certificate), filed August 17, 1979. Petitioner: NEW PENN MOTOR EXPRESS, INC., P.O. Box 630, Lebanon, PA 17402. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K St. NW., Washington, DC 20005. Petitioner holds a motor *common carrier* certificate in MC 70832 issued August 8, 1957, to transport in interstate or foreign commerce, over regular routes *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, Between Harrisburg, PA, and New York, NY, serving all intermediate points (except Fredericksburg and Hamburg, PA): From Harrisburg over U.S. Hwy 422 to Reading, PA, then over U.S. Hwy 222 to Allentown, PA, then over U.S. Hwy 22 to Somerville, NJ, then over NJ Hwy 28 to junction U.S. Hwy 1 (also from Somerville over U.S. Hwy 22

(formerly NJ Hwy 29), to Junction U.S. Hwy 1), then over U.S. Hwy 1 to NY, and return over the same route. From Harrisburg over U.S. Hwy 230 to Lancaster, PA, then over U.S. Hwy 222 to Reading, PA, then to New York as specified above, and return over the same routes. From Harrisburg over U.S. Hwy 22 to Allentown, PA, thence to New York, as specified above, and return over the same routes. From Harrisburg over U.S. Hwy 22 to Allentown, PA, then to New York as specified above, and return over the same routes. By the instant petition, peititoner seeks to modify the authority as follows: to authorize service to and from all points in NJ as off-route points in connection with presently authorized regular routes.

MC 107522 (Sub-2) (M1F) (notice of filing of petition to modify certificate), filed August 30, 1979. Petitioner: PEAK TRANSFER CO., INC., 57 Hathaway Street, Wallington, NJ 07057. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. Petitioner holds a motor *common carrier* certificate in MC 107522 Sub 2, issued October 5, 1971, to operate in interstate or foreign commerce, over irregular routes, transporting *automotive parts,* from the storage facilities of Borg-Warner Corp., at Thorndale, Pa., to Bridgeport, Hartford, Norwich, and Unionville, Conn., New York, N.Y., and points in New Jersey and Nassau, Orange, Rockland, Suffolk, Sullivan, and Westchester Counties, N.Y., with no transportation for compensation on return except as otherwise authorized. *Used clutch cores,* from the above-specified destination points to the storage facilities of Borg-Warner Corp., at Wallington, N.J., with no transportation for compensation on return except as otherwise authorized. By the instant petition, petitioner seeks to modify the authority as follows: Replace the location of the closed facility of the shipper at Thorndale, Pa., with the location of the recently opened facility at Elk Ridge, Md. Also, add the destination point of Philadelphia.

MC 116763 (Sub-400) (M1F) (notice of filing of petition to modify certificate), filed August 17, 1979. Petitioner: CARL SUBLER TRUCKING, INC., P.O. Box Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Petitioner holds a motor *common carrier* certificate in MC 116763 Sub 400, issued April 2, 1979, to transport in interstate or foreign commerce, over irregular routes, *confectionery,* (except in bulk, in vehicles equipped with mechanical refrigeration), from the facilities of E. J. Brach & Sons, Inc., at or near Chicago and Carol Stream, IL, to points in points in AL, FL, GA, KY, MD, MS, NJ, NC, OH, PA, SC, TN, VA, WV, and DC, restricted to the transportation of traffic orginating at the named origins and destined to points in the named destination territory. By the instant petition, petitioner seeks to modify the authority as follows: Delete the restriction *in vehicles equipped with mechanical refrigeration.*

MC 119090 (Sub-2) (M1F) (notice of filing of petition to modify certificate) filed July 6, 1979. Petitioner: THRUWAY FREIGHT LINES, INC., P.O. Box 567, Sparta, NJ 07871. Representative: George A. Olsen, 69 Tonnele Ave., Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in MC 119090 Sub 2, issued December 29, 1978, authorizing transportation, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Philadelphia, PA, and Wilmington, DE, on the one hand, and, on the other, Baltimore, MD, and points in DE and DC, restricted to the transportation of shipments moving on bills of lading issued by freight forwarders. By the instant petition, petitioner seeks to modify the above certificate by deleting the restriction.

MC 125416 (M1F) (notice of filing of petition to modify a certificate). Filed August 20, 1979. Petitioner: FLORA SERVICE, INC., 817 Flora St., Elizabeth, NJ 07201. Representative: Arthur R. Jones (same address as applicant). Petitioner holds motor *common carrier* authority in Certificate MC-125416, issued September 1, 1965, authorizing transportation over irregular routes, of (1) *wrecked and disabled motor vehicles* (except mobile homes or house trailers designed to be drawn by passenger automobiles), by use of wrecker equipment only, and (2) *replacement vehicles* for the wrecked or disabled motor vehicles specified in (1) above, by use of wrecker equipment only, between points in CT, DE, MD, MA, NJ, NY, PA, RI, and DC, restricted to said operations being conducted separately from carrier's other business activities, and further restricted to carrier maintaining separate accounts and records therefor. By the instant petition, petitioner seeks to remove the restriction in (1) and (2) above which reads "by use of wrecker equipment only" and replace in lieu thereof "in truckaway service".

MC 135811 (M2F) (notice of filing of petition to modify permit), filed June 21, 1979. Petitioner: GARDNER TRUCKING CO., INC., P.O. Box 493, Walterboro, SC 29488. Representative: Myles J. Ambrose, 888 17th St., NW., Washington, DC 20006. Petitioner holds a motor *contract carrier* permit in MC 135811 issued August 8, 1977, authorizing transportation, over irregular routes, as pertinent, of (1) *welders, welding products and parts, materials, equipment and supplies* used in connection therewith, and (2) *materials* and *supplies* used in the manufacture of welding products, between points in the United States (except AK and HI), under continuing contract(s) with Chemetron Corporation, restricted to the transportation of shipments originating at or destined to the facilities of Chemetron Corporation, and further restricted against the transportation of commodities which because of size and weight require the use of special equipment. By the instant petition, petitioner seeks to modify the above permit by a deleting the paragraph which restricts the transportation of shipments originating at or destined to the facilities of Chemetron Corporation and (b) adding as contract shippers (1) BASF Wyandotte Corporation, (2) PPG Industries, Inc., and (3) NCG Industrial Gases Division of Liquid Air Corporation of North America.

MC 141601 (M1F) (notice of filing of petition to modify certificate), filed July 6, 1979. Petitioner: ARROW DRIVAWAY, INC., 100 Pavonia Ave., Jersey City, NJ 07302. Representative: George A. Olsen, 69 Tonnele Ave., Jersey City, NJ 07306. Petitioner holds a motor *common carrier* certificate in MC-141601 issued December 27, 1977, authorizing transportation, over irregular routes, of *trucks, chassis, and tractors,* in secondary movements, in driveaway service, between New York, NY, points in Westchester, Nassau, and Suffolk Counties, NY, and points in NJ, on the one hand, and, on the other, Wilmington, DE, Baltimore, MD, DC, points in New York (except Albany and Sturgis), NJ, CT, and those in Alleghany, York (except York), Dauphin, Berks (except Boyertown), Montgomery, Delaware, Philadelphia and Lackawanna (except Mayfield) Counties, PA, restricted against the transportation of traffic moving on United States Government bills of lading, and further restricted against the transportation of traffic having a prior or subsequent movement by rail. By the instant petition seeks to modify the certificate by changing the radial description to include the entire state of PA, in lieu of specified portions.

MC 142336 (Sub-1) (M1F), (notice of filing of petition to modify a certificate),

filed August 15, 1979. Petitioner: D. TERRY CHAMNESS d.b.a., TERRY'S ROAD TRUCK & WRECKER SERVICE, 4331 South 12th St., Kalamazoo, MI 49009. Representative: D. Terry Chamness (same address as applicant). Petitioner holds motor *common carrier* authority in Certificate MC-142336, issued September 7, 1977, authorizing transportation over irregular routes, of *wrecked, disabled, repossessed and replacement motor vehicles,* by use of wrecker equipment only, between points in Kalamazoo County, MI, and Battle Creek, MI, on the one hand, and, on the other points in FL, GA, IL, IN, IA, KS, KY, MD, MN, MO, NE, NJ, NY, OH, PA, TN, and WI. By the instant petition, petitioner seeks to remove the restriction which reads "by use of wrecker equipment only" and replace in lieu thereof "in truckaway service".

MC 144122 (Sub-8F) (M2F) (Notice of filing of petition to modify certificate), filed September 11, 1979. Petitioner: CARRETTA TRUCKING, INC., 160 South, Route 17, Paramus, NJ 07652. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. Petitioner holds a motor *common carrier* certificate in MC-144122 Sub 8F, issued July 11, 1979, to transport in interstate or foreign commerce, over irregular routes, *scrap plastic, plastic flakes, plastic powder, plastic granules, and plastic pellets* (except commodities in bulk), (1) between Allentown, PA, on the one hand, and, on the other, points in LA and TX, and (2) from points in LA and TX to points in IL, IN, MI, OH, PA (except Allentown), NY, NJ, VA, DE, CT, RI, and MA, restricted in (1) above, to the transportation of shipments originating at or destined to the facilities of George Woloch, Inc., at Allentown, PA, and restricted in (2) above against the transportation of shipments from Baton Rouge, LA, and Houston, TX, and points in their commercial zones to points in IL, IN and OH. By the instant petition, petitioner seeks to modify the authority as follows: add *crude synthetic rubber and petroleum products* to the commodity description. The restriction against the transportation of commodities in bulk would remain the same.

Republications of Grants of Operating Rights Authority Prior to Certification

Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before April 7, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *general rules of practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 106398 (Sub-847F) (republication), filed October 17, 1978, published in the Federal Register issue of December 7, 1978, and republished this issue. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Irvin Tull (same address as applicant). A Decision of the Commission, Review Board Number 2, decided October 3, 1979, and served October 24, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *automobiles and pickup trucks,* in truckaway service, from the facilities of Gladiator, Inc., at Denver, CO, to points, in AZ, ID, MT, NV, NM, UT, and WY, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the modification of the commodity description.

MC 111812 (Sub-583F) (Republication), filed August 7, 1978, published in the Federal Register issue of October 22, 1979, and republished this issue: Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233a Sioux Falls, SD 57101. Representative: R. H. Jinks, (same as above). A Decision of the Commission, *Review Board No. 3,* decided July 25, 1979, and served August 9, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier,* by motor vehicle, transporting *cigarette lighters, portable appliances, writing instruments stationery products, and personal care products,* (1) from Andover, MA, to Kent, WA, Atlanta, Morrow, Forest Park, and Newnan, GA, Sparks, NV, Lawrence, KS, Arlington and Dallas, TX, and points in CA and FL, and (2) from Santa Monica and La Mirada, CA, to Andover, MA, La Grange Park, IL, Lawrence, KS, Arlington and Dallas, TX, and Newnan, GA, restricted to the transportation of traffic originating at the facilities of the Gillette Company and further restricted in (1) and (2) against the transportation of commodities in bulk; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of authority.

MC 114273 (Sub-362F) (Republication), filed April 3, 1978, published in the Federal Register issue of July 13, 1978, and republished this issue: Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core, (same address as above). A Decision of the Commission, *Division 2* decided December 21, 1979, and served January 18, 1980, finds that the present and future public convenience and necessity require operation by applicant in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of (1) *rubber* (except in bulk, in tank vehicles), from the facilities of Goodyear Tire and Rubber Company at or near Lincoln, NE, to Mt. Pleasant, IA; (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, in tank vehicles, and commodities which because of size and weight require special equipment), from Chicago, IL, to points in IA within 100 miles of Cedar Rapids, IA; and (3) *such commodities* as are dealt in by wholesale, retail, or chain grocery stores (except in bulk, in tank vehicles), between Chicago, IL, on the one hand, and, on the other, Fargo, ND, and Duluth, MN, points in that part on MN on and east of MN Hwy 15 and on and south of MN Hwy 95, points in that part of KS on and east of U.S. Hwy 81, and points in that part of MO on and north of U.S. Hwy 50 and on and west of U.S. Hwy 63.

Note.—The authority granted in parts (2) and (3) above may be tacked or joined with the authority contained in part (1) of Certificate MC 114273 (Sub-613): that applicant is fit, willing, and able properly to perform the service authorized and to conform to the requirements of Title 49, Substitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to include the grant of

authority to tack MC 114273 Sub-362F, with MC 114273 Sub. 613.

MC 114632 (Sub-204F) (Republication), filed February 12, 1979, published in the Federal Register issue of March 29, 1979, and republished, this issue: Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson, (same address as above). A Decision of the Commission, *Review Board No. 1* decided November 26, 1979, and served November 30, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting (a) *meats, meat products, meat byproducts, and articles distributed by meatpacking houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (b) *foodstuffs* (except in bulk and those commodities which are (foodstuffs as described in (a) above), in mixed loads with the commodities named in (a) from the facilities of Oscar Mayer & Co., Inc., at (1) Perry and Des Moines, IA, to Madison and Jefferson, WI, and points in Cook, Will, Dupage, Kane, Winnebago, DeKalb, and Lake Counties, IL, and (2) Madison, WI, to points in North Dakota; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's Regulations. The purpose of this republication is to broaden the scope of the application to include the transportation of "foodstuffs in mixed loads with meats and related products".

MC 118142 (Sub-196F) (Republication), filed December 4, 1978, published in the Federal Register issue of February 8, 1979, and republished, this issue. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, KS 67202. A Decision of the Commission, *Review Board No. 2*, decided November 15, 1979, and served December 3, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *apple juice*, in cans and bottles, from the facilities of Speas Company, at or near Fremont, MI, to Kansas City, KS, Oklahoma City, OK, and Denver, CO; that applicant is fit, willing and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is change the commodity description.

MC 124692 (Sub-206F) (Republication), filed April 5, 1978, published in the Federal Register issue of July 6, 1978, and republished, this issue. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as applicant). A Decision of the Commission, *Review Board No. 3*, decided March 16, 1979, and served April 2, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *barium sulphate* from Dunphy, NV, to the facilities of Baroid Division of N.L. Industries at Rio Vista, Ventura, Compton, Iselton, and Bakersfield, CA; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to include Ventura and Compton, CA, that were not included in the FR publication of July 6, 1978.

MC 124692 (Sub-226F) (Republication), filed July 27, 1978, published in the Federal Register issue of October 12, 1978, and republished, this issue. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: J. David Douglas (same address as above). A Decision of the Commission, *Division 2*, decided October 5, 1979, and served October 18, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *such commodities* as are dealt in by farm supply cooperatives (except foodstuffs, commodities in bulk, household goods as defined by the Commission, feed, feed ingredients, commodities which because of size and weight require the use of special equipment, agricultural machinery and non-hand implements, and agricultural tractors), from points in IA, IN, MI, MN, OH, IL, and WI, to points in MT, WY, ID, ND, SD, UT, WA, and OR, restricted to the transportation of traffic originating at the indicated origins, and destined to the facilities of Farmers Union Central Exchange, Inc. (CENEX), or its members, in the named destination States; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the authority.

MC 134872 (Sub-12F) (Republication), filed October 23, 1978, published in the Federal Register issue of January 30, 1978, and republished, this issue. Applicant: GOSSELIN EXPRESS, LTD., a corporation, 141 Smith Boulevard, Thetford Mines, Quebec, Canada. Representative: Neil D. Breslin, 600 Broadway, Albany, NY 12207. A Decision of the Commission, *Review Board No. 1*, decided October 17, 1979, and served October 24, 1979, finds that the present and future public convenience and necessity require operations by applicant in foreign commerce only, over irregular routes, as a *common carrier*, by motor vehicle, transporting (1) *agricultural implements*, and (2) *parts and accessories* for agricultural implements from the ports of entry on the international boundary line between the United States and Canada at Champlain, NY, Derby Line, VT, and Detroit, Port Huron, and Sault Ste. Marie, MI, to points in New York, Tennessee, Illinois, Indiana, Michigan, and North Dakota; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to describe points in MI, rather than MT.

MC 138882 (Sub-86F) (Republication), filed May 31, 1978, published in the Federal Register issue of August 10, 1978, and republished in this issue. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. A Decision of the Commission, *Review Board No. 1*, decided July 24, 1978, and served July 30, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting *shop lumber, cut stock lumber, and moulding grade lumber* from points in Arizona, California, Montana, Oregon, and Utah to points in Alabama, Arkansas, Missouri, New Mexico, Texas, and Wisconsin; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the

Commission's regulations. The purpose of this republication is to change the commodity description.

MC 138882 (Sub-136F) (Republication), filed August 16, 1978, published in the Federal Register issue of November 16, 1978, and republished, this issue. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. A Decision of the Commission, *Review Board No. 4*, decided September 12, 1979, and served October 4, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting (1) *fiberboard containers and pulpboard containers*, and (2) *equipment and supplies* used in the manufacture and sale of fiberboard containers and pulpboard containers, between the facilities of Sonoco Products Company, at Charleston, SC, Henerson, TN, Henderson, KY, Alpha, OH, Chicago, IL, St. Louis, MO, and Houston, TX, on the one hand, and, on the other points in the United States (except Alaska and Hawaii); that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the scope of the application.

MC 140612 (Sub-54F) (Republication), filed November 27, 1978, published in the Federal Register issue of December 21, 1978, and republished, this issue. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L. Kazimour (same as above). A Decision of the Commission, *Review Board No. 2*, decided September 17, 1979, and served October 10, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *such commodities as are dealt in or used by retail stores* (except foodstuffs, alcoholic beverages, and commodities in bulk, in tank vehicles), from Los Angeles, CA, to points in ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, IN, OH, KY, TN, MS, AL, GA, and MI; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to expand the origin territory.

Permament Ex-Water Authority Decision-Notices

Decided: February 20, 1980.

The following applications are governed by 49 CFR 1062.3. Applicants seek to obtain motor common carrier authority to perform service within the commercial zone of port cities where the shipment has a prior or subsequent movement by maritime carrier. The full text and explanation of the rules are contained at 44 FR 7965, as corrected at 44 FR 37230.

The sole issue upon which these applications can be protested is the applicant's fitness to perform the service. Protests (an original and one copy) must be filed with the Commission on or before April 7, 1980. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity.

Each applicant is fit, willing, and able to properly perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those procedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient protests, filed on or before April 7, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectivenes of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectivenes of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier.

MC 138237 (Sub-10F), filed August 20, 1979. Applicant: METRO HAULING, INC., 20848 77th Ave. S., Kent, WA 98031. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives), between points in the commercial zone of (a) Seattle, WA, (b) Tacoma, WA, (c) Vancouver, WA, and (d) Portland, OR, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Seattle, WA.)

MC 148133F, filed August 17, 1979. Applicant: M & L TRUCK LEASING, INC., 802 N. Nagle St., P.O. Box 96072, Houston, TX 77015. Representative: D. W. Heinke, P.O. Box 1505, Houston, TX 77001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives), between points in the commercial zone of (a) Houston, TX and (b) Galveston, TX, restricted to traffic having a prior or subsequent movement by water. (Hearing site: Houston or Dallas, TX.)

Permanent Property Broker Authority Decisions

Decision-Notice

Decided: February 20, 1980.

The following applications are governed by 49 CFR 1045A. Applicants seek to obtain authority to operate as brokers of motor carrier transportation of general commodities (except household goods) between all points in the United States. The full text and explanation of the rules are contained at 44 FR 53513.

The sole issue upon which these applications can be protested is the fitness of applicant (or business associates) to perform the service. Protests (an original and one copy) must be filed with the Commission on or before April 7, 1980. The protest must contain the *specific facts* being relied upon to challenge fitness, and must contain a certification that it has been served concurrently upon applicant's representative, or, if none is listed, upon the applicant. Applicant may file a reply statement to any protest. The filing of these statements will complete the record, unless it is later determined that more evidence must be supplied.

Further processing steps will be by Commission notice, decision, or latter which will be served on each party of record.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved fitness questions), we find, preliminarily, that each applicant has demonstrated that its proposed service is consistent with the public interest and the transportation policy of 49 U.S.C. 10101, and that each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this action will not significantly affect the quality of the human environment or conservation of energy resources.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier.

MC 130028 (Sub-1F), filed January 3, 1980. Applicant's name and address are DAVID L. PETRI, 50 Somerset Ave., Winthrop, MA 02152. The name under which operations will be performed is TRANSTOP, INC. Applicant is represented by Robert J. Gallagher, in this proceeding whose address is Suite 1200, 1000 Connecticut Ave., NW, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, and their appropriate titles: David L. Petri, President and Treasurer (Major Stockholder), and Charles Petri, Director, both whose business address in 50 Somerset Ave., Winthrop, MA 02152. The daily operations will be managed by Robert M. Jones whose business address is 50 Somerset Ave., Winthrop, MA 02152. Applicant is affiliated with the following shipper or warehouse: Port Terminals Co., Inc., 666 Summer St., Boston, MA; Foxboro Terminals Co., Inc., 208 North St., Foxboro, MA; Bowker Storage & Dist. Co., Inc., 156 Rover St., Everett, MA.

MC 130617F, filed October 22, 1979. Applicant's name and address are CLAY W. HAGY, INC., Jarrell Truck Plaza, Interstate Hwy 95 and State Route 30, Doswell, VA 23047. The name under which operations will be performed is CLAY W. HAGY, INC. Applicant is represented by Richard J. Lee in this proceeding whose address is Suite 1222, Seven Hundred Bldg., 700 East Maine St., Richmond, VA 23219. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Clay W. Hagy, President/Sole Shareholder/ Treasurer Director, R. B. Hagy, Vice-President/Secretary/Director, Linda H. Pope, Director, and James T. Hagy, Director, all have the same address as applicant. The daily operations will be managed by Clay W. Hagy, whose business address is the same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130688F, filed November 19, 1979. Applicant's name and address are WILLIAM B. MEYER INCORPORATED, Long Beach Boulevard, Strafford, CT. The name under which operations will be performed is: WILLIAM B. MEYER, INC. Applicant is represented by Robert J. Gallagher, in this proceeding whose address is Suite 1200, 1000 Connecticut Ave., NW, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Lloyd H. Meyer, Principal Stockholder, Long Beach Blvd., Stratford, CT, Raymond W. Mattes, Jr., Long Beach Boulevard, Stratford, CT, Thomas N. Gillon, Long Beach Boulevard, Stratford, CT, Edward T. Lalor, Long Beach Boulevard, Stratford, CT, Robert N. Thomas, Long Beach Boulevard, Stratford, CT, Harold Holt, Long Beach Boulevard, Stratford, CT, and Sherman C. Medalie, Long Beach Boulevard, Stratford, CT. The daily operations will be managed by Edward T. Lalor and Thomas N. Gillon whose business addresses are Long Beach Boulevard, Stratford, CT. Applicant is affiliated with the following shipper or warehouse: Meyer Warehouse Company; affiliated under common control. William B. Meyer Rigging, Incorporated; wholly owned company.

MC 130694, filed December 4, 1979. Applicant's name and address are JULIUS J. SCHAEFER, 16 W. Palisade Ave., Englewood, NJ 07631. The name under which operations will be performed is JULIUS J. SCHAEFER, ASSOCIATES, 16 W. Palisade Ave., Englewood, NJ 07631. Applicant is represented by himself in this proceeding whose address is the same as above. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and the first five principal shareholders, with their appropriate titles: Julius J. Schaefer, sole owner. The daily operations will be managed by Julius J. Schaefer whose business address is 16 W. Palisade Ave., Englewood, NJ 07631. Applicant is affiliated with the following shipper or warehouse: None.

MC 130726F, filed December 13, 1979. Applicant's name and address are: INTERNATIONAL TRAFFIC DEVELOPMENT CORP. 2000 N.W. 70th Ave., Miami, FL 33122. The name under which operations will be performed is: International Traffic Development

Corporation. Applicant is represented by Wilbur R. Casey in this proceeding, whose address is: 1035 Country Club Drive, Suite 309, Margate, FL 33063. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Luis Ralph Gazitua, Chairman of the Board, John L. Gazitua, President & Treasurer, Ralph L. Gazitua, Vice-Pres. & Secretary, and Mureen Heuyo, Shareholder, all addresses are the same as applicant. The daily operations will be managed by Nick Cedeno, General Manager, whose business address is: 2000 N.W. 70th Ave., Miami, FL 33122. Applicant is affiliated with the following shipper or warehouse: None.

MC 130728F, filed December 13, 1979. Applicant's name and address are VOGEL VAN & STORAGE, INC., 700 South Pearl St., Albany, NY 12202. The name under which operations will be performed is VOGEL VAN & STORAGE, INC. Applicant is represented in this proceeding by Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave., NW, Washington, DC 20036. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first three principal shareholders, with their appropriate titles: William J. Vogel, Chairman of the Board, (35%) 700 South Pearl St., Albany NY 12202; James J. Vogel, President, (35%) Same address as applicant; J. Thomas Vogel, (30%) Same address as applicant. The daily operations will be managed by James J. Vogel, Same address as applicant. Applicant is affiliated with the following shipper or warehouse: None.

MC 130736F, filed December 17, 1979. Applicant's name and address are ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd, Des Moines, Iowa, 50313. The name under which operations will be performed is "REGULATED TRANSPORTATION BROKERS, a DIVISION OF ROBCO TRANSPORTATION, INC. Applicant is represented by Stanley C. Olsen, Jr., in this proceeding whose address is 7400 Metro Blvd., Suite 411, Edina, MN 55435. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: L. Baker, President/Director, D. S. Dahlke, Secretary/Director, B. H. Wiseman, Executive Vice President/Director, H. Kotzen, Director, all directors are located at 4475 N.E. 3rd, Des Moines, IA, 50313. All Robco stock is held by the parent company, C. H. Robinson Company. The daily operations will managed by B. H. Wiseman whose business address is 4475 N.E. 3rd P.O. Box 10375, Des Moines, IA, 50313. Applicant is affiliated with the following shipper or warehouse: None.

MC 130737F, filed December 17, 1979. Applicant's name and address are JOSEPH S. FARRUGGIO AND SAMUEL J. FARRUGGIO, JR., A PARTNERSHIP, 1419 Radcliffe St., Bristol, PA 19007. The name under which operations will be performed is J & S BROKERAGE SERVICE. Applicant is represented by Alan Kahn, in this proceeding whose address is 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Following are the names and business address for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Samuel J. Farruggio, Jr., Shareholder and Joseph S. Farruggio, Shareholder, Partners, whose address is the same as applicant. The daily operations will be managed by Samuel J. Farruggio, Jr., and Joseph S. Farruggio, whose address is the same as applicant. Applicant is affiliated with a the following shipper or warehouse: None.

MC 130749F, filed January 2, 1980. Applicant's name and address are WORLD-WIDE TRANSPORTATION SERVICES, INC., 36459 Northline Road, Romulus, MI 48174. The name under which operations will be performed is WORLD-WIDE TRANSPORTATION SERVICES, INC. Applicant is represented by Richard A. Beyer in this proceeding whose address is P.O. Box 344, Romulus, MI 48174. Following are the names and business address for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Richard A. Beyer, President, Chairman of the Board, and Stock Holder, 25185 Cary St., Taylor, MI 48180, C. E. Haskins, Secretary, 18 Yorkshire Drive, Greenville, NC 29615, Mary Ruth Beyer, Treasurer, 25185 Cary St., Taylor, MI 48180, Walter Garrett, Director, 216 Lawrence St., Royal Oak, MI 48068. The daily operations will be managed by Richard A. Beyer, 36450 Northline Road, Romulus, MI 48174. Applicant is affiliated with the following shipper or warehouse: None.

MC 130761F, filed January 10, 1980. Applicant's name and address are ADVO SYSTEM, INC., 239 Service Road West, Hartford, CT 06101. The name under which operation will be performed in ADVO SYSTEM, INC. Applicant is represented by Ronald I. Shapss in this proceeding whose address is 450 Seventh Ave., New York, NY 10001. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Robert E. Stucki, Chairman, Director, and shareholder, John A. Valentino, President, Director, and shareholder, Lazarus S. Donabedian, Vice President and shareholder, William W. McConnell, Vice President and shareholder, Lawrence R. Goldman, Vice President, Randall W. Klimas, Vice President (same address as applicant) and Charles Hoster, Vice President, 101 Great Southwest Parkway, Atlanta, GA. The daily operations will be managed by Randall Klimas whose business address is 239 Service Road West, Hartford, CT 06101. Applicant is affiliated with the following shipper or warehouse: None.

MC 130762F, filed January 9, 1980. Applicant's name and address are INTERSTATE FREIGHT SERVICE, INC., 12121 Woodruff Ave., Downey, CA 90241. The name under which operations will be performed is INTERSTATE FREIGHT SERVICE, INC. Applicant is represented by Miles L. Kavaller in this proceeding whose address is 315 South Beverly Drive, Suite 315, Beverly Hills, CA 90212. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and the first five principal shareholders, with their appropriate titles: R. D. Kirby, President and Treasurer; Myrtle Kirby, Vice-President and Secretary. Both are directors of applicant. Myrtle Kirby is the sole shareholder of the corporation. The business address for the above-named officers is 12121 Woodruff Ave., Downey, CA 90241. The daily operations will be managed by R. D. Kirby whose business address is 12121 Woodruff Avenue, Downey, CA 90241. Applicant is affiliated with the following shipper or warehouse: None.

MC 130772F, filed January 21, 1980. Applicant's name and address are GERALD BOCIAN, 5500 W. 47th St., Chicago, IL 60638. The name under which operations will be performed is ACTION FREIGHT BROKERS, INC. Applicant is represented by himself in this proceeding whose address is 6745 W. Menominee, Palos Heights, IL 60463. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners),

and first five principal shareholders, with their appropriate titles: Gerald Bocian, President and shareholder, and C. Alvin Tate, Secretary and shareholder, whose address is 5500 W. 47th Street, Chicago, IL 60638. The daily operations will be managed by Gerald Bocian whose business address is 5500 W. 47th Street, Chicago, IL 60638. The daily operations will be managed by Gerald Bocian whose business address is 5500 W. 47th Street, Chicago, IL 60638. Applicant is affiliated with the following shipper or warehouse: None.

MC 130773F, filed January 24, 1980. Applicant's name and address are WORLDWIDE TRANSPORT SALES, INC., 20 Sturtevant Street, Somerville, MA 02145. The name under which operations will be performed is WORLDWIDE TRANSPORT SALES, INC. Applicant is represented by Frank J. Weiner, Esq., in this proceeding whose address is 15 Court Square, Boston, MA 02108. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: J. Kip Edwards, President and Director; John Bucceri, Vice President-Treasurer and Director; John Wasiuk, Director, Donald Fagin, Director, Anthony W. Magliaro, Director, the business address for the above is 20 Sturtevant Street, Somerville, MA 02145, and Donald S. Singer, Esq, clerk (not a Director), whose address is 3505 Mystic Valley Parkway, Medford, MA 02155. Stockholders are Lorraine M. Bates, John J. Bucceri, Donald Doniger, John K. Edwards and Donald A. Fagin, whose business address is 20 Sturtevant Street, Somerville, MA 02145. The daily operations will be managed by John Bucceri whose business address is 20 Sturtevant Street, Somerville, MA 02145. Applicant is affiliated with the following shipper or warehouse: None.

Permanent Authority Decision-Notices

Decided: February 20, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's rules of practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below, and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. Broadening amendments will not be accepted after March 7, 1980.

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements, which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Hill, and Fortier.

Brokers

MC 130611F, filed October 1, 1979. Applicant: TERRELL TRAVIS GARREN, Route 5, Box 594, Asheville, NC 28803. Representative: Terrell T. Garren, 84 Shady Oak Dr., Asheville, NC 28803. To act as a *broker*, at Asheville, NC, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in charter operations, beginning and ending at Asheville, NC, and extending to points in the U.S. (except AK and HI). (Hearing site: Asheville or Charlotte, NC.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, NY*, 54 M.C.C. 291 (1952).

MC 130705F, filed November 28, 1979. Applicant: COLPITTS TRAVEL CENTER, OF SYRACUSE, INC., 134 E. Genesee St., Syracuse, NY 13202. Representative: Mr. Clement J. Colucci, Jr. To act as a *broker*, at Syracuse, NY, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in NY, and extending to points in the U.S. (including AK and HI). (Hearing site: Syracuse, NY.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, NY*, 54 M.C.C. 291 (1952).

MC 130708F, filed November 23, 1979. Applicant: BLUE STAR TOURS, INC.,

291 Vermont Ave., Oceanside, NY 11572. Representative: Sidney J. Leshin, 575 Madison Ave., New York, NY 10022. To act as a *broker*, at Oceanside, NY and Elizabeth, NJ, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special or charter operations, beginning and ending at New York, NY, points in Nassau and Suffolk Counties, NY, and Bergen, Essex, Hudson, Morris, Passaic, and Union Counties, NJ, and extending to points in the U.S. (including AK, but excluding HI). (Hearing site: New York, NY.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, NY*, 54 M.C.C. 291 (1952).

MC 130763F, filed August 14, 1979. Applicant: PAT HURLEY, 1708 Wickersham Dr., Anchorage, AK 99507. Representative: Pat Hurley (same address as applicant). To act as a *broker*, at Anchorage, AK, in arranging for the transportation, by motor vehicle, of *general commodities* (except household goods), between points in the U.S. (including AK and HI). (Hearing site: Anchorage or Kenai, AK.)

MC 130764F, filed December 28, 1979. Applicant: BARTLETT ENTERPRISES, INC., d.b.a. BARTLETT'S AIRSEALAND TRAVEL, P.O. Box 2284, 520 South Third, Ponca City, OK 74601. Representative: Mrs. Larry Joe (Donna) Bartlett (same address as applicant). To act as a *broker*, at Ponca City, OK, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special or charter operations, beginning and ending at points in OK, and extending to points in the U.S. (including AK, but excluding HI). (Hearing site: Newkirk, OK.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, N.Y.*, 54 M.C.C. 291 (1952).

Water Carrier

W 587 (Sub-31F), filed September 11, 1979. Applicant: FOSS L & T CO., a Corporation, 660 West Ewing St., Seattle, WA 98119. Representative: Robert B. Yoshitomi, Two Embarcadero Center, 26th Floor, San Francisco, CA 94111. To engage in operation, in interstate or foreign commerce, as a *common carrier*, by water, by non-self-propelled vessels with the use of separate towing vessels, transporting *general commodities*, and by towing vessels (including vessels loaded with general commodities) and other floating objects of *towage*, (a) between ports and points on the Gulf of Mexico coast and tributary waterways (excluding the Mississippi River above Baton Rouge, LA and the Alabama River above Mobile, AL), (b) between ports and points on the Atlantic Coast and tributary waterways, (c) between ports and points named in (a) above, on the one hand, and ports and points named in (b) above, on the other hand, (d) between ports and points named in (a) above, on the one hand, and ports and points on the Pacific Coast and tributary waterways, on the other hand, and (e) between ports and points named in (b) above, on the one hand, and ports and points on the Pacific Coast and tributary waterways, on the other hand. (Hearing site: San Francisco, CA, or Seattle, WA.)

Note.—Consideration has been given to the probable environmental and energy impacts associated with this notice-grant but no significant impacts have been found to exist.

Motor Carrier Operating Rights Applications

Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's general rules of practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register with a copy being furnished the applicant. Protests to these applications *will be rejected.*

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supply a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 52727 (Sub-4F), filed September 17, 1979. Applicant: RAY BELLEW, INC., 7810 Almeda-Genoa Rd., Houston, TX 77034. Representative: Joe G. Fender, 711 Louisiana, Suite 1150, S. Tower, Houston, TX 77002. Authority sought to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *oilfield equipment and pipe*, when moving as oilfield equipment, (2) *pipe* when it is to be used in the construction and maintenance of pipelines of any and every other character or use other than oilfield equipment; except the carrier is prohibited from transporting pipe when not moving as oilfield equipment when such pipe is less than four inches in diameter and is also less than twenty-eight feet in length, (3) *trenching machines, tractors, drag lines, back fillers, caterpillars, road building machinery, batch bins, ditching machinery, bulldozers, heavy mixers, finishing machinery, power hoists, cranes, heavy machinery, pile driving rigs, paving machines and equipment, graders, construction equipment, boilers, scrapers, irrigation and drainage machinery, road maintainers, electric motors, pumps, transformers, circuit breakers, turbines, bridge construction equipment, shovels, planes lathes, air compressors, rotaries, prefabricated houses, bulk station storage tanks, heavy tanks, pump machinery, erection machinery and equipment, refinery machinery and equipment, boats and prefabricated steel girders, threshing machines, sawmill machinery, telephone and telegraph poles, creosote and other pilings, heavy furnaces or ovens, pipe* (including iron, steel, concrete, composition or corrugated), *punches, presses, iron or steel girders, beams, columns, posts, channels and trusses, generators and dynamos, iron or steel castings, sheets, and plates, industrial hammers, industrial machinery,*

including laundry, ice making, air conditioning, baker, bottling, gin, crushing, dredging, mill, brewery, textile, water plant and wire covering, twisting or laving, derricks, hoists, steam or internal combustion engines, rollers, power shovels, safes, vaults, bank doors, and gasoline, fuel oil and other storage tanks when said commodities are not moving as oilfield equipment, as follows: The holder of this authority may transport the above-named commodities together with its attachments and its detached parts thereof between incorporated cities, towns, and villages only when the commodity to be transported weighs 4,000 pounds or more in a single piece or when such commodity because of physical characteristics other than weight requires the use of "special devices, facilities or equipment" for the safe and proper loading or unloading thereof. The term "special devices, facilities or equipment" is construed to mean only those operated by motive or mechanical power, between points within a 150-mile radius of Bay City, TX, and points in TX within 150 miles of Bay City, TX, on the one hand, and, on the other, points in TX. (Hearing site: Houston, TX.)

Note.—Applicant states this application is directly related to the application filed in MC 52727 Sub 3. Applicant further states it presently holds authority to transport the above commodities "to and from all TX points located within 150 miles radius of Bay City, TX." Applicant also states that the sole purpose of this application is to convert the present certificate of registration to a certificate of public convenience and necessity concurrent with the grant of any part of the Sub 3 application conferring authority to conduct physical interstate operations, and further to clarify the territorial description of applicant's Sub 2 certificate of registration.

Permanent Authority Decisions; Decision-Notice

Substitution Applications: Single-Line; Service for Existing Joint-Line Service

Decided: February 25, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in § 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed witha the Commission an or before April 7, 1980.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the varacity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after March 7, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intevention, filed on or before April 7, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrich, Fisher, and Felder. Member Felder not participating.

MC 2202 (Sub-602F), filed August 22, 1979. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Authority to operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over *regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between El Paso, TX and Hobbs, NM over U.S. Hwy 180, serving the intermediate point of Carlsbad, NM and serving El Paso for joinder only, (2) between Carlsbad and Roswell, NM over U.S. Hwy 285, serving all intermediate points, (3) between Tucumcari and Albuquerque, NM: from Tucumcari over NM Hwy 104 to Las

Vegas, then over U.S. Hwy 85 to Albuquerque, and return over the same route, serving all intermediate points between Las Vegas and Albuquerque and the off-route points of Espanola and Los Alamos, and serving Tucumcari for joinder only, and (4) between Las Cruces and Albuquerque, NM over Interstate Hwy 25, serving Las Cruces for joinder only. (Hearing site: Dallas, TX.)

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 5623 (Sub-48F), filed July 27, 1979. Applicant: ARROW TRUCKING CO., a corporation, P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and by-products, and (2) *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in AR, CO, KS, LA, MS, MO, NE, NM, OK, TX, and WY, on the one hand, and, on the other, points in KY, IN, MI, OH, PA, and WV.

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 5623 (Sub-52F), filed August 31, 1979. Applicant: ARROW TRUCKING CO., a corporation, P.O. Box 7280, Tulsa, OK 74105. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *machinery, equipment, materials, and supplies* used in the (a) discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and their products and byproducts, and (b) construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, between points in AR, KS, LA, MS, OK, and TX, on the one hand, and, on the other, points in CT, DE, MA, NJ, NY, and RI.

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 61403 (Sub-275F), filed November 15, 1979. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: W. C. Mitchell, Suite 1201, 370 Lexington Ave., New York, NY 10017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals*, in bulk, in tank vehicles, (1) from Miami, FL, to points in IL and TN, (2) from points in GA, to points in CO, OH, TN, VA, and WV, (3) from points in KY, to points in NC, SC, and VA, (4) from points in MI to points in AL, (5) from those points in MS on and south of a line beginning at the MS–AL state line and extending along MS Hwy 14 to junction MS Hwy 15, then over MS Hwy 15 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 49E, then over U.S. Hwy 49E to junction U.S. Hwy 61, then over U.S. Hwy 61 to junction U.S. Hwy 49, then over U.S. Hwy 49 to the Mississippi River, to points in KY, (6) from points in NC, to points in CA, GA, IN, KY, NJ, NY, OH, PA, TN, and WV, (7) from points in NJ, to points in MO and NE, (8) from points in NY, to points in KS and MO, (9) from points in OH, to points in GA, NC, OK, SC, and TN, (10) from those points in PA west of U.S. Hwy 219, to points in NM and NC, (11) from those points in TN on and east of a line beginning at the KY–TN state line and extending along Interstate Hwy 75 to junction U.S. Hwy 441, then over U.S. Hwy 441 to the NC–TN state line, to points in CA, (12) from points in TN, to points in NC, OH, VA, and WV, (13) from points in VA, to points in TN and GA, and (14) from points in WV, to points in GA, KS, NC, SC, and TN. The sole purpose of this application is to substitute single-line for joint-line operations.

Motor Carrier Alternate Route Deviations

Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before April 7, 1980.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 69116 (Deviation No. 47), SPECTOR INDUSTRIES, INC., d.b.a. Spector Freight System, 1050 Kingery Highway, Bensenville, IL 60106. Carrier's representative: Edward G. Bazelon, 39 South La Salle Street, Chicago 60603, filed January 28, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: (1) From junction U.S. Hwys 61 and 64 over U.S. Hwy 64 to junction U.S. Hwy 266, then over U.S. Hwy 266 to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction U.S. Hwy 66, and (2) From junction U.S. Hwys 61 and 64 over U.S. Hwy 64 to junction U.S. Hwy 66 and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: (1) From junction U.S. Hwys 61 and 64 over U.S. Hwy 61 to junction U.S. Hwy 66, then over U.S. Hwy 66 to junction U.S. Hwy 62 and (2) From junction U.S. Hwys 61 and 64 over U.S. Hwy 61 to junction U.S. Hwy 66, then over U.S. Hwy 66 to junction U.S. Hwy 64 and return over the same routes.

MC 110683 (Deviation No. 6), SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401, filed February 26, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Memphis, TN over Interstate Hwy 40 to junction U.S. Hwy 45, then over U.S. Hwy 45 to junction U.S. Hwy 45E, then over U.S. Hwy 45E to junction U.S. Hwy 51, then over U.S. Hwy 51 to junction Purchase Parkway, then over Purchase Parkway to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction Western KY Parkway, then over Western KY Parkway to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction Pennyrile Parkway, then over Pennyrile Parkway to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction IN Hwy 63, then over IN Hwy 63 to junction Interstate Hwy 74, then over Interstate Hwy 74 to junction IL Hwy 1, then over IL Hwy 1 to Chicago, IL and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Memphis, TN over U.S. Hwy 72 to Florence, AL, then over U.S. Hwy 43 to Columbia, TN, then over U.S. Hwy 31 to Nashville, TN, then over U.S. Hwy 31E

to Westmoreland, TN, then over TN Hwy 52 to Red Boiling Springs, TN, then over TN Hwy 56 to the KY–TN State line, then over KY Hwy 63 to Glasgow, KY, then over U.S. Hwy 31E to Hodgenville, KY, then over KY Hwy 61 to Elizabethtown, KY, then over U.S. Hwy 31W to Sellersburg, IN, then over U.S. Hwy 31 to junction U.S. Hwy 50, then over U.S. Hwy 50 to Seymour, IN, then over Alt. U.S. Hwy 31 to junction U.S. Hwy 31, then over U.S. Hwy 31 to Indianapolis, IN, then over U.S. Hwy 52 to junction U.S. Hwy 41, then over U.S. Hwy 41 to Chicago, IL and return over the same routes.

Motor Carrier Intrastate Application(s)

Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *general rules of practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Arkansas Docket No. M–13135, filed January 9, 1980. Applicant: PLANT TRUCK LINE, INC., West Mill Street (P.O. Box 69), Heber Springs, AR 72543. Representative: THOMAS B. STALEY, 1550 Tower Building, Little Rock, AR 72201. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment); Between Edgemont, AR, and Fairfield Bay, AR, from Edgemont, AR, over Arkansas Highway 16 to the Junction of Arkansas Highway 16 and Arkansas Highway 330, thence over Arkansas Highway 330 to Fairfield Bay, AR, and between the Junction of Arkansas Highway 16 and Arkansas Highway 330 and Shirley, AR, from the Junction of Arkansas Highway 16 and Arkansas Highway 330 over Arkansas Highway 16 to the Junction of Arkansas Highway 9, thence over Arkansas Highway 9 to Shirley, AR, and return, serving all intermediate points and tacking to the applicant's existing authorities at Edgemont, AR, thus serving said points in connection with the carrier's presently authorized regular route operations. Intrastate, interstate and foreign commerce authority sought. Hearing: Arkansas Transportation Commission, Justice Bldg., Little Rock, AR, April 2, 1980, at 9:30 a.m. Requests for procedural information should be addressed to Arkansas Transportation Commission, Justice Building, State Capitol, Little Rock, AR 72201, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–1093, filed February 7, 1980. Applicant: EMPIRE STATE MOTOR EXPRESS, INC., 8414 East Main Road, LeRoy, NY 14482. Representative: HERBERT M. CANTER, 305 Montgomery Street, Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities,* as defined in Section 800.1 of Title 17 of the Official Compilation of Codes, Rules and Regulations of the State of New York: Between all points in a territory consisting of Erie, Genesee, Livingston, Monroe, Niagara and Orleans Counties, NY. Intrastate, Interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Ave., State Campus Bldg., #4, Room G–21, Albany, NY., and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–2731, filed January 14, 1980. Applicant: ONTARIO FREIGHT LINES CORP., P.O. Box 517, Florida, NY 10921. Representative: PIKEN & PIKEN, Esqs., 95–25 Queens Blvd., Rego Park, NY 11374. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities and refrigerated products:* between all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–4312, filed February 7, 1980. Applicant: FULTON-OSWEGO MOTOR EXPRESS, INC., 265 West First Street, Fulton, NY 13069. Representative: Roy D. Pinsky, Pinsky & Pliskin, 1020 State Tower Bldg., Syracuse, NY 13202. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities,* between all points in a territory consisting of Oswego and Onondaga Counties and the Town of Sterling in Cayuga County. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–5733, filed January 31, 1980. Applicant: BINGHAMTON-ITHACA EXPRESS, INC., 2 Franklin Street, Binghamton, NY 13902. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *General commodities,* between Broome County on the one hand, and, on the other, points in Tioga and Tompkins Counties. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Ave., State Campus Bldg. #4, Room G–21, Albany, NY, and should not be directed to the Interstate Commerce Commission.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination rules* (49 CFR Part 1965), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before March 17, 1980. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be

numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 107012 (Sub-E433), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated,* (1) From points in Bennington, Rutland, Windham, Windsor, Chittenden, Franklin, Grand Isle, Lamoille, Addison, Orange, and Washington Counties, VT to points in Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Newton Falls, OH) (2) From points in Caledonia, Essex and Orleans Counties, VT, to points in Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC, (points in KY*); points in Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Newton Falls, OH).

Note.—Asterisk indicates gateways eliminated.

MC 107012 (Sub-E434), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Furniture, Crated,* from points in VT, to points in Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt. Wood, Brooke, Hancock, Marshall, Ohio, Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV.

Note.—Gateway eliminated: Cleveland, OH.

MC 107012 (Sub-E435), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated,* (1) From points in VA, to points in AZ, AR, CA, NM, OK and TX (*Green County, AR), (2) From points in VA, to points in CO, ID, KS, MT, NV, OR, UT, WA and WY (Greene County, AR, or Burlington IA), (3) From points in VA (except Bassett, Damascus, Galax, Martinsville, Pulaski, Roanoke and Stanleytown) to points in IA, MN, ND and SD (*Burlington, IA), (4) From points in Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford and Westmoreland Counties and the Cities of Alexandria, Fairfax, Falls Church and Fredericksburg, VA, to points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Greene County, AR); Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS (*Greene County, AR); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (Newton Falls, OH); Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN (Greene County, AR), (5) From points in Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties, VA and the Independent Cities of Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton, VA, to points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayeete, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Greene County, AR); points in Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*Newton Falls, OH); points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Newton Falls, OH), (6) From points in Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties, VA and the Independent cities of Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg, Va, to points in Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Greene County, AR); points in Allegany, Cattauagus, Chatauqua, Erie, Genesee, Livington, Monroe, Niagara, Orleans, Steuben and Wyoming Counties, NY (*Newton Falls, OH) points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Newton Falls, OH); points in Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN (*Greene County, AR), (7) From points in Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Notoway, Powhatan, Prince Edward and Prince George Counties, VA and the cities of Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro; and Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenandoah and Warren Counties, VA and the cities of Harrisonburg and Winchester, VA, to points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA (*Greene County, AR); points in Bolivar, Carrol, Coahoma, Grenada, Holmes,

Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS (*Greene County, AR); points in Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Newton Falls, OH).

Note.—Asterisk indicates gateways eliminated.

MC 107012 (Sub-436E), filed May 13, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Furniture, Crated,* (1) From points in Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford, and Westmoreland Counties, and the Cities of Alexandria, Fairfax, Falls Church, Fredericksburg; Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties, and the Cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro, VA, to points in Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY (*Evansville, IN); points in Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN (*Evansville, IN and points in KY); (2) From points in Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties, VA and the Cities of Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Calax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton, VA, to points in Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY (*Evansville, IN); (3) From points in Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties, VA and the Cities of Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg, VA, to points in Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY (*Evansville, IN); (4) From points in Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenandoah and Warren Counties, VA and the Cities of Harrisonburg and Winchester, VA, to points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker and Winston Counties, AL (*Evansville, IN and points in KY); points in Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Kickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY (*Evansville, IN); points in Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby, Tipton, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN (*Evansville, IN and points in KY).

Note.—Asterisk indicates gateway eliminated.

MC 107012 Sub-No. E437), filed May 13, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated* (1) From points in WA, to points in AL, FL, GA, KY, LA, MS, NC, SC, TN and VA (*Greene County, AR); (2) From points in Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum and Yakima Counties, WA, to points in AR (*Greene County, AR) points in Appanose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Greene County, AR); (3) From points in Ferry, Lincoln, Okanogan, Pend Oreille, Spokane and Stevens Counties, WA, to points in AR (*Greene County, AR); points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); points in Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS (*Burlington, IA); Austin, Bastrop,

Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Roberston, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Greene County, AR); (4) From points in Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Chelan, Douglas, Grant, Island, King, Kittitas, Skagit, Snohomish and Whatcom Counties, WA, to points in AR (*Greene County, AR); Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS (*Burlington, IA); Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Greene County, AR); (5) From points in Adams, Asotim, Benton, Columbia, Franklin, Garfield, Walla Walla and Whitman Counties, WA, to points in Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Navada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (*Greene County, AR); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); Anderson, Angeina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Greene County, AR).

Note.—Asterisk indicates gateways eliminated.

MC 107012 (Sub-E438), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated* (1) From points in WV, to points in AL, FL and GA (*points in TN); (2) From points in Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers and Wyoming Counties, WV, to points in Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*Newton Falls, OH); Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC (*points in TN); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA (*Newton Falls, OH) Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC (*points in TN); (3) From points in Braxton, Clay, Fayette, Kanawha, Nicholas and Webster Counties, WV, to points in NY (*Newton Falls, OH), Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC (*Points in TN); points in PA (*Marietta, Ohio) Allendale, Bamberg Barnwell, Beaufort, Berkely, Charleston, Colleton Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC (* points in TN). (4) From points in Barbour, Berkeley, Doddridge, Grant, Hampshire, Hardy, Harrison, Jefferson, Lewis, Marion, Mineral, Monongalia, Morgan, Pendleton, Preston, Randolph, Taylor, Tucker, Tyler, Upshur and Wetzel Counties, WV, to points in Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY (*Newton Falls, OH); Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC (* points in TN); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Newton Falls, OH); Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC (*points in TN). (5) From points in Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt and Wood Counties, WV, to points in Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren, Washington and Suffolk

Counties, NY (*Newton Falls, OH); Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania and Yancey Counties, NC (* points in TN); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne and Wyoming Counties, PA (Newton Falls, OH), Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Abbeville, Anderson, Greenville, Ocomee, Pickens, Cherokee, Chester, Edgefield, Greenwood, Lamens, McCormick, Newberry, Saluda, Spartanburg, Union and York Counties, SC (* points in TN); (6) From points in Brooke, Hancock, Marshall and Ohio Counties, WV, to points in Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schnectady, Warren and Washington Counties, NY (*Newton Falls, OH), Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC (* points in TN); Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango and Warren Counties, PA (*Newton Falls, OH); points in SC (* points in TN). (7) From points in Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV, to points in DE (* points in KY); points in DC (* points in KY); points in MD (* points in KY); points in NY (*Marietta, OH); Buncombe, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Swain, Transylvania, Yancey, Beauford, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes, Yadkin, Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland and Wayne Counties, NC (* points in TN); points in PA (*Marietta, OH); points in SC (*points in TN); Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties, VA and the Cities of Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg, VA (* points in TN).

Note.—Asterisk indicates gateway eliminated.

MC 107012 (Sub-No. E439), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New Household Furniture, Crated;* (1) From points in WI, to points in ME. (2) From points in Ashland, Barron, Bayfield, Burnett, Chippewa, Douglas, Dunn, Eau Claire, Iron, Pepin, Pierce, Polk, Price, Rusk, Saint Croix, Sawyer, Taylor, Vilas, Washburn, Door, Florence, Forest, Kewaunee, Langlade, Lincoln, Marinette, Menominee, Oconto, Oneida, Buffalo, Crawford, Grant, Iowa, Jackson, Juneau, LaCrosse, Lafayette, Monroe, Richland, Saulk, Trempealeau, Vernon, Adams, Brown, Calumet, Clark, Fond Du Lac, Green Lake, Manitowoc, Marathon, Marquette, Outagamie, Portage, Shawano, Sheboygan, Waupaca, Waushara, Winnebago and Wood Counties, WI, to points in NH. (3) From points in Columbia, Dane, Dodge, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington and Waukesha Counties, WI, to points in Coos, Carroll, Grafton, Belknap, Merrimack, Rockingham and Strafford Counties, NH.

Note.—Gateways elminated: Milan, IN, and points in KY.

MC 107012 (Sub-No. E440), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Applicant's representatives: David D. Bishop and Gary M. Crist (same as above). *New Furniture, Crated;* (1) From points in WY, to points in AL, FL, GA, MS, NC, SC and TN (*Greene County, AR); (2) From points in WY, to points in KY and VA (*Burlington, IA); (3) From points in Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Fremont, Hot Springs and Natrona Counties, WY, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline, and White Counties, AR (*Greene County, AR); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Route, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (*Greene County, AR); (4) From points in Park, Teton, Yellowstone National Park, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (*Greene County, AR); Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA) Avoyelles, points in LA (*Greene County, AR) Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX (*Greene County, AR); (5) From points in Lincoln, Sublette, Sweetwater and Uinta Counties, WY, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland,

Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR (*Greene County, AR); Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA (*Burlington, IA); Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Quachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA (*Greene County, AR).

Note.—Asterisk indicates gateway eliminated.

MC 113855 (Sub-No. E459) (correction), filed August 10, 1976, published in the Federal Register May 19, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, SE, Rochester, MN 55901. Applicant's representative: Michael E. Miller, 502 First Nat'l Bank Bldg., Fargo, ND 58102. *Metal and metal articles,* (except boats and iron and steel articles), (1) between points in IA on and west of U.S. Hwy. 77, on the one hand, and, on the other, points in NJ and DE, and (2) between points in IA on and west of U.S. Hwy. 59, on the one hand, and, on the other, DC. The purpose of this filing is to eliminate the gateways of points in SD and points in PA on and east of a line beginning at the MD–PA State line, and extending along unnumbered highway (formerly portion U.S. Hwy. 15) to junction business U.S. Hwy. 15 through Gettysburg, PA, to junction U.S. Hwy. 15, then along U.S. Hwy. 15 to junction unnumbered highway (formerly portion U.S. Hwy. 15), then along unnumbered highway through Clear Springs, PA to junction U.S. Hwy. 15, then along U.S. Hwy. 15 to the PA–NY State line (except points in Berks, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, PA, and points in PA on and east of U.S. Hwy. 15 and north of the East Branch of the Susquehanna River in Tioga, Bradford, Lycoming, Sullivan, Union, Snyder, Northumberland, Montour and Columbia Counties, PA).

Purpose of Republication—Clarify Commodity.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-7122 Filed 3-6-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on March 24 and 25, 1980 (from 9:00 a.m. to 5:00 p.m. on March 24, and from 9:00 a.m. to 1:00 p.m. on March 25) at the National Academy of Sciences Building, 2101 Constitution Avenue, NW., Washington, D.C. 20418.

The agenda will deal primarily with the pre-grant award aspects of the A.I.D./PVO relationship. The meeting will seek to identify, examine, and resolve specific problems encountered by voluntary agencies in working with A.I.D. (A subsequent meeting will deal with the post-grant period when monitoring and audits are the important elements in the relationship.) In addition, a panel discussion of the role of voluntary agencies in enterprise development for purposes of income generation among the poor will take place. Other matters of timely interest and relating to voluntarism abroad will be considered.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

Mr. John A. Ulinski will be the A.I.D. representative at the meeting. It is suggested that those desiring further information contact Mr. Ulinski at 202–632–8937, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Calvin H. Raullerson,

Assistant Administrator, Bureau for Private and Development Cooperation.

February 25, 1980.

[FR Doc. 80-7060 Filed 3-6-80; 8:45 am]

BILLING CODE 4710-02-M

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), P.L. 92–463, Federal Advisory Committee Act, notice is hereby given of the thirty-fifth meeting of the Board for International Food and Agricultural Development (BIFAD) on March 27, 1980.

The purpose of the meeting is to: receive and discuss the progress reports on the Joint Research Committee (JRC) and the Joint Committee for Agricultural Development (JCAD); discuss appointments for the JRC and JCAD; discuss Collaborative Assistance Contracting regarding interim funding; report on status of County Development Strategy Statements (CDSS's) and the Nutrition Collaborative Research Support Program (CRSP); and consider other items of interest.

The meeting will begin at 9:00 a.m. and adjourn at 1:00 p.m.; and will be held in Room 540, National Science Foundation, 18th and G Street, N.W., Washington, D.C. The meeting is open to the public. Any interested person may attend, may file written statements with the Board before or after the meeting, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Director, Office of Title XII Coordination and University Relations, Development Support Bureau, A.I.D., is designated as A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235–8929.

Dated: February 28, 1980.

Dr. Erven J. Long,

A.I.D. Advisory Committee Representative Board for International Food and Agricultural Development.

[FR Doc. 80-7089 Filed 3-6-80; 8:45 am]

BILLING CODE 4710-02-M

Occupational Safety and Health Administration

Federal Advisory Council on Occupational Safety and Health; Special Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 4(a) of Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees, will meet on March 21 starting at 9:30 a.m. in Room N4437 ABC, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Call to Order
II. Approval of Minutes
III. FACOSH Special Committee Report on Implementing Rules and Regulatins for E.O. 12196 (Revision of 29 CFR 1960)
IV. Discussion by full FACOSH on Report of FACOSH Special Committee

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business March 19, 1980, will be provided to the members of the meeting.

The Council will consider oral presentation relating to agenda items. Persons wishing to orally address the council at the meeting should submit a written request to be heard by close of business March 19, 1980. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Ms. Annie Asensio, Executive Director, FACOSH, Department of Labor, OSHA, Room N3423, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone (202) 523-8677.

Signed at Washington, D.C. this 3rd day of March, 1980.

Eula Bingham,

Assistant Secretary.

[FR Doc. 80-7194 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-80-27-M]

Cominco American Inc.; Petition for Modification of Application of Mandatory Safety Standard

Cominco American Incorporated, Magmont Mine, Bixby, Missouri 65439, filed a petition to modify the application of 30 CFR 57.4-61B (fire prevention and control) to its Magmont Mine located in Iron County, Missour, in accordance with section 101(c) of the Federal Mine Safety and Health Act of 1977.

The substance of the petition is as follows:

1. The welding/blacksmith shop is located in a minimal fire risk area remote from any flammable material.

2. A solid fifteen (15) foot thick pillar separates the welding/blacksmith shop from a grease rack/oil storage area. The travel distance between the two areas is 150 feet.

3. To enclose the shop and the grease rack areas with fire doors would require sealing seven openings, four of which are 25 feet wide and 30 feet high.

4. The petitioner proposes as an alternative to application of 30 CFR 57.4-61B to adjust the main fan if a fire should occur so that any smoke generated by the fire would be removed directly from the mine.

5. In addition to the proposed alternative smoke control measure, the petitioner has provided a large refuge chamber only 200 feet from the shop area. Refuge chambers in other areas are available and practice drills show that miners can reach at least one of them in 16 minutes.

6. The petitioner alleges that it is more important to isolate miners from smoke than to confine the smoke in the shop or grease rack areas.

7. For these reasons, the petitioner requests a modification of the application of the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before April 7, 1980. Comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: February 25, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-7196 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-43-M

Office of the Secretary

[TA-W-4184]

Avtex Fibers, Inc., Front Royal, Va.; Amended 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 Worker Adjustment Assistance on January 12, 1979, applicable to all workers at the Front Royal, Virginia, plant of Avtex Fibers, Inc. The Notice of Certification was published in the Federal Register on January 19, 1979, (44 FR 4036).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certification. This review revealed that the workers engaged in Research and Development and Technical Service at Avtex Fibers' Front Royal plant are covered under TA-W-2645 as amended.

The intent of certification TA-W-4184 is to cover all workers of Avtex Fibers, Inc., Front Royal, Virginia, except those engaged in Research and Development and Technical Service, who were affected by the decline in production of rayon tire and industrial yarn and rayon staple fiber related to import competition. The certification therefore, is amended to delet from coverage all Research and Development and Technical Service workers at Avtex Fibers' plant in Front Royal, Virginia.

The amended certification applicable to TA-W-4184 is hereby issued as follows:

All workers at the Front Royal, Virginia, plant of Avtex Fibers, Inc. except those in Research and Development and Technical Service who became totally or partially separated from employment on or after March 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 28th day of February 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-7195 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6686, 6687]

Brockway Glass Co., Inc. Plants #11 and #27, Washington, Pa.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 4, 1980 in response to a worker petition received on December 26, 1979 which was filed by the Glass Bottles Blowers Association on behalf of workers and former workers producing glass containers at Plant #11 and corrugated boxes at Plant #27 of the Brockway Glass Company, Incorporated, Washington, Pennsylvania. The investigation revealed that Plant #27 is a support facility for Plant #11, that produces corrugated boxes solely for the packaging of the glass containers produced at Plant #11. In the following determinations, 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 glass containers for food products and beverages declined absolutely and relative to domestic shipments in 1978 compared to 1977, and in January-October 1979 compared to the like period in 1978. Imports of glass containers for food products and beverages represented less than one half of one percent of total domestic consumption in 1978 and January-September 1979.

Imports of containers for cosmetics products, which represent a small proportion of production at Plant #11, decreased absolutely and relative to domestic shipments in 1978 compared to 1977, and decreased absolutely in January-October 1979 compared to the like period in 1978.

Plant #27 of the Brockway Glass Company, a support facility for Plant #11, produces corrugated boxes solely for the packaging of glass containers produced at plant #11.

Conclusion

After careful review, I determine that all workers of Brockway Glass Company, Incorporated, Plant #11 and Plant #27, Washington, Pennsylvania 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 26th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-7197 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6805]

Central Cartage Co., Toledo, Ohio; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 18, 1980, in response to a worker petition received on January 10, 1980, which was filed on behalf of workers and former workers hauling freight for the Central Cartage Company, Toledo, Ohio.

The Central Cartage Company is a common carrier. The company is involved in the pickup, hauling, and delivery of freight.

Thus, workers of the Central Cartage company do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to the Central Cartage Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Central Cartage Company and its customers have no controlling interest in one another. The subject firm is corporately affiliated with another common carrier.

All workers engaged in hauling of freight at the Central Cartage Company are employed by that firm. All personnel actions and payroll transactions are controlled by the Central Cartage Company. All employee benefits are provided and maintained by the Central Cartage Company. Workers are not, at any time, under employment or supervision by customers of the Central Cartage company. Thus, Central Cartage Company, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of the Central Cartage Company, Toledo, Ohio 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 28th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-7198 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6664]

Chrysler Corp., St. Louis Parts Depot, Hazelwood, Mo.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on December 26, 1979 in response to a worker petition received on December 18, 1979 which was filed by the Teamsters, Local Union #618 on behalf of workers and former workers engaged in the distribution of automotive parts at the St. Louis Parts Depot of Chrysler Corporation, Hazelwood, Missouri. In the following determination, 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.

The St. Louis Parts Depot sells replacement parts and accessories to Chrysler, Dodge and Plymouth dealerships in eastern Missouri and southern Illinois. Through the St. Louis Depot, these dealerships are equipped with the parts required to maintain and repair all car and truck models which Chrysler has marketed in the U.S. during the past five years. A majority of the parts which Chrysler distributes through its parts depots, including the St. Louis Depot, are produced by unaffiliated firms. Further, a significant share of Chrysler's own production of replacement parts consists of components which are ultimately used to service either vehicles manufactured prior to MY 1979 or those which have not been subject to import injury. consequently, a direct and significant connection cannot be established between production declines at certified Chrysler manufacturing plants and the decline in part sales and employment at the St. Louis Parts Depot.

Previous Department certifications of workers at seven assembly plants (TA-W-5979-83, 6037-38) and at 22 auxiliary manufacturing plants (TA-W-5984-94, 5996-6004, 6039-40, 6543) of the Chrysler Corporation were based on a finding of import injury which was limited to certain car and truck lines produced during FY 1979 (August 1978-July 1979). In the course of these investigations, it was established that part production at most of the certified auxiliary plants was predominantly integrated into the production of finished vehicles at certified company assembly plants. Production of replacement parts for trade-impacted Chrysler car and truck lines accounted for an insignificant portion of the total operations of the 22 certified auxiliary plants.

Conclusion

After careful review, I determine that all workers at the St. Louis Parts Depot of Chrysler Corporation, Hazelwood, Missouri, 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 26th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-7199 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6781]

Claremont Beef Co., Inc., Claremont, N.H.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 15, 1980 in response to a worker petition received on January 11, 1980 which was filed on behalf of workers and former workers producing fresh beef products and lean trimmings at Claremont Beef Company, Incorporated, Claremont, New Hampshire. It is concluded that all of the requirements have been met.

Imports of meat for manufacturing increased absolutely and relative to domestic production in 1978 compared with 1977 and increased absolutely and relative to domestic production in the first nine months of 1979 compared with the first nine months of 1978.

A customer survey conducted by the U.S. Department of Commerce revealed that major customers reduced purchases from Claremont Beef Company, Incorporated and increased purchases of imported beef products during the 1978-1979 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 fresh beef products and lean trimmings produced at Claremont Beef Company, Incorporated, Claremont, New Hampshire 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 Claremont Beef Company, Incorporated, Claremont, New Hampshire who became totally or partially separated from employment on or after January 8, 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 28th day of February 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-7200 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6748]

Cooper Sportswear Manufacturing Co., Inc., Newark, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 10, 1980 in response to a worker petition received on December 20, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's and boys' cloth and leather coats and jackets at Cooper Sportswear Manufacturing, Company Incorporated, Newark, New Jersey. It is concluded that all of the requirements have been met.

U.S. imports of Leather Coats and Jackets—Men's, Boys', Women's, Misses', Juniors', and Children's—increased absolutely and relative to domestic production in 1978 compared to 1977. U.S. imports of Men's and Boys' Nontailored Outer Jackets increased absolutely and relative to domestic production in 1978 compared to 1977.

A Department survey of Cooper Sportswear's customers showed decreased purchases from Cooper Sportswear and increased purchases of imports during 1979 compared to 1978. The investigation further revealed that Cooper Sportswear started importing leather jackets in March 1979.

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 and boys' cloth and leather coats and jackets produced at Cooper Sportswear Manufacturing Company, Incorporated, Newark, 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 Cooper Sportswear Manufacturing Company, Incorporated, Newark, New Jersey 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 26th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-7201 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6715]

Doral Mills, Inc., Passaic, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 8, 1980 in response to a worker petition received on December 27, 1979 which was filed on behalf of workers and former workers producing plastic sequences for knitting material at Doral Mills, Passaic, New Jersey. The investigation revealed that Doral Mills, Incorporated produced ornamented fabric. In the following determination, 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.

U.S. imports of ornamented fabrics were less than one percent of domestic production in the years 1974 through 1978. Imports decreased absolutely during the first three quarters of 1979 compared with the same period in 1978.

Conclusion

After careful review, I determine that all workers of Doral Mills, Incorporated, Passaic, 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 26th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-7202 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6672]

Great Lakes Tanning Co., Milwaukee, Wis.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on December 28, 1979 in response to a worker petition received on December 21, 1979 which was filed by the Amalgamated Meat Cutter and Butcher Workmen of North America Union on behalf of workers and former workers producing shearing at the Great Lakes Tanning Company, Milwaukee, Wisconsin. In the following determination, 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.

U.S. imports of shearing are insignificant, having been less than three percent of domestic production throughout the 1974–1979 period. Imports of apparel which is made from shearing are not "like or directly competitive" with shearing within the meaning of Section 222(3) of the Trade Act of 1974.

Sales in terms of value at Great Lakes Tanning Company increased in 1979 compared with 1978. The decision to close the company in December 1979 was primarily influenced by the owner's desire to retire.

Conclusion

After careful review, I determine that all workers of the Great Lakes Tanning Company, Milwaukee, Wisconsin 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 28th day of February 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-7203 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6706 and 6706A]

Hi-Craft Clothing Co., Philadelphia, Pa., and New York, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 7, 1980 in response to a worker petition received on December 27, 1979 which was filed on behalf of workers and former workers producing ladies' slacks, blazers, skirts and blouses at Hi-Craft, Philadelphia, Pennsylvania. The investigation revealed that the plant produces primarily misses' and juniors' skirts, suits and slacks and that the correct name of the firm is Hi-Craft Clothing Company. The investigation was expanded to include the firm's sales office in New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of the following categories of apparel increased both absolutely and relative to domestic production in 1978 compared to 1977: women's, misses' and children's skirts; women's, misses' and children's slacks and shorts; and women's misses' and children's suits.

The Office of Trade Adjustment Assistance conducted a survey of customers of Hi-Craft Clothing Company. Customers representing a significant proportion of Hi-Craft's 1978 sales reported that they reduced purchases of misses' and juniors' slacks, suits and skirts from Hi-Craft and increased purchases of imported misses' and juniors' slacks, suits and skirts in 1979 compared 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 misses' and juniors' skirts, suits and slacks produced

at Hi-Craft Clothing Company, Philadelphia, Pennsylvania contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant and at the New York, New York sales office of Hi-Craft. In accordance with the provisions of the Act, I make the following certification:

All workers of the Philadelphia, Pennsylvania and New York, New York facilities of Hi-Craft Clothing Company 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.

Signed at Washington, D.C., this 28th day of February 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-7204 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6646]

Hiram Walker and Sons, Inc., Peoria, Ill.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on December 20, 1979 in response to a worker petition received on December 14, 1979 which was filed by the Distillery, Wine and Allied Workers' International Union on behalf of workers and former workers engaged in the production and bottling of distilled whiskey and cordials at Hiram Walker and Sons, Incorporated, Peoria, Illinois. In the following determination, 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 in the course of the investigation revealed that increased imports did not contribute importantly to the decision to phase out operations at the Peoria, Illinois plant of Hiram Walker and Sons, Incorporated.

The Peoria facility distills and rectifies bourbons and blended whiskies, gin, vodka, and cordials. This facility bottles its own domestic distilled output and distilled spirits imported in bulk containers.

The petitioners allege that sales of American whiskey are accounting for a smaller share of the domestic distilled spirits market and that the provisions implemented under the Trade Agreements Act of 1979 are adversely affecting domestic operations. On January 1, 1980, under the new legislative provision, the method of tax computation on imported bottled distilled spirits was changed. The petitioners contend that declining sales of America whiskies and the reduced tax on imported bottled products led to the company's decision to phase out operations in Peoria.

U.S. imports of distilled spirits as a percentage of domestic production have remained relatively constant from 1974 through 1978. When compared to the previous year, value of domestic production of distilled spirits increased in each year from 1975 through 1978.

Total company sales of domestically produced distilled spirits increased in the fiscal year ending August 31, 1979 compared to the previous fiscal year. Further, total company imports, as a percent of company sales in the U.S. market, decreased in fiscal year 1979 compared to fiscal year 1978.

Approximately half of the bottled output of the Peoria plant consists of American straight whiskey (bourbon) and blends. This product by law must be distilled in the U.S. At this time it is not clear what impact, if any, the Trade Agreements Act of 1979 will have on the distillation or bottling of American whiskey by Hiram Walker and Sons, Incorporated.

The operations at Peoria are to be phased out and the plant closed by January 1, 1982. According to the plant closure announcement the decision to close the Peoria operation was based on high operating costs as well as excessive costs to modernize the facility. Production of the cordials will be transferred to a new facility currently under construction in Ft. Smith, Arkansas. Subsequent to the closure of the Peoria plant the production of the plant's other distilled spirits will be contracted out to other domestic distillers. Company imports of Scotch and Canadian whiskies, which by law must be distilled in Scotland and Canada respectively, have never been distilled in the U.S. According to company officials these products which have been bottled at the Peoria plant will be bottled by other domestic bottlers.

Conclusion

After careful review, I determine that all workers of Hiram Walker and Sons, Incorporated, Peoria, Illinos 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 28th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-7206 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6879]

K & T Air Freight, Inc., Roseville, Mich.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 30, 1980, in response to a worker petition received on January 23, 1980, which was filed on behalf of workers and former workers trucking automotive freight for Chrysler Corporation at K & T Air Freight, Incorporated, Roseville, Michigan. The investigation revealed that automotive parts are transported primarily for Chrysler Corporation.

K & T Air Freight, Incorporated is engaged in providing the service of transporting automotive parts primarily for Chrysler Corporation.

Thus, workers of K & T Air Freight, Incorporated do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to K & T Air Freight, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

K & T Air Freight, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in transporting automotive parts primarily for Chrysler Corporation at K & T Air Freight, Incorporated are employed by the latter firm. All personnel actions and payroll transactions are controlled by K & T Air Freight, Incorporated. All employee benefits are provided and maintained by K & T Air Freight, Incorporated. Workers are not, at any time, under employment or supervision by customers of K & T Air Freight, Incorporated. Thus, K & T Air Freight, Incorporated and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of K & T Air Freight, Incorporated, Roseville, Michigan 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 26th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-7206 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6728]

Maidel Fashions, Inc., North Babylon, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 8, 1980 in response to a worker petition received on December 27, 1979 which was filed on behalf of workers and former workers producing ladies' sportswear at Maidel Fashions, Incorporated, Nort Babylon, New York. The investigation revealed that the plant produces ladies' dresses, skirts, pants, blouses and suits. It is concluded that all of the requirements have been met.

U.S. imports women's, misses' and children's skirts; women's, misses' and children's slacks and shorts; women's, misses' and children's blouses and shirts; and women's, misses' and children's suits increased absolutely and relative to domestic production from 1977 to 1978.

Maidel Fashions, Incorporated produces primarily ladies' sportswear. The Department conducted a survey of manufacturers that contracted with Maidel. The survey revealed that major manufacturers reduced contract work with Maidel Fashions and increased purchases of imported ladies' sportswear in fiscal year May 1978–April 1979 compared to the fiscal year May 1977–April 1978. These manufacturers continued to decrease their contract work with Maidel throughout the remainder of 1979.

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' sportswear produced at Maidel Fashions, Incorporated, North Babylon, 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 Maidel Fashions, Incorporated, North Babylon, New York 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.

Signed at Washington, D.C. this 28th day of February 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-7207 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6708]

Marion Manufacturing, Inc., Marion, Alabama; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 7, 1980 in response to a worker petition received on December 31, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' and children's coats at Marion Manufacturing, Incorporated, Marion, Alabama. The investigation revealed that the plant produces ladies' and children's coats and jackets. In the following determination, 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.

U.S. imports of women's, misses' and children's coats and jackets declined absolutely from 1978 to 1979.

Marion Manufacturing opened in October 1978. Average employment increased in each of the first three quarters of 1979 as compared to the previous quarter. Employment decreased in the fourth quarter of 1979 compared to the third quarter of 1979 and then increased in January 1980 compared to January 1979. The average employment of all workers in January 1979 was higher than the average employment of all workers for the first, second and fourth quarters of 1979. The temporary decrease in employment experienced by Marion Manufacturing during the fourth quarter of 1979 is attributable to the traditional seasonal slowdown in production in the coat industry during the late fall and winter months. Because the fluctuations in the level of employment at Marion very directly with the traditional seasonal fluctuations in the coat industry, U.S. imports could not have contributed importantly to the decline in employment at Marion Manufacturing.

Conclusion

After careful review, I determine that all workers of Marion Manufacturing, Incorporated, Marion, Alabama 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 28th day of February 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-7208 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6772]

Methuen International Mills, Methuen, Mass.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirments of Section 222 of the Act must be met.

The investigation was initiated on January 14, 1980 in response to a worker petition received on January 8, 1980 which was filed on behalf of workers and former workers producing woven worsted and worsted blend menswear fabric for Methuen International Mills, Methuen, Massachusetts. In the following determination, 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 the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished wool fabric declined in the first three quarters of 1979 compared to the same period of 1978.

Sales and production of woven wool fabric at Methuen increased in 1979 compared to 1978.

Employment at the mill increased in 1979 compared to 1978, and in each quarter of 1979 compared to the same period of the previous year.

Conclusion

After careful review, I determine that all workers of Methuen International Mills, Methuen, 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 28th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-7209 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6695]

Moon 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 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 4, 1980 in response to a worker petition received on December 26, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' raincoats at Moon Fashions, Incorporated, Hoboken, New Jersey. In the following determination, 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 indicated that quarter to quarter declines in Moon Fashions' business and employment levels were the result of seasonal fluctuations. Moon Fashions began to perform contract work for a single manufacturer in January 1979. Quarterly declines in business and employment levels in late 1979 and early 1980 are attributable to seasonal fluctuations in the industry. The ladies' and children's coat industry is typically a seasonal operation. In most years, contractors suffer a period of negligible orders during the first quarter of the year, before winter coat production begins. The manufacturer for which Moon Fashions worked in 1979 indicated that it will rely increasingly on Moon Fashions for future contract work.

Conclusion

After careful review, I determine that all workers of Moon 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 26th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-7210 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6738]

Raritan Sportswear Perth Amboy, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 9, 1980 in response to a worker petition received on December 27, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing boys' and men's apparel at Raritan Sportswear, Perth Amboy, New Jersey. The investigation revealed that the plant produces primarily men's and boys' cloth coats. It is concluded that all of the requirements have been met.

Raritan Sportswear produces men's and boys' cloth coats for Cooper Sportswear, Newark, New Jersey. Cooper Sportswear and Raritan Sportswear are under common ownership.

U.S. imports of men's and boys' nontailored outer jackets increased in 1978 compared with 1977.

A survey of customers of Cooper Sportswear revealed that several customers reduced purchases of cloth coats from Cooper in 1979 compared with 1978 and increased purchases of imports.

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 and boys' cloth coats produced at Raritan Sportswear, Perth Amboy, 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 Raritan Sportswear, Perth Amboy, New Jersey who became totally or partially separated from employment on or after December 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 26th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-7211 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6719]

Reid Stevens, Inc., Commack, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on January 8, 1980 in response to a worker petition received on January 2, 1980 which was filed on behalf of workers and former workers producing ladies' coats at Reid Stevens, Incorporated, Commack, New York. The investigation revealed that the plant produces ladies' coats and jackets. In the following determination, 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.

U.S. imports of women's, misses' and children's coats and jackets decreased absolutely in January–September 1979 compared to January–September 1978.

Average employment and the average hours worked per week increased in 1979 compared to 1978. Employment for January–February 1980 was equal to January–February 1979.

Production at the Reid Stevens plant increased in 1979 compared to 1978.

Conclusion

After careful review, I determine that all workers of Reid Stevens, Incorporated, Commack, New York 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 28th day of February, 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-7212 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6683]

Tropical Brands Packing Co., Bronx, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

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.

The investigation was initiated on December 31, 1979 in response to a worker petition received on December 14, 1979 which was filed on behalf of workers and former workers packaging tropical fruits at Tropical Brands Packing Company, Bronx, New York.

Worker at Tropical Brands Packing Company, Bronx, New York were engaged in providing the service of packaging tropical fruit.

Thus, workers of Tropical Brands Packing Company do not produce an article within the meaning of Section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Tropical Brands Packing Company by ownership, or a firm related by control. In any case, the reduction indemand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must be directly related to the product impacted by imports.

Tropical Brands Packing Company and its customers have no controlling interest in one another. Tropical Brands Packing Company is a subsidiary of E & B Supermarkets Merchandise Corporation. The packaging operation at the Bronx, New York facility of Tropical Brands Packing Company was transferred to a plant in New Jersey. Packaging of tropical fruits at the Bronx, New York plant of Tropical Brands Packing Company was not dependent on production at any other facility of E & B Supermarkets Merchandise Corporation.

All workers engaged in packaging fruit at Tropical Brands Packing Company are employed by that firm. All personnel actions and payroll transactions are controlled by Tropical Brands Packing Company. Thus, Tropical Brands Packing Company, and not its customers, must be considered to be the "workers' firm."

Conclusion

After careful review, I determine that all workers of Tropical Packing Company, Bronx New York 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 26th day of February 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-7213 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

[Application No. D-1529]

Proposed Exemption for Certain Transactions Involving Aurora Casket Co., Inc., Restated Pension Plan No. 1, Located in Aurora, Ind.

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 of 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 certain proposed loans of money by the Aurora Casket Company, Inc. Restated Pension Plan (the Plan) to Aurora Casket Company, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect the Employer, participants and beneficiaries of the Plan, and other persons participating in the proposed transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before April 18, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to 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, Attention: Application No. D-1529. 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: Richard Small, of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 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 Edward L. Yoe, Patrick E. Brady and John Chase, the trustees of the Plan (the Trustees), and the Employer 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). 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 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 Plan is a defined benefit pension plan with seventy participants. As of May 30, 1979 the Plan had total net assets of approximately $1,500,000. Investment decisions for the Plan are made by the Trustees.

(2) The Employer and the Trustees are requesting an exemption to allow the Plan to enter into a loan agreement (the Loan Agreement) with the Employer whereby the Plan will periodically lend to the Employer amounts of money up to an aggregate at any point in time of the lesser of $400,000 or 27 percent of Plan assets. The loans would be made over a five-year period, the first day of which would be the date the grant of an exemption for the proposed loans is published in the Federal Register. All of the proposed loans will mature and become due and payable on or before the last day of such five-year period. Each individual loan would have a maturity of ninety days or less. The interest rate for any loan granted under the Loan Agreement will be ½ percent above the rate charged by the First National Bank of Cincinnati to its customers for prime commercial loans of 90-day maturity, but in no event less than 11 percent per annum. Principal and interest payments will be made in substantially equal quarterly payments. An independent party, the First National Bank of Cincinnati (the Bank) will be appointed as a trustee to approve and oversee the proposed loans. The Bank will be authorized to disapprove or approve any loan; to accelerate any loan payment; to collect principal and interest payments on the loans; to enforce collection of promissory notes and to obtain the security interests called for with respect to collateral to be given as security for such loans. The Employer represents that no loan will be made under the Loan Agreement unless the Bank represents that the terms of the loan are at least as favorable to the Plan as those which the Plan could obtain from an unrelated third party.

(3) Each loan made during the five-year period will be secured by a first mortgage on a parcel of land with its improvements (the Real Estate) located at 202 Cornwell Street, Aurora, Indiana. The Real Estate is presently owned by the Employer and used to conduct the Employer's business operations. On April 26, 1979 Mr. Lawrence Kees, an independent appraiser from Cincinnati, Ohio represented that the Real Estate had a value of $610,000. The Employer as additional collateral for the proposed loans will give security interests in a 1,000 ton Bliss hydraulic press, a metalizer, and a flow coater which are owned by the Employer so that at all times, the appriased market value of the collateral for the loans will be not less than 200 percent of the amount of the outstanding loan balances. Each piece of equipment will be initially valued by an independent appraiser and each appraisal will be updated annually to assure that the required level of collateral is maintained. Such equipment will be kept insured in an amount equal to not less than 80 percent of the insurable value thereof on a replacement cost basis. The Employer represents that during the term of the Loan Agreement and until all liabilities are paid in full thereunder, it will not, without the consent of the Bank, create, assume or suffer to exist any mortgage, pledge, encumbrance or other security interest upon any asset owned by the Employer or thereafter acquired. The Employer also represents that during the term of the Loan Agreement it will maintain working capital of at least $1,500,000 and a tangible net worth of at least $2,200,000. The Employer also will not incur any additional indebtedness in excess of short-term borrowing of $300,000 nor enter into any rental or lease agreement, the term of which would exceed one year or involve annual rental payments in excess of $200,000, present rental liabilities included.

(4) The Employer has obtained a loan agreement with the First National Bank of Cincinnati in which the Bank would loan $400,000 to the Employer at ½ percent below the prime rate over a ten-year period which would be secured by the Real estate appraised at $610,000, or alternatively grant an unsecured ninety-day demand loan with interest at the rate of 1 percent above prime. This loan agreement would be used only as an alternative to the Loan agreement with the Plan.

(5) In summary, the applicants represent that the proposed loans satisfy the statutory criteria of section 408(a) of the Act because: (1) the Trustees represent that the proposed loans are in the best interests of the Plan; (2) an independent trustee will be appointed to approve and oversee the proposed loans; (3) the terms of the proposed loans are more favorable to the Plan than those which have been offered to the Employer by an independent bank; (4) the Plan will receive an interest rate of ½ percent over the prime rate with a guaranteed minimum of 11 percent; (5) the loans will be for a relatively short time and will be secured by collateral which at all times will be maintained in an amount of at least 200 percent of the amount of the outstanding loan balances.

Notice to Interested Persons

Notice will be given to participants and beneficiaries of the Plan within ten days after the publication of the notice of pendency in the Federal Register. Such notice will be provided by mail, personal delivery, or may, in lieu of such methods, be posted in the Employer's locations where such participants and beneficiaries work and which are customarily used for employer notices to employees concerning labor-management relations issues. The notice will include a copy of the notice of pendency and a statement informing participants of their right to comment or request a hearing within the time period indicated in the notice of pendency.

Tax Consequences of Transaction

The Internal Revenue Service has previously held that the borrowing of money by an employer from its plan at a rate greater than the fair market rate will constitute a contribution to the plan to the extent of the difference between the rate at which the money is loaned and the fair market rate. The deductibility and other effects of such a contribution must be determined in accordance with generally applicable Federal income tax rules.

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 among other things require a fiduciary to 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 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 pending exemption to the address above, 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 pending 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 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 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 proposed loans of money by the plan to the Employer for a period of up to five years from the date the grant of an exemption is published in the Federal Register provided that the sum total of such loans at any point in time in the aggregate shall not at that time exceed the lesser of $400,000 or 27 percent of Plan assets.

The proposed 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 transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of February 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-7133 Filed 3-6-80; 8:45 am]
BILLING CODE 4510-29-M

[Application Nos. L-1669—1672]

Proposed Exemption for Certain Transactions Involving the Commingled Pension Trust Fund-Common Stock, et al., of Morgan Guaranty Trust Co. of New York

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 of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed exemption would exempt the acts of Morgan Guaranty Trust Company of New York (Morgan) in effectuating inter-account transfers of publicly traded common stock between various accounts managed by Morgan. The proposed exemption, if granted, would affect Morgan, the involved plans, and the respective participants and beneficiaries of the plans.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before April 18, 1980.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to 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, Attention: Application Nos. L-1669, L-1670, L-1671, L-1672. 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, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(b)(2) of the Act. The proposed exemption was requested in an application filed by Morgan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Internal Revenue Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Summary of Facts and Representations

The application contains 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. Morgan is a New York State banking corporation which manages over $16 billion in assets of employee benefit plans subject to Title I of ERISA.

The following accounts of Morgan will be involved in the transfers for which the exemption is requested: the Commingled Pension Trust Fund-Common Stocks (the Common Stock Fund); the Commingled Pension Trust Fund-Special Situation Investments (the Special Situation Fund); the Commingled Pension Trust Fund-Intermediate Capitalization Equities (the Intermediate Fund); and the Commingled Pension Trust Fund-Supplemental Opportunity (the Supplemental Fund).

2. Morgan first established commingled pension trust funds on May 31, 1956 in response to the desires of its retirement plan customers to participate in diversified portfolios of publicly-traded common stocks. These commingled pension trust funds were established and are operated and maintained by Morgan exclusively as as a medium for the collective investment and reinvestment, without distinction between principal and income, of moneys received and held by it as trustee of, or managed by it as investment manager for, pension trusts, profit sharing trusts, other employee benefit trusts, and other commingled pension trust funds maintained by it, which are (i) qualified and exempt from income tax under the appropriate provisions of the Internal Revenue Code and (ii) specifically authorized by the terms of any such trust or fund to participate in the commingled funds or fund maintained by Morgan. Each commingled pension trust fund is also authorized by the terms of the Declaration of Trust to invest in other commingled trust funds maintained by Morgan.

3. On March 8, 1956, Morgan adopted a resolution establishing the Common Stock Fund. By resolution of the Board of Directors of Morgan adopted on August 8, 1979, the Declaration of Trust of the Common Stock Fund was amended in order to divide the Common Stock Fund into four special purpose sector funds (the Sector Funds). Each Sector Fund is identified by the major industrial components which it represents: technology and machinery; consumer and service; natural resources and processing; and finance, regulated and transportation. An application has been made to the Internal Revenue Service for a determination that this amendment is acceptable as consistent with the applicable provisions of Section 401(a) and 501(a) of the Internal Revenue Code. Each plan participating at the time of division will have an interest in the Sector Funds immediately following their establishment which will be equal to its interest in the Common Stock Fund. The emphasis of the Common Stock Fund is investment in large capitalization stocks.

4. The Special Situation Fund was established by resolution of the Board of Directors of Morgan adopted on December 7, 1960. This fund consists of six parts, one of which is known as Special Situation Investments-Equities (I-E Part); one of which is known as Special Situation Investments-Convertibles (CV Part); and one of which is known as Special Situation Investments-Real Estate (RE Part). The other three parts of the Special Situation Fund are not involved in any of the transactions for which an exemption is sought in this application. The emphasis of the I-E Part is the investment in situations, which in the opinion of Morgan, offer unusual possibilities for growth without regard to current income. The emphasis of the CV Part is the investment in convertible bonds, bonds with warrants, bonds with stock, convertible preferred stock, and other fixed income investments with equity features and equities obtained therefrom. The emphasis of the RE Part is the investment in companies, real estate investment trusts and other vehicles whose principal function is either to administer or finance the development of real estate or invest in real property.

5. The Intermediate Fund of Morgan was established by resolution of the Board of Directors of Morgan adopted on February 5, 1969. The fund was initially funded on April 3, 1969. The emphasis of the intermediate Fund is the investment in common or capital stocks of medium-sized corporations.

6. On August 8, 1979 the Board of Directors of Morgan adopted a resolution approving the Supplemental Fund. Morgan has also applied for a favorable determination by the Internal Revenue Service with respect to the establishment of this fund. The Supplemental Fund is to emphasize investment in situations which offer unusual possibilities for capital appreciation and which are undervalued relative to the financial condition of the issuer or the book, replacement or economic value of the issuer's assets, without regard to current or expected income.

7. Due to the reorganization of its funds, Morgan has concluded that certain stocks are no longer appropriate for the investment emphasis of the fund in which they are presently being held. Morgan proposes to transfer such stocks from the funds in which they are presently being held into other funds in which they would be more appropriate.

8. Morgan has identified approximately 39 issues, having a current market value of approximately $438.9 million, for transfer from the Intermediate Fund to the Sector Funds. Morgan also proposes to transfer to the Supplemental Fund approximately six different common stock issues, having a current market value of approximately $27.9 million, now held in the Intermediate Fund, and approximately 19 different common stock issues, having a current market value of approximately $31.3 million, now held in the Special Situation Fund I-E Part. Morgan would also transfer to the Intermediate Fund approximately one issue, having a current market value of approximately $13.1 million, now held in the Special Situation Fund CV Part, approximately 16 issued, having a current market value of approximately $79 million, now held in the Special Situation Fund I-E Part, and approximately 6 issues, having an approximate market value of $10.5 million, now held in the Common Stock Fund. Morgan also proposes to transfer to the Special Situation Fund I-E Part approximately 20 issues, having a current market value of approximately$112.5 million, from the Intermediate Fund. Morgan also proposes to transfer to the Special Situation RE Part from the Special Situation I-E Part approximately three issues having a current market value of approximately $25 million. The total transfers contemplated currently involve approximately $1.5 billion in securities. None of these securities are restricted securities.

9. Morgan represents that although these changes could be made by sales and acquisitions on the open market, such an approach could very likely adversely affect market prices because of the large number of securities to be transferred and would result in substantial transaction costs, including brokerage commissions of approximately $2.8 million.

10. The requested exemption, if granted, would permit Morgan to act on behalf of plans which participate in the aforementioned accounts in connection with transfers of common stocks between such accounts. The investment decision on behalf of any account to acquire or dispose of any security, whether in an inter-account transfer or in the open market, is made solely in the interest of such account.

11. The price at which securities would be transferred from one account to another either would be (a) the closing market price of each security on a day selected in advance, for securities

listed on a national securities exchange, or (b) the mean of the highest current independent bid and the lowest current independent offer for each security on such day, for securities traded in the over-the-counter market. If at any time prior to the close of trading on the selected transaction day, Morgan finds that it is not in the interest of a particular account for it to participate in a transfer, that transfer will not be made. Morgan represents that the pricing procedure will assure that each account will receive fair market value in the transfers and no account will obtain an advantage by virtue of a transfer. The transfers will not, in and of themselves, have any impact on the respective values of the accounts involved as of the time of transfer.

12. Morgan will not receive any commissions, special fees or increases in its regular investment management fees for effecting these transfers. The transfers are being made for the sole purpose of benefiting the interests of plans who participate in common stock accounts of Morgan. Morgan does not expect to engage in additional inter-account transfers effected for the purpose of accomplishing a general realignment of the portfolios of the accounts of Morgan after the proposed transfers currently contemplated are accomplished. Morgan intends to make portfolio changes on a continuing basis in the future through normal open market acquisitions and sales.

13. This special program to make substantial changes in the common stock portfolios managed by Morgan will be performed on a selected day within a 120-day period following the date Morgan receives its last applicable regulatory approval or exemption from the Department.

14. The need for an exemption arises because the inter-account transfers described above might constitute violation of section 406(b)(2) of the Act, which generally prohibits a plan fiduciary from acting on behalf of, or representing, an adverse party in a transaction with a plan. No request for an exemption from any other restrictive provision of the Act has been made by Morgan.

15. The applicant represents that the proposed transfers of stock will statisfy the criteria of section 408(a) of the Act as follows:

(1) Morgan will not receive any commissions; special fees or increases in its regular investment management fees for effecting these transfers; (2) the transfers are being made for the sole purpose of benefiting the interests of plans and other contract holders who participate in common stock accounts of Morgan and (3) the transfers will save the accounts from having to pay brokerage commissions of approximately $2.8 million.

Notice to Interested Persons

Within ten days of its publication in the Federal Register a copy of the notice of pendency will be mailed by Morgan to the sponsor, or to another appropriate plan fiduciary of all involved plans.

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 does not relieve a fiduciary or other party in interest from certain other provisions of the Act, 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 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.

(2) The proposed exemption, if granted, will not extend to transactions prohibited under sections 406(a), 406(b)(1) and (b)(3), and 407(a) of the Act.

(3) Before an exemption may be granted under section 408(a) of the Act, 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, 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 pending exemption to the address above, 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 pending 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 in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply to the acts of Morgan in effectuating inter-account transfers of common stocks previously described herein on a day selected in advance by Morgan, within a 120-day period following the date an exemption is granted.

The proposed 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 transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 29th day of February, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-7132 Filed 3-6-80; 8:45 am]
BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-12; Exemption Application No. D-1413]

Exemption from the Prohibitions for Certain Transactions Involving the John Willson, Inc., Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of real property by the John Willson, Inc. Profit Sharing Plan (the Plan) to John Willson, a party in interest.

FOR FURTHER INFORMATION CONTACT: Ronald D. Allen 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) 523-7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 15, 1980 notice was published in the Federal Register (45 FR 2918) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption 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), (D), and (E) of the Code, for a transaction described in an application filed on behalf of the Plan. 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. The applicant has represented that he has complied with the notice requirements contained in the proposed exemption. No public comments and no requests for a hearing were recieved by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, 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 of issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of intersted persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975 (c)(2) of the Code does not relieve a disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply, nor does the fact 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 4975(c)(1) (B), (C) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of 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 4975(c)(2) of the Code and the procedures set forth in Rev. Proc. 75-26 (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 Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

The taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A), (D) and (E) of the code, shall not apply to the sale of real property, known as Lot 2 (except for the North 15½ feet) and Lot 3, 79th and Foster, Overland Park, Kansas, by the Plan to John W. Willson for $32,000 cash, provided this amount is not less than the fair market value of the real property at the time of sale.

The availability of this exemption is 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 transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 29th day of February, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-7130 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1467]

Proposed Exemption for Certain Transactions Involving the Pension Trust Fund for Operating Engineers Local of Northern California

In 44 FR 70600 of the Federal Register dated December 7, 1979, the Department of Labor (the Department) published a notice of pendency of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1954. The notice of pendency concerned an application filed by the trustees of the Pension Trust Fund for Operating Engineers Local 3 of Northern California (the Plan).

Extension of Time for Comments and Hearing Requests

In the paragraph headed "Notice to Interested Parties," page 70601, it was specified that notice of the proposed exemption would be made available to all interested parties including the trustee of the Plan and all active and retired participants or their beneficiaries, within 60 days of the publication of the notice of pendency in the Federal Register.

By letter dated January 25, 1980, the Plan notified the Department that it was unable to comply with its representation to notify all interested persons within the time period specified in the notice of pendency. Therefore, the time period for receipt of comments and/or requests for a public hearing on the proposed exemption is hereby extended until May 15, 1980, so that participants and beneficiaries may have the opportunity to comment on the proposed exemption. The Plan represented, in its December 7, 1979, letter, that (1) a copy of the October 19, 1979, notice of pendency and (2) a copy of this notice will be provided to all interested parties on or before April 15, 1980, by publication of this material in the monthly newspaper of Local 3 of the Operating Engineers which is distributed to both Plan participants and beneficiaries.

All written comments and requests for a public hearing should be sent to 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. Attention: Application No. D-1467.

Dated: February 29, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-7131 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-11; Exemption Application No. D-1297]

Exemption from the Prohibitions for a Certain Transaction Involving the Raleigh Lithograph Corp. Profit-Sharing Retirement Plan Located in New York, N.Y.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits a loan of $400,000 from the Raleigh Lithograph Corporation Profit-Sharing Retirement Plan (the Plan) to the Raleigh Lithograph Corporation (the Employer).

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the 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. (202) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On December 18, 1979, notice was published in the Federal Register (44 FR 74936) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406(b)(1) and (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 Employer and the trustees of the Plan. 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 requests for a hearing were received by the Department.

The applicant has represented that notice to interested persons has been given as set forth in the Notice of Proposed Exemption. The notice of pendency was issued and the exemption is being granted solely by the Department because, 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 proposed to the Secretary of Labor.

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 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 the 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 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 Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) and 406(b) (1) and (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 loan of $400,000 by the Plan to the Employer for the purchase of an offset press, as described in the Notice of Proposed Exemption, provided that the terms of the transaction are not less favorable to the Plan than those obtainable from an unrelated party at arm's length at the time of the consummation of the transaction.

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 which is the subject of this exemption.

Signed at Washington, D.C., this 29th day of February 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-7129 Filed 3-6-80; 8:45 am]

BILLING CODE 4510-29-M

LEGAL SERVICES CORPORATION

Grants and Contracts

March 4, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering a proposal submitted by Virginia Poverty Law Center in Richmond, Virginia, to establish a State Support Center in Virginia.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation,
Northern Virginia Regional Office,
1730 N. Lynn Street, Arlington, Va. 22209.

Dan J. Bradley,

President.

[FR Doc. 80-7128 Filed 3-6-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

March 4, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Southern Arizona Legal Aid in Tucson, Arizona, to provide services to

Native Americans residing in the Pascua Yaqui Communities of Pima County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Native American Desk,
Legal Services Corporation,
1726 Champa Street, Suite 500,
Denver, Colorado 80202.

Dan J. Bradley,
President.

[FR Doc. 80-7127 Filed 3-6-80; 8:45 am]
BILLING CODE 6820-35-M

Grants and Contracts

March 4, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Pinal and Gila Counties Legal Aid Society in Coolidge, Arizona, to provide services to Native Americans residing on or near the San Carlos Reservation.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Native American Desk,
Legal Services Corporation,
1726 Champa Street, Suite 500,
Denver. Colorado 80202

Dan J. Bradley,
President.

[FR Doc 80-7128 Filed 3-6-80; 8:45 am]
BILLING CODE 6820-35-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Visual Arts Panel (Art in Public Places); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Art in Public Places) to the National Council on the Arts will be held March 24, 1980 from 9:30 a.m.-5:30 p.m., March 25, 1980 from 9:30 a.m.-5:30 p.m.; and March 26, 1980 from 9:30 a.m.-5:30 p.m., Room 1340, Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 27. 1980.

[FR Doc. 80-7066 Filed 3-6-80; 8:45 am]
BILLING CODE 7537-01-M

Visual Arts Panel (Services to the Field); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Services to the Field) to the National Council on the Arts will be held March 26, 1980 from 9:00 a.m.-6:00 p.m.; March 27, 1980 from 9:00 a.m.-6:00 p.m.; and March 28, 1980 from 9:30 a.m.-5:30 p.m., in Room 1426, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 27, 1980.

[FR Doc. 80-7067 Filed 3-6-80; 8:45 am]
BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Earth Sciences Geology, Geochemistry and Geophysics Subcommittees; Meeting

In accordance with the Federal Advisory Committee Act, as amended Pub. L. 92-463, the National Science Foundation announces the following meeting.

NAME: Advisory Committee for Earth Sciences (Geology, Geochemistry and Geophysics Subcommittees).

DATE AND TIME: March 27-28, 1980; 9:00 a.m. to 5:00 p.m. each day.

PLACE: The National Science Foundation, Room 643, 1800 G Street, N.W., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Robin Brett, Division Director. Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550. Telephone (202) 632-4274.

PURPOSE OF COMMITTEE: To provide advice and recommendations concerning support for research in Earth Sciences.

AGENDA: To review and evaluate research proposals and projects as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.

March 4, 1980.

[FR Doc. 80-7186 Filed 3-6-80; 8:45 am]
BILLING CODE 7555-01-M

DOE/NSF Nuclear Science Advisory Committee

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: DOE/NSF Nuclear Science Advisory Committee.

DATE AND TIME: March 26, 1980, 8:00 pm–11:00 pm; March 27, 1980, 9:00 am–6:00 pm; and March 28, 1980, 9:00 am–5:00 pm.

PLACE: Conference Room 543, National Science Foundation, Washington, D.C. 20550.

TYPE OF MEETING: March 26, 1980, 8:00 pm–11:00 pm Closed; March 27, 1980, 9:00 am–12:00 n Closed; 1:30 pm–6:00 pm Open; March 28, 1980, 9:00 am–12:00 n Open; 12:00 n–1:00 pm Closed; and 2:00 pm–5:00 pm Open.

CONTACT PERSON: Dr. Harvey B. Willard, Program Director for Intermediate Energy Physics, National Science Foundation, Washington, D.C. 20550 202/632–4318.

SUMMARY MINUTES: May be obtained from Ms. Lynn Martin, Physics Division, National Science Foundation, Washington, D.C. 20550.

PURPOSE OF COMMITTEE: To provide advice on a continuing basis to both DOE and NSF on support for basic nuclear science in the United States.

AGENDA:

March 26, 1980.
Closed Session (8:00 pm–11:00 pm)
Discussion of projects under consideration for funding.
March 27, 1980.
Closed Session (9:00 am–12:00 n)
Discussion of projects under consideration for funding.
Open Session (1:30 pm–6:00 pm) Report of the Instrumentation Subcommittee, discussions of activities of the Role of the Universities Subcommittee and the Manpower Subcommittee, discussions of activities of the On-going Programs and Laboratory Operations Working Group, presentation of a proposal for a National Nuclear Computing Center.
March 28, 1980.
Open Session (9:00 am–12:00 n)
Continuation of previous day's activities.
Closed Session (12:00 n–1:00 pm)
Discussion of projects under consideration for funding.
Open Session (2:00 pm–5:00 pm)
Continuation of previous day's activities.

REASON FOR CLOSING: The projects being reviewed include information of a proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer, pursuant to provision of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
March 4, 1980.

[FR Doc. 80–7192 Filed 3–6–80; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on History and Philosophy of Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee on History and Philosophy of Science; Advisory Committee for Social and Economic Science.
Date and Time: March 27th, 28th, and 29th, 1980: 9:00 a.m. to 5:00 p.m. each day.
Place: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Ronald J. Overmann, Associate Program Director, History and Philosophy of Science Program, Room 312, National Science Foundation, Washington, D.C. 20550, telephone (202) 632–4182.
Purpose of subcommittee: To provide advice and recommendation concerning support for research in History and Philosophy of Science.
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF. on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
March 4, 1980.

[FR Doc. 80–7191 Filed 3–6–80; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee for Ocean Sciences Research of the Advisory Committee for Ocean Sciences; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Subcommittee for Ocean Sciences Research.
Date and time: March 24 and 25, 1980, 9:00 am to 6:00 pm each day.
Place: Rooms 536, 628, 642 and 643, National Science Foundation, 1800 G Street, NW., Washington, D.C.
Type of meeting: Closed.
Contact person: Dr. Robert E. Wall, Head, Oceanography Section, Room 611, National Science Foundation, Washington, D.C. 20550 Telephone (202) 632–4227
Purpose of meeting: To provide advice and recommendations concerning support for research in Oceanography
Agenda: To review and evaluate research proposals as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463 The Committee Management Officer was delegated the authority to make such determinaiton by the Director, NSF on July 6, 1979.

M. Rebecca Winkler,
Committee Management Coordinator.
March 4, 1980.

[FR Doc. 80–7190 Filed 3–6–80; 8:45 am]
BILLING CODE 7555–01–M

Subcommittee on Biological Instrumentation; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Biological Instrumentation of the Advisory Committee for Behavioral and Neural Science.

DATE AND TIME: Monday and Tuesday, March 24–25, 1980 from 9:00 a.m. to 5:00 p.m.

PLACE: Room 321, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON: Dr. Larry D. Faller, Program Director, Biological Instrumentation Program, Room 333A, Telephone (202) 653–5338.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research instrumentation.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c). Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 4, 1980.

[FR Doc. 80-7187 Filed 3-6-80; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee on Chemical and Process Engineering of the Advisory Committee for Engineering and Applied Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Chemical and Process Engineering of the Advisory Committee for Engineering and Applied Science.

DATE AND TIME: March 24 and 25, 1980—9 a.m. to 5 p.m. each day.

PLACE: Room 540, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550.

TYPE OF MEETING: Part Open: Open 3/24 9 a.m. to 11:45 a.m; 3/25 9 a.m. to 4:00 p.m.; and Closed 3/24 1 p.m. and 5:00 p.m.

CONTACT PERSON: Dr. Marshall M. Lih, Division Director, Chemical and Process Engineering, Room 413, National Science Foundation, Washington, D.C. 20550, telephone 202–632–5867.

SUMMARY MINUTES: May be obtained from Dr. Lih at the above address.

PURPOSE OF SUBCOMMITTEE: To review current program areas and emphasis; to evaluate program balance and effectiveness; to discuss future directions and strategies for research support.

AGENDA:

Open—March 24 (9 a.m. to 11:45 a.m.)

Status of Engineering and Applied Science Directorate. Report on Chemical and Process Engineering Division with questions and answers. Program reports (Kinetics, Catalysis and Reaction Engineering, Chemical and Biochemical Systems, Engineering Energetics, Particulate and Multiphase Processes, and Thermodynamics and Mass Transfer) with questions and answers.

Closed—March 24 (1 p.m. to 5 p.m)

1:30—Review and comparison of declined proposals (and supporting documentation) with successful awards under the Chemical and Process Engineering Division, including review of peer review materials and other privileged material.

Open—March 25 (9 a.m. to 4 p.m.)

Discussions on technical subject areas. Discussion on community interaction and program operations.

REASON FOR CLOSING: The Subcommittee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determination by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

March 4, 1980.

[FR Doc. 80-7189 Filed 3-6-80; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50–317 and 50–318]

Baltimore Gas & Electric Co.; Consideration of Proposed Modification to Facilities' Spent Fuel Storage Pool

The United States Nuclear Regulatory Commission (the Commission) is considering the approval of a modification to the spent fuel storage pool of the Calvert Cliffs Nuclear Power Plant Units Nos. 1 and 2 (the facilities), located in Calvert County, Maryland. Operation of the facilities is authorized by Facility Operating Licenses Nos. DPR–53 and DPR–69, issued to Baltimore Gas and Electric Company (the licensee).

The facilities share a common pool that is divided in two sections and connected by a transfer canal. The existing racks in the Unit No. 2 (South) side of the pool were modified in 1977 to have a capacity for storage of 528 fuel assemblies, and the racks in the Unit No. 1 (North) side have the original design capacity for storage of 200 fuel assemblies. By application dated July 3, 1979, the licensee proposed modification to replace the existing racks in the Unit No. 1 side of the spent fuel pool with high density racks of a design capable of accommodating up to 840 fuel assemblies and to interchange storage of one facility's fuel in the other facility's side of the two-section pool. Notice of this proposed modification was published in the Federal Register on August 7, 1979 (44 FR 46371). In providing supplementary information, the licensee, by letter dated January 15, 1980, also proposed to modify the Unit No. 2 side of the spent fuel pool with high density racks. The January 15, 1980 proposed modification and subsequent use of the two-section pool would permit a total of 1,760 fuel assemblies to be stored in lieu of the 1,368 fuel assemblies proposed in the licensee's July 3, 1979 application. The modification will require changes to the Technical Specifications and issuance of a license amendment for each facility.

Prior to approval of the proposed modification and license amendments authorizing use of the modified pool, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By April 7, 1980, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and

any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert W. Reid: (petitioner's name and telephone number); (date petition was mailed); (Calvert Cliffs); and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to James A. Biddison, Jr., General Counsel, G and E Building, Charles Center, Baltimore, Maryland 21203, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 3, 1979, as modified January 15, 1980, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Calvert County Library, Prince Frederick, Maryland.

Dated at Bethesda, Maryland this 28th day of February 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 80-6952 Filed 3-6-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-483A and STN 50-486A]

Union Electric Co.; Notice of Receipt of Information for Antitrust Review of Operating License Application

The Union Electric Company filed Information for Antitrust Review of Operating License Application on January 21, 1980. This information was filed pursuant to 2.101 of the Commission's Rules and Regulations and is in connection with Union Electric Company's plans to operate two pressurized water reactors on a site located in Callaway County, Missouri. The two reactors have been designated as Callaway Plant, Units 1 and 2.

The portion of the application filed contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage.

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the Federal Register and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludedsthat there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the Federal Register notice. The results of any reevaluations that are requested will also be published in the Federal Register and copies sent to the Washington and local public document rooms.

A copy of the Information for Antitrust Review of Operating License Application is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the local public document rooms in the Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and in the Olin Library of Washington University, Skinker and Lindell Boulevard, St. Louis, Missouri 63130.

Any person who desires additional information regarding the matter

covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensee's activities since the construction permit antitrust reviews for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 Attention: Chief, Antitrust and Indemnity Group, Officer of Nuclear Reactor Regulation, on or before May 6, 1980.

Dated at Bethesda, Maryland this 26th day of February, 1980.

For the Nuclear Regulatory Commission.

Olan D. Parr,

Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 80-6953 Filed 3-6-80; 8:45 am]

BILLING CODE 7590-01-M

THE PRESIDENT'S MANAGEMENT IMPROVEMENT COUNCIL

Open Council Meeting

AGENCY: The President's Management Improvement Council.

ACTION: Notice of meeting.

SUMMARY: The purpose of this notice is to announce a meeting of the President's Management Improvement Council, as required by the Federal Advisory Committee Act.

DATE, TIME, AND PLACE: March 21, 1980, 10:00 a.m., 6th Floor Board Room, Federal Home Loan Bank Board, 17th and G Streets, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION: The Council will devote most of the meeting to a review and discussion of management improvement projects that it has undertaken in Federal agencies and programs and additional projects and activities that have been proposed for its consideration.

ADDRESS: Members of the public are invited to submit material in writing to the Executive Director of the Council concerning specific management improvement matters felt to be deserving of the Council's attention. Material should be addressed to: Executive Director, the President's Management Improvement Council, Room 5315, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Jan Bellis, 202-632-6104.

The President's Management Improvement Council.

Charles F. Bingman,

Executive Director.

February 29, 1980.

[FR Doc. 80-7110 Filed 3-6-80; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 11063; 812-4585, 812-4582]

Federated Money Market Trust and Trust for Cash Reserves; Notice of Filing of Applications for Orders Exempting Applicants from Provisions of the Act and Rules Thereunder

March 3, 1980.

Notice is hereby given that Federated Money Market Trust and Trust for Cash Reserves ("Applicants"), 421 Seventh Avenue, Pittsburgh, Pennsylvania 15219, registered under the Investment Company Act of 1940 ("Act") as open-end, diversified, management investment companies, filed applications on October 1, 1979, and December 14, 1979, respectively, requesting orders of the Commission, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder, to the extent necessary to permit Applicants' assets to be valued at amortized cost. All interested persons are referred to the applications on file with the Commission for statements of the representations contained therein, which are summarized below.

Applicants state that they are "money market" funds organized as Massachusetts business trusts and that Institutional Research Corp., and Cash Reserve Research Corp., respectively, wholly owned subsidiaries of Federated Investors, Inc., serve as their investment advisers. Applicants further state that they are designed as investment vehicles for investors with temporary cash balances or cash reserves seeking current income consistent with stability of principal, and that their portfolios may be invested in a variety of money market instruments. According to the application, Applicants do not invest in instruments issued by banks or savings and loan associations unless at the time of investment they have capital, surplus and undivided profits in excess of $100,000,000 at the date of their most recently published financial statements. The application states that Applicants' investments in commercial paper are limited to commercial paper rated A-1 by Standard and Poor's Corporation, Prime 1 by Moody's Investors Service, or F-1 by Fitch Investors Service.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the applications, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicants state that experience indicates that two features are necessary in a "money market" fund: (1) certainty of stability of principal and (2) steady flow of predictable and competitive investment income. Applicants assert that by maintaining portfolios of high quality, short-term money market instruments valued at amortized cost they can provide these features to investors. Applicants represent that their Trustees ("Management") have properly determined in good faith under the provisions of the Act to value the portfolios of Applicants by use of the amortized cost method and that this

method is in the best interest of their shareholders. According to the applications, experience has shown that, given the unique nature of Applicants' policies and operations, there should be a negligible discrepancy between prices obtained by the amortized cost method and those obtained by a market valuation method. Each Applicant further represents that: (1) its Management has determined in good faith, in light of the characteristics of Applicant, that the amortized cost method of valuation of portfolio instruments in appropriate and preferable to the use of a market based valuation method, and (2) its Management has further determined to continuously monitor valuations indicated by methods other than amortized cost so that any necessary changes in the valuation method may be made to assure that the valuation method being used is a fair approximation of fair value in view of all pertinent factors. Accordingly, Applicants request exemptions from Section 2(a)(41) of the Act, and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit their assets to be valued as set forth in the applications, and as described above, whether or not market quotations are available.

Section 6(c) of the Act provides, in part, that upon application the Commission 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 or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the exemptions they request satisfy these standards in view of their management policies and the conditions hereinafter set forth.

Each Applicant consents to the imposition of the following conditions in an order granting the relief it requests:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Management undertakes—as a particular responsibility within the overall duty of care owed to shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stablize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by Management shall be the following:

(a) Review by Management, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that Management will promptly consider what action, if any, should be initiated by Management.

(c) Where Management believes the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average maturity of portfolio instruments of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using market quotations.

3. Each Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that it will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Each Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1 above, and each Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of Management's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of Management's meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Each Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar denominated instruments which Management determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not so rated, of comparable quality as determined by Management.

6. Each Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to paragraph 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than March 26, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on any or all of these matters 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 or hearings thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulation promulgated under the Act, orders disposing of the applications will be issued as of course following said date unless the Commission thereafter orders a hearing or hearings upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to

[1] To fulfill this condition, each Applicant intends to use actual quotations or estimates of market value reflecting current market conditions chosen by Management in the exercise of its discretion to be appropriate indicators of value which may include, *Inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments published by reputable sources.

whether a hearing is ordered, will receive any notices and orders issued in these matters, including the date of any hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-7069 Filed 3-6-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-16602; File No. SR-PSE-79-17]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange Inc.

February 22, 1980.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, (June 4, 1975), notice is hereby given that on February 11, 1980, the above-mentioned self-regulatory organization ("SRO") filed with the Securities and Exchange Commission a proposed rule change as follows:

SRO's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE") hereby proposed to amend Rule VI, Sections 20, 39, 75, and 78 as follows (italics indicate additions and brackets indicate deletions):

Text of Proposed Rule Change. The Pacific Stock Exchange Incorporated ("PSE") proposes to amend the Rules of the Board of Governors as follows:

[Rule VI, Sec. 78. On a form or forms prescribed by the Exchange, a registered Market Maker may indicate a desire to be appointed to a particular class or classes of option contracts as part of a group consisting of two or more registered Market Makers, known as a Market Maker Unit. For purposes of Sections 75 and 79, a Market Maker Unit shall be treated as a single Market Maker. No Market Maker may be a participant in more than one Market Maker Unit.

Commentary:

.01 The Options Appointment Committee has established the following guidelines regarding the minimum number of appointments that Market Maker Units of various size shall accept: Units from 1 to 3 Market Makers, at least one stock; units of 4 to 5 Market Makers, at least two stocks; units of 6 to 8 Market Makers, at least three stocks; units of 9 to 10 Market Makers, at least four stocks.

.02 The Options Appointment Committee has determined that each Market Maker Unit must designate one of its members as coordinator. The Committee shall be kept currently informed of the name of the coordinator in each unit.]

Rule VI, Sec. 39. a. No change.

b. No change.

Commentary:

.01 No change.

.02 *The Options Floor Trading Committee has determined that, in order to insure that trading occurs in an open and public manner, all communications on the Floor among members, their clerks and messengers, and others authorized to enter transactions on the Options Trading Floor, shall be conducted in the English language.*

Rule VI, Sec. 20. All Exchange options transactions shall be submitted to the Exchange for comparison of trade information, and all compared transactions shall be cleared through the Options Clearing Corporation and shall be subject to the rules of the Options Clearing Corporation. *No member shall make any false statement or misrepresentation to the Options Clearing Corporation with respect to the reporting or clearance of any Exchange transaction or adjust any position at the Options Clearing Corporation in any class of options traded on the Exchange except that an adjustment for the purpose of correcting a bona fide error in recording or transferring a position as the result of an account transferring to another clearing member will be permitted.* Each member organization which is a clearing member of the Options Clearing Corporation shall file with the Exchange trade information in accordance with Section 55(d) for each Exchange option transaction for which such clearing member is responsible.

Sec. 75. On a form or forms prescribed by the Exchange, a registered Market Maker may apply for a Principal Appointment (having the obligations of Section 79(b)) and/or Supplemental Appointment (having obligations under Section 79(c)) in one or more classes of option contracts. From among those registered, the Options Appointment Committee shall ordinarily make two or more Principal Appointments for each class of option contracts and may make one or more Principal Supplemental Appointments for each class. In making such appointments, the Committee shall give attention to (a) the preference of registrants; (b) the maintenance and enhancement of competition among Market Makers in each class of option contracts; (c) assuring that the financial resources available to a Market Maker enable him to satisfy the obligations set forth in Section 79 with respect to each class of option contracts to which he is appointed[.]; *and (d) an applicant's prior performance as a Market Maker.* The Committee may arrange two or more classes of option contracts into groupings based, among other things, similar trading locations on the Floor, and may make appointments to these groupings rather than to individual classes. The Committee may suspend or terminate any appointment of a Market Maker under this Section and may appoint a Market Maker to additional classes of options contracts whenever, in the Committee's judgment, the interests of a fair and orderly market are best served by such action.

No appointment of a Market Maker shall be make without the Market Maker's consent to such appointment, provided that refusal to accept an appointment may be deemed a sufficient cause for termination or suspension of a Market Maker's registration.

A member or prospective member adversely affected by a determination made by the Options Appointment Committee under this Section may obtain a review of such determination by the Board of Governors.

Commentary:

.01 No Change.

.02 No Change.

SRO's Statement of Basis and Purpose

The bases and purposes of the foregoing proposed rule changes are as follows:

The purposes of the amendments to the rules are as follows:

Rule VI, Section 78. This Section has been deleted to remove a provision which is inconsistent with the Exchange's policy of not making primary appointments in the same securities to Market Makers from the same firm.

Rule VI, Section 39. The purpose is to reiterate the general understanding that all communications on the Floor must be in the English language.

Rule VI, Section 20. This Section has been amended to prohibit the furnishing of false information of Options Clearing Corporation ("OCC") and also prohibit the adjustment of any position at OCC except in cases of a bona fide error in recording or transferring a account at OCC. The reason for prohibiting adjustments is that such adjustments constitute of board transactions prohibited by Rule VI, Section 53. If such an adjustment is desired in case of a Floor Broker's trading error, the proper procedure is for the Floor Broker to take the transaction into his error account.

Rule VI, Section 75. This Section has been amended to provide that a Market Maker's prior performance will also be considered by the Options Appointment Committee in making appointments of Market Makers. This has been included in the criteria to ensure that priority is given to Market Makers who have been incompliance with Exchange requirements in prior periods.

Rule VI, Section 78 and 39. These Sections have been amended in order to further promote just and equitable principles of trade and also to prevent any fraudulent and manipulative practices. The PSE believes that the English language requirement in Section 39 is essential to a fair marketplace. Likewise, prohibiting two Market Makers from the same trading firm from being primarily assigned to the same trading crowd enhances the intergrity of the auction market.

The statutory basis for the rule changes in Section 6(b)(5) of the Securities Exchange Act of 1934.

The amendment to Rule VI, Section 20 is intended to promote just and equitable principles of trade by ensuring that transactions in option, other than those to correct errors, are effected on the Options Floor.

Finally, the amendment to Rule VI, Section 75 is intended to facilitate just and equitable principles of trade by considering Market Maker's performance of their obligations in making appointments. The PSE believes that this will encourage Market Makers to fulfill their responsibilities as Market Makers.

Comments have neither been solicited nor received from member on the proposed rule changes.

The proposed rule changes impose no burden upon competition.

Within 35 days of the date of publication of this notice in the Federal Register, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reasons for so finding or (ii) as to which the above-mentioned self-regulatory orgainzation consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 28, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

February 22, 1980.

[FR Doc. 80-7070 Filed 3-6-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region I Advisory Council; Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Augusta, Maine, will hold a public meeting at 12:00 noon, Thursday, March 27, 1980, at Hazel Green's Restaurant, 349 Water Street, Augusta, Maine, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Thomas A. McGillicuddy, District Director, U.S. Small Business Administration, 40 Western Avenue, Augusta, Maine—(207) 622-6171, Ext. 225.

Dated: March 3, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-7073 Filed 3-6-80; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of San Diego, California, will hold a public meeting from 12:00 noon to 2:30 p.m., Thursday, March 20, 1980, at the Kona Kai Club, San Diego, California, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Robert B. Strauss, District Director, U.S. Small Business Administration, 880 Front Street, Suite 4-S-29, San Diego, California 92188—(714) 895-5430.

Dated: March 3, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-7072 Filed 3-6-80; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council; Meeting

The Small Business Administration Region X Advisory Council, located in the geographical area of Anchorage, Alaska, will hold a public meeting at 10:00 a.m., Friday, April 18, 1980, at the Small Business Administration's District Office located at 1016 W. Sixth Avenue, Suite 200, Anchorage, Alaska, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Frank D. Cox, District Director, U.S. Small Business Administration, 1016 W. Sixth Avenue, Suite 200, Anchorage, Alaska 99501—(907) 271-4022.

Dated: March 3, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-7071 Filed 3-6-80; 8:45 am]

BILLING CODE 8025-01-M

[Licence No. 10/10-0170]

Washington Trust Equity Corp.; Issuance of a Small Business Investment Company License

On January 30, 1980, a notice was published in the Federal Register (45 FR 6876) stating that an application has been filed by Washington Trust Equity Corporation, Washington Trust Financial Center, West 717 Sprague Avenue, Spokane, Washington 99210, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102(1979)) for a license as a small business investment company.

Interested parties were given until close of business February 14, 1980, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 10/10-0170 on February 21, 1980, to Washington Trust Equity Corporation to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: February 29, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 80-7232 Filed 3-6-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Memorandum of Agreement 2-80 on Occupational Health Standards for Workplaces Aboard Inspected Vessels

Note.—This document originally appeared in the Federal Register for Thursday, March 6, 1980. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Occupational Safety and Health Administration.

This memorandum of agreement is entered into by the United States Coast Guard (USCG), Department of Transportation, and the Occupational Safety and Health Administration (OSHA), Department of Labor(OSHA).

I. Purpose

The Purpose of this agreement is to set forth basic guidelines for cooperation between the two agencies in establishing health standards to protect worker health while eliminating possible interagency conflicts and duplication of effort.

II. USCG Authority

The Commandant of the U.S. Coast Guard has statutory authority, under the Marine Inspection Laws, to promulgate and enforce safety and health standards regarding working conditions of employees on vessels subject to Coast Guard inspection and certification.

III. OSHA Authority

OSHA has a general statutory authority to assure safe and healthful working conditions for working men and women under the Occupational Safety and Health Act of 1970 (29 USC 651, et seq.). Section 4(b)(1) of the Act defines the relationship between OSHA and the other Federal agencies whose exercise of statutory responsibilities may affect occupational health.

IV. Cooperative Health Standards Development

Because both USCG and OSHA have statutory authority relating to occupational health within the maritime industry, cooperation between the agencies is essential in the area of health standards development.

The USCG and OSHA agree to cooperate with the express purpose of establishing health standards addressing significant health hazards not presently covered by existing standards, and having application to working conditions in the maritime industry.

The two agencies also agree to notify each other promptly when either agency is contemplating the issuance of a new health standard or modification of an existing health standard.

V. Long Term Objectives

The two agencies will within one year develop an MOU which will address more specifically the procedures for this cooperation including details for the development of consistent occupational health standards, types of liaison and review mechanisms, methods to communicate difficulties which may arise and provisions for how any future changes or amendments to the MOU will be handled.

VI. Savings Provision

Nothing in this memorandum shall be deemed to alter, amend, or affect in any way the statutory authority of OSHA or USCG.

This memorandum shall become effective on the date of the last signature.

Signed at Washington, D.C. this February 14, 1980.

J. B. Hayes,

Commandant, United States Coast Guard, Department of Transportation.

Eula Bingham

Assistant Secretary for Occupational Safety and Health, Department of Labor.

[FR Doc. 80-7007 Filed 3-5-80; 8:45 am]

BILLING CODE 4510-26-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 47
Friday, March 7, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Wednesday, February 27, 1980—Vol. 45, No. 40—page 12945.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., March 7, 1980.

CHANGES IN THE MEETING: The meeting has been canceled.

[S-457-80 Filed 3-5-80; 1:59 pm]

BILLING CODE 6351-01-M

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: March 13, 1980, 10 a.m.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
2. Farrell Lines Incorporated, Pacific Islands Transport Line, Ltd., and Polynesia Line, Ltd.—General rate increases of ten percent with variance, applicable in the Pacific Coast and Hawaii/American Samoa Trade.
3. Docket No. 79-60: The Filing with the Commission of Cargo Statistics—Review of comments submitted in response to notice of proposed rulemaking.
4. Docket No. 79-1:Amendments to Part 531 of Title 46 CFR Governing the Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce (General Order No. 38).
5. North Atlantic Bridge Agreement—Dismissal of court proceeding.
6. Docket No. 79-51: Procedures for Environmental Policy Analysis Proposed Rulemaking—Proposed final rules.
7. Docket No. 76-11—IN RE: Agreements 150-DR-7 and 3103 DR-7—Petition for reconsideration of Commission decision.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-461-80 Filed 3-5-80; 3:51 pm]

BILLING CODE 6730-01-M

3

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 10 a.m., Wednesday, March 12, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed purchase of computer equipment by the Federal Reserve Bank of New York.

Discussion Agenda

1. Proposed amendments to the interagency policy statement concerning bank participation in financial futures, forward and standby contracts on U.S. government and agency securities. (Proposed earlier for public comment; Docket No. R-0261).
2. 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.

Date: March 5, 1980.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-459-80 Filed 3-5-80; 3:00 pm]

BILLING CODE 6210-01-M

4

NATIONAL CREDIT UNION ADMINISTRATION.

Notice of previously held emergency meeting.

TIME AND DATE: 9:45 a.m., Friday, February 8, 1980.

PLACE: 1776 G St., NW., Washington, D.C., Room 6060.

STATUS: Closed.

MATTER CONSIDERED:

1. Proposed legislation concerning language changes to proposed legislation.

Background

Since an immediate response to a congressional inquiry was required, the Board unanimously voted that the agency business required that a meeting be held with less than seven days advance notice.

The Board unanimously voted to close the meeting under exemption (9)(B). The General Counsel certified that the meeting could be closed under this exemption.

FOR MORE INFORMATION, CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-453-80 Filed 3-5-80; 11:08 am]

BILLING CODE 7535-01-M

5

NATIONAL CREDIT UNION ADMINISTRATION.

NOTICE OF PREVIOUSLY HELD EMERGENCY MEETING.

TIME AND DATE: 11:30 a.m., Wednesday, February 27, 1980.

PLACE: 1776 G Street NW., Washington, D.C. 7th Floor Board Room.

STATUS: Open.

MATTER CONSIDERED: Request from Interagency Coordinating Committee that its member agencies consider amending their share certificate regulations because of the significant changes in the money markets. The two Board Members present, Chairman Lawrence Connell and Board Member Harold Alonza Black determined that seven days advance notice on this item was not possible and unanimously voted to consider it at that time.

FOR FURTHER INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, (202) 357-1100.

[S-454-80 Filed 3-5-80; 11:08 am]

BILLING CODE 7535-01-M

6

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Tuesday, March 11, 1980.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

10 a.m.

Briefing on Progress, Status and Plans of the Institute of Nuclear Power Operations (approximately 2 hours, public meeting).

2 p.m.

Briefing by Executive Branch on Non-Proliferation Matters (approximately 1½ hours, closed—exemption 1).

ADDITIONAL INFORMATION: The briefing for 2 p.m., Wednesday, March 5, Briefing, on Interim Actions on Performance Testing for Personnel Dosimetry, was cancelled.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, (202) 634-1410.

Roger M. Tweed,

Office of the Secretary.

March 4, 1980.

[S-458-80 Filed 3-5-80; 1:59 pm]

BILLING CODE 7590-01-M

7

POSTAL SERVICE (Board of Governors).

Notice of Vote to Close Meeting.

On March 4, 1980, the Board of Governors of the United States Postal Service voted to close to public observation its next meeting, which it scheduled for 2 p.m. on March 31, 1980, (the afternoon before the Board's April meeting). Each of the members of the Board except Mr. Hardesty, who was absent when the vote was taken, voted in favor of closing this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching, and Sullivan; Postmaster General Bolger; Deputy Postmaster General Conway; Senior Assistant Postmaster General Finch; and Secretary of the Board Cox.

The portion of the meeting to be closed will consist of a continuation of the discussion of the Postal Service's possible strategies concerning future postal ratemaking which was commenced at the Board's meeting of December 4, 1979, and continued at its meetings of January 7, February 6, and March 4, 1980.

The Board is of the opinion that public access to the planned discussion of future postal ratemaking strategies would be likely to disclose matters whose disclosure would be inconsistent with the public's interest in having the Board able to provide policy guidance to postal management on ratemaking issues on the basis of candid exploration of those issues, without concern for unreasonably influencing particular litigation. A number of these issues are likely to be the subjects both of administrative litigation during the course of the Postal Service's next general rate proceeding before the Postal Rate Commission and of the appellate judicial litigation which will probably follow that proceeding.

Accordingly the Board of Governors has determined that, pursuant to section 552b(c)(3) of title 5, United States Code, and section 7.3(c) of title 39, Code of Federal Regulations, the portion of the meeting to be closed is exempt from the open meeting requirement of the Government in the Sunshine Act (5 U.S.C. § 552b(b)), in that it is likely to disclose information prepared for use in connection with proceedings under chapter 36 of title 39 (having to do with postal ratemaking, mail classification, and postal service), which is specifically exempted from disclosure by section 410 (c) (4) of title 39. The Board determined further that, pursuant to section 552b (c) (10) of title 5 and section 7.3(j) of title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern the participation of the Postal Service in a civil action or proceeding. Finally, the Board of Governors has determined that the public interest does not require that the Board's discussion of its possible ratemaking strategies and positions be open to the public.

In accordance with section 552b (f) (1) of title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation, pursuant to sections 552b(c)(3), and 552b(c)(10) of title 5 and section 410(c)(4) of title 39, United States Code, and section 7.3(c) and 7.3(j) of title 39, Code of Federal Regulations.

Louis A. Cox,

Secretary.

[S-462-80 Filed 3-5-80; 4:01 pm]

BILLING CODE 7710-12-M

8

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of March 10, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, March 11, 1980, at 10 a.m. and immediately following the 2:30 p.m. open meeting. Open meetings will be held on Tuesday, March 11, 1980, at 2:30 p.m. and on Thursday, March 13, 1980, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis and Evans determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, March 11, 1980, at 10 a.m., will be:

Formal orders of investigation.
Amendment to institution of administrative proceeding of an enforcement nature.
Dismissal of injunctive action.
Access to investigative files by Federal, State, or Self-Regulatory Authorities.
Freedom of Information Act appeal.
Settlement of administrative proceeding of an enforcement nature.
Application for reentry into employment in the securities industry.
Institution of injunctive action.
Settlement and report of investigation.
Litigation matters.
Freedom of Information Act and Privacy Act appeals.

The subject matter of the closed meeting scheduled for Tuesday, March 11, 1980, immediately following the 2:30 p.m. open meeting, will be:

Post oral argument discussion.

The subject matter of the open meeting scheduled for Tuesday, March 11, 1980, at 2:30 p.m., will be:

Oral argument on petitions by Oppenheimer & Company, Inc., a registered broker-dealer, and by the Commission's Division of Enforcement for review of the initial decision of an administrative law judge. The law judge found that Oppenheimer violated the reporting requirements of the Securities Exchange Act when it failed to file a Schedule 13D statement within 10 days after acquiring more than 5% of the outstanding common stock of Medcom, Inc. on May 17, 1974. For further information, please contact R. Moshe Simon at (202) 272-2752.

The subject matter of the open meeting scheduled for Thursday, March 13, 1980, at 10 a.m., will be:

Consideration of whether to grant the request of Skadden, Arps, Slate, Meagher & Flom for a waiver of imputed disqualification pursuant to 17 CFR 200.735-8(e). For further information, please contact Myrna Seigel at (202) 272-2430.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Lowenstein at (202) 272-2092.

March 4, 1980.

[S-455-80 Filed 3-5-80; 12:21 pm]

BILLING CODE 8010-01-M

9

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published].

STATUS: Open Meeting/Closed Meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, February 27, 1980

CHANGES IN THE MEETING: Additional items and rescheduling.

The following additional item will be considered at an open meeting scheduled for Wednesday, March 5, 1980, at 10 a.m.

Consideration of whether to grant the request of Alfred E. Osborne, Jr. for an exemption from Rule 2G of the Commission's Conduct Regulation. For further information, please contact Myrna Siegel at (202) 272-2430.

The following closed item scheduled for Tuesday, March 4, 1980, at 10 a.m., has been rescheduled for Wednesday, March 5, 1980, at 10 a.m.

Institution of injunctive action and administrative proceeding.

The following additional items will be considered at a closed meeting scheduled for Wednesday, March 5, 1980, immediately following the open meeting.

Formal order of investigation and regulatory matter bearing enforcement implications.

Institution of injunctive action.

Settlement of injunctive action.

Chairman Williams and Commissioners Loomis and Evans determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Granda at (202) 272-2091.

March 4, 1980.

[S-456-80 Filed 3-5-80; 12:21 pm]

BILLING CODE 8010-01-M

10

TENNESSEE VALLEY AUTHORITY.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR Page 13864 (March 3, 1980).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, March 6, 1980.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTER: The following item is added to the previously announced agenda:

E. Real Property Transactions

Grant of a permanent easement to City of Kingston, Tennessee, for a new water treatment plant and appurtenances, affecting approximately 4.5 acres of Watts Bar Reservoir land in Roane County, Tennessee—Tract XTWRR-130WT.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Approved:

S. David Freeman.

Richard M. Freeman.

Rovert N. Clement.

Disapproved: (None).

Dated: March 5, 1980.

[S-468-8 Filed 3-5-80; 3:00 pm]

BILLING CODE 8120-01-M

Friday-
March 7, 1980

Federal Register

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

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 on construction projects 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. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction 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 Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Alabama:	
AL79-1142	Nov. 23, 1979.
Arizona:	
AZ79-5100	Feb. 9, 1979.
California:	
CA78-5122	Aug. 11, 1978.
CA78-5123	Aug. 18, 1978.
Florida:	
FL78-1051	May 26, 1978.
FL80-1034	Jan. 18, 1980.
FL80-1035	Jan. 4, 1980.
FL80-1036	Jan. 4, 1980.
FL80-1037	Jan. 4, 1980.
FL80-1045	Jan. 18, 1980.
FL79-1068	Apr. 13, 1979.
Louisiana:	
LA80-4014	Jan. 25, 1980.
Maine:	
ME80-2005	Feb. 22, 1980.
Maryland:	
MD79-3026	Aug. 31, 1979.
Minnesota:	
MN79-2021	May 4, 1979.
MN79-2022	May 4, 1979.
MN79-2023	May 4, 1979.
MN79-2024	May 4, 1979.
MN79-2025	May 4, 1979.
Nebraska:	
NE80-4013	Jan. 25, 1980.
Nevada:	
NV79-5102	Mar. 9, 1979.
NV79-5107	Mar. 9, 1979.
NV79-5131	Aug. 31, 1979.
NV80-5100	Feb. 1, 1980.
New Mexico:	
NM79-4103	Nov. 2, 1979.
Ohio:	
OH78-2148	Nov. 13, 1978.
OH79-2086	Dec. 21, 1979.
Oklahoma:	
OK79-4098	Nov. 23, 1979.
Pennsylvania:	
PA79-3012	May 18, 1979.
Texas:	
TX79-4032	Mar. 16, 1979.
TX79-4035	Sept. 28, 1979.
TX79-4037	June 1, 1979.
TX79-4039	Mar. 16, 1979.
TX79-4041	Sept. 28, 1979.
TX79-4043	Sept. 28, 1979.
TX79-4051	May 4, 1979.
TX80-4001	Jan. 4, 1980.
TX80-4005	Jan. 4, 1980.
TX80-4006	Jan. 4, 1980.

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.

Massachusetts:
MA78-2086(MA80-2001) ..... Sept. 22, 1978.
New Hampshire:
NH80-2046(NH80-2008) ..... May 11, 1979.
New York:
NY79-3022(NY80-3006) ..... July 20, 1979.
Ohio:
OH77-2089(OH80-2003) ..... May 20, 1977.
Oregon:
OR78-5117(OR80-5108) ..... July 21, 1978.
Washington:
WA79-5126(WA80-5107) ..... July 20, 1979.

Cancellation of General Wage Determination Decisions

The general wage decisions listed below are cancelled. Agencies with residential construction projects contemplated in the Counties should utilize the project determination procedure by submitting Form SF 308 (See 29 CFR Part 1, Section 1.5). Contracts for which bids have been opened shall not be affected by this notice. Consistent with 29 CFR Part 1, Section 1.7(b)(2), inclusion of the decisions in contracts for which the bid opening is within ten (10) days of this notice need not be affected.

IN77-2020, Clay County, Indiana—Residential Construction
IN77-2024, Greene County, Indiana—Residential Construction

Signed at Washington, D.C., this 29th day of February 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATION PAGE 1

DECISION # AL79-1142 - MOD. #2 (44 FR 67305 - November 23, 1979) Lawerence, Limestone and Morgan Counties, Alabama	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters:					
Carpenters & Soft Floor Layers	$9.20	.55	.45		.05
Millwrights	9.85	.55	.45		.05
Piledrivermen	9.60	.55	.45		.05

MODIFICATION PAGE 2

DECISION NO. AZ79-5100 - Mod. #9 (44 FR 8482-February 9, 1979) Statewide, Arizona	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Flagstaff Area:					
Zone A	$13.80	.96	3%+.88		1/2%
Zone B	16.35	.96	3%+.88		1/2%
Phoenix Area:					
Zone A	14.85	.96	3%+.88		3/4%
Zone B	16.85	.96	3%+.88		3/4%
Zone C	17.85	.96	3%+.88		3/4%
Glaziers	12.17	.90	.30		.01
Ironworkers:					
Central and Southern Areas	13.35	1.54	2.57		.11
Northern Area	15.61	1.54	2.57		.11
Line Construction:					
Zone 1:					
Groundmen	11.09	1.00	3%+2.00		1/2%
Equipment Operator; Powdermen; Mechanics	13.10	1.00	3%+2.00		1/2%
Linemen; Technicians; Crane Operators	14.76	1.00	3%+2.00		1/2%
Cable Splicers	15.19	1.00	3%+2.00		1/2%
Zone 1-A:					
Groundmen	12.00	1.00	3%+2.00		1/2%
Equipment Operator; Powdermen; Mechanics	13.93	1.00	3%+2.00		1/2%
Linemen; Technicians; Crane Operators	15.65	1.00	3%+2.00		1/2%
Cable Splicers	16.17	1.00	3%+2.00		1/2%
Zone 2:					
Groundmen	12.85	1.00	3%+2.00		1/2%
Equipment Operator; Powdermen; Mechanics	14.79	1.00	3%+2.00		1/2%
Linemen; Technicians; Crane Operators	16.51	1.00	3%+2.00		1/2%
Cable Splicers	16.98	1.00	3%+2.00		1/2%
Painters:					
Tucson and Yuma Areas:					
Zone A:					
Brush	10.29	.77	.45		.08
Spray & Sandblasters	10.79	.77	.45		.08
Paperhangers	10.43	.77	.45		.08

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Swing Stage, under 40 ft.:					
Brush	$10.59	.77	.45		.08
Spray	11.09	.77	.45		.08
Swing Stage, over 40 ft.:					
Brush	11.04	.77	.45		.08
Spray	11.54	.77	.45		.08
Structural Steel and Tanks:					
Brush	11.29	.77	.45		.08
Spray & Sandblasters	11.79	.77	.45		.08
Zone B:					
Brush	11.04	.77	.45		.08
Spray and Sandblasters	11.54	.77	.45		.08
Paperhangers	11.18	.77	.45		.08
Swing Stage, under 40 ft.:					
Brush	11.34	.77	.45		.08
Spray	11.84	.77	.45		.08
Swing Stage, over 40 ft.:					
Brush	11.79	.77	.45		.08
Spray	12.29	.77	.45		.08
Structural Steel and Tanks:					
Brush	12.04	.77	.45		.08
Spray & Sandblasters	12.54	.77	.45		.08
Zone C:					
Brush	11.79	.77	.45		.08
Spray	12.29	.77	.45		.08
Paperhangers	11.93	.77	.45		.08
Swing Stage, under 40 ft.:					
Brush	12.09	.77	.45		.08
Spray	12.59	.77	.45		.08
Swing Stage, over 40 ft.:					
Brush	12.54	.77	.45		.08
Spray	13.04	.77	.45		.08
Structural Steel and Tanks:					
Brush	12.79	.77	.45		.08
Spray & Sandblasters	13.29	.77	.45		.08

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone D:					
Brush	$12.29	.77	.45		.08
Spray	12.79	.77	.45		.08
Paperhangers	12.43	.77	.45		.08
Swing Stage, under 40 ft.:					
Brush	12.59	.77	.45		.08
Spray	13.09	.77	.45		.08
Swing Stage, over 40 ft.:					
Brush	13.04	.77	.45		.08
Spray	13.54	.77	.45		.08
Structural Steel and Tanks:					
Brush	13.29	.77	.45		.08
Spray & Sandblasters	13.79	.77	.45		.08
Roofers:					
Phoenix Area:					
Roofers and Waterproofers	11.66	1.095	.45		.05
Tucson Area:					
Asbestos; Shinglers; Tile and Waterproofing:					
Zone A	10.77	1.095	.20		.03
Zone B	13.02	1.095	.20		.03
Sheet Metal Workers:					
Apache, Coconino, Gila, Graham County (north of 33rd Parallel), Greenlee County (north of 33rd Parallel), Maricopa, Mohave, Navajo, Pinal County (north of 33rd Parallel), Yavapai, Yuma Counties:					
Zone 1	13.865	1.00	1.515		.12
Zone 2	14.515	1.00	1.515		.12
Zone 3	16.365	1.00	1.515		.12
Sprinkler Fitters	14.48	.75	1.05		.08

MODIFICATION PAGE 5

DECISION NO. CA78-5122 - Mod. #7
(43 FR 35835-August 11, 1978)

Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Change:					
Carpenters:					
Carpenters	$11 57	$1.63	$2 16	$1 00	.09
Saw Filers	11 65	1 63	2 16	1 00	09
Table Power Saw Operators	11 67	1.63	2 16	1 00	.09
Shinglers; Piledrivermen; Bridge or Dock Carpenters; Derrick Bargemen; Rock Slinger	11 70	1 63	2 16	1 00	.09
Hardwood Floor Layers	11 77	1 63	2 16	1 00	09
Millwrights	12 07	1 63	2 16	1 00	09
Add:					
Electricians:					
Kern County:					
Electricians; Technicians	16 00	1 10	3%+1.95		.15
Cable Splicers	17 60	1 10	3%+1 95		15
Omit:					
Electricians:					
Kern (China Lake Naval Ordnance Test Station Edwards AFB):					
Electricians; Technicians	16 75	1 00	3%+1 75		15
Cable Splicers	18 43	1 00	3%+1 75		15
Kern County (Remainder of County):					
Electricians; Technicians	13 75	1 00	3%+1 75		.15
Cable Splicers	15 13	1.00	3%+1.75		.15

MODIFICATION PAGE 6

DECISION NO. CA78-5123 - Mod. #9
(43 FR 36839-August 18, 1978)

Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Change:					
Carpenters:					
Carpenters	$11 57	$1 63	$2 16	$1 00	09
Saw Filers	11 65	1 63	2 16	1 00	.09
Table Power Saw Ops	11 67	1 63	2 16	1 00	09
Shinglers; Piledrivermen; Bridge or Dock Carpenters; Derrick Bargemen; Rock Slinger	11 70	1 63	2 16	1 00	09
Hardwood Floor Layers	11 77	1.63	2.16	1.00	09
Pneumatic Nailer	11.82	1.63	2 16	1 00	09
Millwrights	12 07	1 63	2 16	1 00	09
Add:					
Electricians:					
Kern County:					
Electricians; Technicians	16 00	1 10	3%+1 95		15
Cable Splicers	17 60	1 10	3%+1 95		15
Omit:					
Electricians:					
Kern (China Lake Naval Ordnance Test Station, Edwards AFB):					
Electricians, Technicians	16 75	1 00	3%+1 75		.15
Cable Splicers	18 43	1 00	3%+1 75		15
Kern County (Remainder of County):					
Electricians; Technicians	13.75	1 00	3%+1 75		.15
Cable Splicers	15.13	1 00	3%+1 75		15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #FL78-1051-Mod.#1 (43 FR-22911-May 26, 1978) Broward & Palm Beach Counties, Florida Change: Description of Work to Read: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)					
Decision #FL80-1034-Mod.# 1 (45 FR-3861-January 18,1980) Charlotee, Collier, DeSoto, Glades, Hardee, Hendry, Highland, Lee, Monroe, and Okeechobee Counties, Florida Change: Description of Work to Read: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision #FL80-1035-Mod. #1 (45 FR-1343-January 4, 1980) Baker, Clay, Duval, Flagler, Nassau, and St. Johns Counties, Florida. Change: Description of Work to Read: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)					
Decision #FL80-1036-Mod. #1 (45 FR-1343-January 4, 1980) Bay, Escambia, Gulf, Okaloosa, Santa Rosa, and Walton Counties, Florida. Change: Description of Work to Read: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)					

MODIFICATION PAGE 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Decision #FL80-1037-Mod. #1 (45-FR-1342-January 4, 1980) Alachua, Bradford, Calhoun, Citrus, Columbia, Dixie, Franklin, Gadsden, Gilcrist, Hamilton, Hernando, Holmes, Jackson, Jefferson, Lake, Lafayette, Leon, Levy, Liberty, Madison, Marion, Pasco, Putnam, Sumter, Suwannee, Taylor, Union, Wakulla, and Washington, Counties, Florida					
Change: Description of Work to Read: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)					

MODIFICATION PAGE 10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Decision #FL80-1045-Mod.#1 (45 FR-3862-January 18,1980) Brevard and Volusia (excluding Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center and Melabar Radar Site), Hillsborough, Indian River, Manatee, Martin, Orange, Osceola, Pinellas, Polk, St.Lucie, Sarasota, and Seminole Counties, Florida					
Change: Description of Work to Read: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)					

Decision #FL79-1068 Mod. #8	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(44 FR 22309 April 13, 1979) Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center and Melabar Radar Site, Florida					
Change:					
Electricians:					
Base Zone (within 40 miles of Daytona Beach):					
Electricians	10.04	.50	3%+.83		.05
Cable splicers	10.29	.50	3%+.83		.05
Zone 1 (all work beyond 40 miles from Daytona Beach and not accessible by public roads & including power generation plants and industrial over $3,000,000 total permit):					
Electricians	11.42	.50	3%+.83		.05
Cable splicers	11.67	.50	3%+.83		.05
Power Equipment Operators:					
Group I	10.30	.55	.40		.05
Group II	9.70	.55	.40		.05
Group III	9.20	.55	.40		.05
Group IV	8.80	.55	.40		.05
Group V	8.10	.55	.40		.05

DECISION NO. LA80-4014 - MOD. #3 (45 FR 6294 - January 25, 1980) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians:					
Zone 4 - Electricians	$13.35	.70	3%		2/10%
Cable splicers	13.60	.70	3%		2/10%
Elevator constructors:					
Zone 1 - Mechanics	10.575	.745	.56	4%+a+b	.025
Zone 2 - Mechanics	10.64	.895	.69	4%+a+b	.035
Line construction:					
Zone 4:					
Linemen, equipment ops.	13.35	.70	3%		
Cable splicers	13.60	.70	3%		
Groundmen	50%JR	.70	3%		
Plumbers & pipefitters:					
Zone 1	12.15	.60	.90		.10
Power equipment ops. (Highway Construction):					
Group 10 - Zone 6	4.56	.25	.30		.05
Zone 7	4.06	.25	.30		.05

MODIFICATION PAGE 13

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION NO. ME80-2005 - MOD. # 1 (44 FR 12085 - February 22, 1980					
Statewide, Maine					
Change:					
Under Power Equipment Operators:					
Omit:					
Asphalt Rakers:					
Add:					
Asphalt Pavers:					
Androscoggin & Cumberland	$5 60				
Aroostook	5 57				
Franklin	5 17				
Hancock, Penobscot & Washington	5 82				
Kennebec, Lincoln & Sagadahoc	5 00				
Knox	5 61				
Oxford	4 96				
Piscataquis	6 00				
Somerset	4 79				
Waldo	5 56				
York	5 68				
DECISION NO. MD79-3026 - Mod. #1 (44 FR 51479 - Aug 31,1979) Cecil County, Maryland					
Omit:					
Building Projects Construction from the Description of Work					

MODIFICATION PAGE 14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION #MN79-2021-Mod. #2 (44 FR-26463-May 4, 1979) Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington Counties, Minnesota					
CHANGE:					
ASBESTOS WORKERS	$12 81	60	1 00		14
ELECTRICIANS:					
RESIDENTIAL					
Dakota, Ramsey, Washington Counties and Remainder of Annoka Counties: Construction of all new family dwellings up to and including 4-plexes, townhouses of 4 or less contiguous units; and to all residential remodeling, rewiring and repairing except that any single apartment project including a change of main service entrance shall not exceed 8 living units or 400 amps	9 25	50	3%	7%	3/4of1%
PLASTERERS:					
Dakota, Ramsey & Washington Counties	11 10	70	50	90	01
Remaining Counties	11 55	50	45		02
Sprinkler fitters	12 83	75	1.05		02
TRUCK DRIVERS:					
Building, Site Preparation Excavation & Incidential Paving					
Group 1	10 35	65	50		
Group 2	9 95	65	50		
Group 3	9 85	65	50		
Group 4	9 65	65	50		

DECISION # MN79-2022-Mod.#2	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(44 FR-26468-May 4, 1979) Blue Earth, Fairbault, Freeborn & Mower Counties, Minnesota					
CHANGE:					
ASBESTOS WORKERS	$12.81	.60	1.00		.14
GLAZIERS:					
Blue Earth County	11.51			.30	
PLUMBERS & STEAMFITTERS					
Remainder of Counties	13.26	.50	.20		.02
ROOFERS:					
Remainder of Counties	11.10	.65			
Sheet Metal Workers	11.19	.60	.66		.06
Sprinkler fitters	13.15	.75	1.05		.08
TRUCK DRIVERS:					
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING					
FARIBAULT COUNTY:					
Group 1	9.17	.65	.50		
Group 2	8.77	.65	.50		
Group 3	8.67	.65	.50		
Group 4	8.47	.65	.50		
BLUE EARTH COUNTY:					
Group 1	9.77	.65	.50		
Group 2	9.37	.65	.50		
Group 3	9.27	.65	.50		
Group 4	9.07	.65	.50		
FREEBORN & MOWER COUNTIES:					
Group 1	10.30	.65	.50		
Group 2	9.90	.65	.50		
Group 3	9.80	.65	.50		
Group 4	9.60	.65	.50		

Decision #MN79-2023-Mod. #2	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(44 FR-26473-May 4, 1979) Olmsted County, Minnesota					
CHANGE:					
Asbestos Workers	$12.81	.60	1.00		.14
Cement Masons & Plasterers	11.75				
Ironworkers	12.20	.85	.80		.04
Plumbers & Steamfitters	13.26	.50	.20		.02
Sheet Metal Workers	11.19	.60	.66		.06
Sprinkler fitters	13.15	.75	1.05		.08
TRUCK DRIVERS:					
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING					
Group 1	10.30	.65	.50		
Group 2	9.90	.65	.50		
Group 3	9.80	.65	.50		
Group 4	9.60	.65	.50		

Decision #MN79-2024-Mod.# 2 (44 FR-26476-May 4, 1979) Benton, Sherburne & Stearns Counties, Minnesota	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE:					
Asbestos Workers	$12 81	60	1 00		14
CARPENTERS:					
Stearns Co; Remainder of Benton & Sherburne Cos:					
Carpenters, Millwrights and Piledrivermen	11 78	50			
CEMENT MASONS:					
BUILDING CONSTRUCTION					
Sherburne County					
Plasterers	11 10	70	50	90	01
ELECTRICIANS:					
Benton & Stearns Counties, Twps. of Haven, Palmer, Santiago, Becker & Clear Lake in Sherburne County:					
Jobs Under $50,000	10 40	7%	6%	10 5%	3/4of1%
IRONWORKERS	12 20	85	80		
PAINTERS					
Benton & Stearns Counties and the remainder of Sherburne County:					
Brush & Roller	9 25	50	40		11
Structural Steel & Spray	10 25	50	40		11
Tapers	9 65	50	40		11
ROOFERS	10 10		30	50	
SHEET METAL WORKERS	11 66	52	72		08
SPRINKLER FITTERS	13 15	75	1 05		08
TRUCK DRIVERS:					
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING					
SHERBURNE COUNTY:					
Group 1	10 35	65	50		
Group 2	9 95	65	50		
Group 3	9 85	65	50		
Group 4	9 65	65	50		
BENTON & STEARNS COUNTIES					
Group 1	9 17	65	50		
Group 2	8 77	65	50		
Group 3	8 67	65	50		
Group 4	8.47	65	50		

Decision #MN79-2025-Mod.#2 (44 FR-26484-May 4, 1979) Carlton, Cook, Itasca, Koochiching, Lake and St Louis Counties, Minnesota	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CHANGE:					
BRICKLAYERS:					
BRICKLAYERS & STONEMASONS:					
Cook, Lake, Carlton Cos; & all that part of St Louis County South of line between township 54 & 55 to 2 miles north of cotton	12 26	50	30		
Itasca County & the Northern half of St Louis County	12.175	40	30		
CARPENTERS:					
CARLTON COUNTY:					
Carpenters & Piledrivermen	10 80	40	40	50	
CEMENT MASONS & PLASTERERS:					
Itasca County and the Northern portion of St. Louis County North of the White Face River					
Cement Masons	11 45	40			
Plasterers	12 10	40			
Ironworkers	11 55	50	80	1 00	02
MARBLE, TILE & TERRAZZO WORKERS					
St. Louis County (City of Doluth) Marble & Tile Setters	11 53	40	30		
PLUMBERS & STEAMFITTERS:					
Koochiching County	13 225	75	75		
Itasca County & Northern portion of St Louis & Lake Counties	12 00	56	92	1 15	05

Decision No. MN79-2025 - Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Cook, Lake & Carlton Cos; & Southern ½ of St. Louis County:					
Roofers	11.43	.40	.35	1.25	
2nd Roofers	11.18	.40	.35	1.25	
Kettlemen	10.98	.40	.35	1.25	
Itasca & Koochiching Cos; & the Northern ½ of St. Louis County:					
1st Roofer	11.42	.52	.96		
2ns Roofers	11.09	.52	.96		
SHEET METAL WORKERS:					
Itasca & Koochiching Counties & the Northern ½ of St. Louis County	12.59	.52	.96		.06
TRUCK DRIVERS:					
BUILDING SITE PREPARATION EXCAVATION & INCIDENTIAL PAVING					
Cook, Lake, Carlton & St. Louis Counties					
Group 1	10.35	.65	.50		
Group 2	9.95	.65	.50		
Group 3	9.85	.65	.50		
Group 4	9.65	.65	.50		
SITE PREPARATION, EXCAVATION & INCIDENTIAL PAVING					
Itasca & Koochiching Cos.					
Group 1	9.17	.65	.50		
Group 2	8.77	.65	.50		
Group 3	8.67	.65	.50		
Group 4	8.47	.65	.50		

DECISION #NE80-4013 - Mod. #1 (45 FR 6309 - January 25, 1980) Cass, Douglas, Sarpy, Washington, & that portion of Saunders County East of Highway #109, Nebraska	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters	$11.71	.82	.70		.05
Power Equipment Operator:					
Group 1	8.31	.65	.82		
Group 2	8.40	.65	.82		
Group 3	8.87	.65	.82		
Group 4	9.31	.65	.82		
Group 5	10.35	.65	.82		
Group 6	10.60	.65	.82		
Group 7	10.80	.65	.82		
Group 8	10.99	.65	.82		

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DECISION NO. NV79-5102 - Mod. #4

(44 FR 13221 - March 9, 1979) Clark County (does not include the Nevada Test Site), Nevada	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Change:					
Electricians:					
Electricians; Technicians	$16 16	98	3%+2 05		08
Cable Splicers	16 49	98	3%+2 05		08
Glaziers	10 68	75	40		08
Mason Tenders	11 62	66	1.35		
Plasterers Tenders	13 12	81	1 35		11
Soft Floor Layers	14 87	.90			25

DECISION #NV79-5107-Mod. #5
(44 FR 13225-March 9, 1979)
Nevada Test Site including Tonopah Test Range in Clark, Lincoln and Nye Counties, Nevada

Change:					
Asbestos Workers	15 27	1 35	1 30		
Boilermakers	15 21	1 175	1 25	1 00	04
Elevator Constructors	15 41	1 045	82	a	035
Sprinkler Fitters	16 97	75	1 05		08

DECISION #NV79-5131-Mod. #1
(44 FR 51501-August 31, 1979)
Washoe County, Nevada

Change:					
Boilermakers	15 21	1 175	1 25	1 00	04
Bricklayers; Stonemasons	13 85	95	75		01
Electricians:					
Washoe County, does not include Lake Tahoe Area:					
Electricians:					
Technicians	16 43	99	3%+1 37		08
Cable Splicers	18.07	.99	3%+1.37		08

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DECISION NO. NV79-5131 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Lake Tahoe Area:					
Electricians; Technicians	$17 43	99	3%+1 37		08
Cable Splicers	19 07	99	3%+1 37		08
Painters:					
Brush and Roller	15 18	70	75		02
Brush, swing stage, up to 40 ft ; Brush, steel; Sandblaster	15 45	70	75		02
Spray; Taper; Paperhangers	15 70	70	75		02
Spray, swing stage, up to 40 ft ; Spray, steel	15 95	70	75		02
Plaster Hod Carriers:					
Plaster Hod Carriers serving Plasterers	12 20	95	1 20		
Plaster Hod Carriers working on any type of gun	12.80	95	1 20		
Plumbers; Steamfitters	14 14	1 13	1 00	1 95	20
Sheet Metal Workers:					
All other residential construction	12 22	1 14	2 13		10
Soft Floor Layers	13 74	70	20	2 4%	06
Sprinkler Fitters	16 97	75	1 05		08
Power Equipment Operators:					
Piledriving:					
Group 1	10 68	2 14	2 50	1 87	10
Group 1-A	11 09	2 14	2 50	1 87	10
Group 1-B	11 34	2 14	2 50	1 87	10
Group 2-A	11 34	2 14	2 50	1 87	10
Group 2-B	12 25	2 14	2 50	1 87	10
Group 3	12 61	2 14	2 50	1 87	10
Group 3-A	13 12	2 14	2 50	1 87	10
Group 4	13 78	2 14	2 50	1 87	10
Group 5	13 99	2 14	2 50	1 87	10
Group 6	15 36	2 14	2 50	1 87	10

DECISION NO. NV79-5131 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Steel Erection					
Group 1	11.25	2.14	2.50	1.87	.10
Group 2	11.70	2.14	2.50	1.87	.10
Group 3	12.93	2.14	2.50	1.87	.10
Group 4	13.10	2.14	2.50	1.87	.10
Group 4-A	13.47	2.14	2.50	1.87	.10
Group 5	14.07	2.14	2.50	1.87	.10
Group 6	14.59	2.14	2.50	1.87	.10
Group 6-A	15.30	2.14	2.50	1.87	.10
Group 7	16.56	2.14	2.50	1.87	.10
Except Piledriving & Steel Erection: (Area I)					
Group 1-A	10.19	2.14	2.50	1.87	.10
Group 2	10.63	2.14	2.50	1.87	.10
Group 3	10.86	2.14	2.50	1.87	.10
Group 4	11.48	2.14	2.50	1.87	.10
Group 5	11.73	2.14	2.50	1.87	.10
Group 6	11.87	2.14	2.50	1.87	.10
Group 7	12.08	2.14	2.50	1.87	.10
Group 8	12.57	2.14	2.50	1.87	.10
Group 9	12.84	2.14	2.50	1.87	.10
Group 10	13.14	2.14	2.50	1.87	.10
Group 10-A	13.29	2.14	2.50	1.87	.10
Group 11	13.50	2.14	2.50	1.87	.10
Group 11-A	14.86	2.14	2.50	1.87	.10
Except Piledriving Steel Erection: (Area 2)					
Group 1-A	11.34	2.14	2.50	1.87	.10
Group 2	11.78	2.14	2.50	1.87	.10
Group 3	12.01	2.14	2.50	1.87	.10
Group 4	12.63	2.14	2.50	1.87	.10
Group 5	12.88	2.14	2.50	1.87	.10
Group 6	13.02	2.14	2.50	1.87	.10
Group 7	13.23	2.14	2.50	1.87	.10
Group 8	13.72	2.14	2.50	1.87	.10
Group 9	13.99	2.14	2.50	1.87	.10
Group 10	14.29	2.14	2.50	1.87	.10
Group 10-A	14.44	2.14	2.50	1.87	.10
Group 11	14.65	2.14	2.50	1.87	.10
Group 11-A	16.01	2.14	2.50	1.87	.10

DECISION #NV80-5100-Mod. #1
(45 FR 7451-February 1, 1980)
Statewide (does not include the Nevada Test Site and Tonopah Test Range, and Highway Construction in Douglas County), Nevada

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers:					
Elko, Eureka, White Pine Counties	$13.11	.77	$1.37		
Bricklayers; Stonemasons:					
Remaining Counties and Nye County (North of Highway #6)	13.85	.95	.75		.01
Electricians:					
Clark, Lincoln, Nye County (south of Mt. Diablo Base Line):					
Electricians; Technicians	16.16	.98	3%+2.05		.08
Cable Splicers	16.49	.98	3%+2.05		.08
Nye County (north of Mt. Diablo Base Line) and Remaining Counties excluding Lake Tahoe Area:					
Electricians; Technicians	16.43	.99	3%+1.37		.08
Cable Splicers	18.07	.99	3%+1.37		.08
Lake Tahoe Area:					
Electricians; Technicians	17.43	.99	3%+1.37		.08
Cable Splicers	19.07	.99	3%+1.37		.08
Line Construction Workers:					
Lake Tahoe Area:					
Groundman	13.32	.99	3%+1.37		.08
Line Equipment Operators	15.78	.99	3%+1.37		.08
Linemen	17.43	.99	3%+1.37		.08
Cable Splicers	19.07	.99	3%+1.37		.08
Remaining Counties (excluding Lake Tahoe Area):					
Groundman	12.32	.99	3%+1.37		.08

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DECISION NO. NV80-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Equipment Operators	$14.78	.99	3%+1.37		.08
Linemen	16.43	.99	3%+1.37		.08
Cable Splicers	18.07	.99	3%+1.37		.08
Painters:					
Remaining Counties including Lake Tahoe Area:					
Brush and Roller	15.18	.70	.75		.02
Spray; Taper; Paperhangers	15.70	.70	.75		.02
Spray - Swing Stage, up to 40 ft.; Spray-Steel	15.95	.70	.75		.02
Brush - Swing Stage, up to 40 ft.; Brush-Steel; Sandblaster	15.45	.70	.75		.02
Plaster Hod Carriers:					
Statewide excluding Clark, Esmeralda, Lincoln, Nye County (south half):					
Plaster Hod Carriers serving Plasterers	12.20	.95	1.20		
Plaster Hod Carriers working on any type of gun	12.80	.95	1.20		
Plumbers; Steamfitters:					
Remaining Counties and Nye County (north half)	14.14	1.13	1.00	1.95	.20
Plumbers (Utility):					
Statewide except Clark, Esmeralda, Lincoln, Nye County (south half)	14.14	1.13	1.00	1.95	.20
Soft Floor Layers:					
Clark, Esmeralda, Lincoln, Nye Cos.	14.87	.90			.25

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DECISION #NM79-4103 - Mod. #1
44 FR 63443-November 2, 1979
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS -Zone I:					
1-A	$12.55	.60	3%+.70		1/2%
1-B	13.43	.60	3%+.70		1/2%
1-C	14.18	.60	3%+.70		1/2%
1-D	15.06	.60	3%+.70		1/2%
ELECTRICIANS - Zone II	14.18	.60	3%+.70		1/2%
ELECTRICIANS - Zone III:					
3-A	10.15	.45	3%		1/10%
3-B	11.60	.45	3%		1/10%
ELEVATOR CONSTRUCTORS:					
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Taos, Socorro, Torrance, Union and Valencia Counties	12.16	.545	.35	4%+b+c	.02
Chaves, Hidalgo, Dona Ana, Eddy, Grant, Lea, Luna. Otera and Sierra Counties	8.88	.895	.69	4%+b+c	.035
CABLE SPLICERS - ZONE I:					
1-A	13.81	.60	3%+.70		1/2%
1-B	14.69	.60	3%+.70		1/2%
1-C	15.44	.60	3%+.70		1/2%
1-D	16.32	.60	3%+.70		1/2%
CABLE SPLICERS - ZONE II	15.44	.60	3%+.70		1/2%
CABLE SPLICERS - ZONE III:					
3-A	10.40	.45	3%		1/10%
3-B	11.85	.45	3%		1/10%
ELECTRICIANS -ZONE IV:					
4-A	12.20	.60	3%		.01
4-B	12.55	.60	3%		.01
4-C	12.70	.60	3%		.01
4-D	12.95	.60	3%		.01
CABLE SPLICERS - ZONE III:					
4-A	12.55	.60	3%		.01
4-B	12.90	.60	3%		.01
4-C	13.05	.60	3%		.01
4-D	13.30	.60	3%		.01

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DECISION #NM79-4103 - Mod. #1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE: (CONT'D)					
SHEET METAL WORKERS-					
Zone 2	10.72	3%+.51	.485		.06
SHEET METAL WORKERS DEFINITION ZONE 2 TO READ "Dona Ana, Eddy, Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties, including Holloman Air Force Base, White Sands and McGregor Ranges.					
OMIT:					
SHEET METAL WORKERS:					
Zone 3	8.35	.20			.05
SHEET METAL WORKERS ZONE 3 DEFINITIONS.					

DECISION NO. OH78-2148 -	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MOD. #3					
(43 FR 52658 - November 13 1978)					
Mahoning & Trumbull Counties, Ohio					
Change:					
Bricklayers:					
Mahoning Co.	$12.595	.75	1.00		.02
Trumbull Co.	13.09	.75	.50		.02
Carpenters:					
Commercial Building	11.72	1.29	1.20		.05
Residential	10.55	1.29	1.20		.05
Electricians:					
Mahoning (Milton Twp.) & Trumbull (Excluding Hubbard & Liberty Twps.) Cos.	14.29	.75	7%		.7%
Mahoning (Austintown, Beaver, Berlin, Broadman, Canfield, Ellsworth, Coitsville, Goshen, Green, Jackson Poland, Springfield, & Youngstown Twps.) & Trumbull (Hubbard & Liberty Twps.) Cos.	13.73	.75	9%		.5%
Mahoning (Smith Twp.) Co.:					
Residential (4 units only)	9.40	.55	3%+.50		.3%
Elevator Constructors	11.99	.745	.56	a+b	.035
Glaziers	12.61	.75	1.00		
Line Construction:					
Mahoning (excluding Smith Twp.), & Trumbull Cos.:					
Linemen; Cable Splicer; Operator - Pole digging Equipment	14.90	.70	3%		½%
Marble Setters; Terrazzo Workers; Tile Setters:					
Mahoning Co.	14.005				
Millwrights; Piledrivermen	12.51	1.29	1.20		.05

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DECISION NO. OH78-2148 - Cont'd	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Painters:					
Brush; Dipping; Hydro jet cleaning; Paperhangers; Roller; Steam cleaning; Wall Washing; and Waterproofing	12 45	75	1 00		
Spray; Epoxy-mastic (Brush & Roller)	12 95	75	1 00		
Dry Wall Taping	12 60	75	1 00		
Open Structural Steel	12 66	75	1 00		
Plumbers; Steamfitters:					
Commercial Building:					
Mahoning & Trumbull (Hubbard & Liberty Twps) Cos	13 44	1 07	80		.05
Trumbull Co	13 60	1.07	99		03
Residential	8 35	50	30		03
Soft Floor Layers:					
Commercial Building	11 18	1 29	1 20		.05
Residential	10 06	1 29	1 20		05
Sprinkler Fitters	14 02	75	1 05		08

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DECISION NO. OH79-2086 - MOD. #1 (44 FR 75895 - December 21, 1979) Statewide, Ohio	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Change:					
Bricklayers & Stonemasons:					
Defiance, Fulton (except Twps of Amboy, Fulton, & Swan Creek), Henry (except Twps of Barlow, Damascus, Liberty, Marion, Monroe, Richfield, Washington & that part of Harrison outside City Limits of Napolean), Paulding, Putnam, & Williams Cos	13 08	1 20	50		
Carpenters & Piledrivermen:					
Belmont & Monroe Cos Carpenters	11 68	99	1 00		.03
Columbiana, Harrison & Jefferson Cos Carpenters	11 68	99	1 00		.03
Electricians:					
Butler Co & Warren Co excluding Clear Creek, Franklin & Wayne Twps):					
West of Interstate 75	13 30	55	3%+1 00		½%
East of Interstate 75	13 85	55	3%+1 00		½%
Carroll (S of Fox, Harrison, Rose & Washington Twps), Harrison, & Jefferson Cos	14 50	7%	14%	10%	½%
Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams & Wood Cos	14 50	85	3%+ 75		3%

DECISION NO. OH79-2086 - Cont'd	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Geauga (except Auburn, Bainbridge, Chester, Middlefield, Parkman, Russell, & Troy Twps.), & Lake Cos.	14.98	.85	3%+.70		.2%
Ironworkers: Athens, Meigs, Morgan, Noble & Washington Cos.	11.95	1.00	1.45		.03
Painters: Gallia, Lawrence, Meigs, & Vinton Cos. Brush; Roller	11.70			d	
Sandblasting; Spray; & Waterblasting	12.00			d	
Plumbers and Steamfitters Brown, Clermont, Hamilton & Warren Cos. (N. of Rte. #63 excluding Lebanon and S. Lebanon) Steamfitters; Pipefitters	13.78	1.045	1.60		.08
Line Construction: Ashtabula (Twps. of Colebrook, Wayne, Williamsfield, Orwell, & Windsor), Columbiana (Twps. of Butler, Fairfield, Perry, Salem, Unity, Geauga (Twps. of Auburn, Middlefield, Parkman, Burton, & Troy), Mahoning (excl. Smith Twp.), Portage Charleston, Edinburg, Freedom, Hiram, Nelson, Palmyra, Paris, Windom Twps.), & Trumbull Cos. Cable Splicers; Linemon; Operator - Pole-digging Equipment	14.90	.70	3%		½%
Groundmen	11.92	.70	3%		½%

DECISION NO. OH79-2086 - Cont'd	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Butler, Warren (Deerfield, Hamilton, Harlan, Massie, Salem, Turtle Creek, Union & Washington Twps.) Cos.: Zone I: West of Interstate #75:					
Linemen	13.30	.55	3%+1.00		½%
Cable Splicers	13.80	.55	3%+1.00		½%
Groundmen	9.31	.55	3%+1.00		½%
Zone II: East of Interstate # 75:					
Linemen	13.85	.55	3%+1.00		½%
Cable Splicers	14.35	.55	3%+1.00		½%
Groundmen	9.86	.55	3%+1.00		½%
Carroll (S. of Fox, Harrison, Rose & Washington Twps.), Harrison, & Jefferson Cos.: Linemen; Line Equipment Ops.; Truck Drivers	14.50	7%	14%	10%	½%
Cable Splicers	15.00	7%	14%	10%	½%
Groundmen	9.43	7%	14%	10%	½%
Geauga (Excl. Bainbridge, Chester, Russell, Auburn, Middlefield, Parkman & Troy Twps.), & Lake Cos.: Cable Splicers; Equipment Op.; Linemen	14.98	.85	3%+.70		½%
Truck Drivers (Winch) Groundman; Groundman	9.74	.85	3%+.70		½%

DECISION #OK79-4098 - Mod. #2
44FR67324-November 23, 1979
Muskogee, Adair, Cherokee, and Okmulgee Counties, Oklahoma

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CARPENTETS (AREA II)	$9 00	55	80		05
MILLWRIGHTS & PILEDRIVERMEN (ARFA II)	10 35	55	80		05
ELEVATOR CONSTRUCTORS	11 49	545	35	4%+a+b	02

DECISION NO. PA79-3012
MOD. NO. 4
(44 FR 29253 - May 18, 1979)
Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York Counties, Pennsylvania

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LINE CONSTRUCTION:					
Berks & Lehigh Cos					
Lineman	$12 61	45	3%		3/8%
Winch truck operator	8 83	45	3%		3/8%
Truck Driver	8 20	45	3%		3/8%
Groundman	7 57	45	3%		3/8%
Easton, Northampton County					
Lineman	13 86	45	3%		3/8%
Winch truck operator	9 70	45	3%		3/8%
Truck Driver	9 01	45	3%		3/8%
Groundman	8 32	45	3%		3/8%
Bradford, Carbon, Columbia, Lackawanna, Luzerne, Lycoming, Monroe, Montour, Northumberland, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming Cos					
Lineman	12 37	55	3%		3/8%
Winch truck operator	8 63	55	3%		3/8%
Truck Driver	8 50	55	3%		3/8%
Groundman	8 30	55	3%		3/8%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4032 - MOD. #7 (44 FR 16325 - March 16, 1979) Harrison County, Texas					
CHANGE: Bricklayers & stonemasons	$11.75		.50		
DECISION NO. TX79-4035 - MOD. #3 (44 FR 56108 - September 28, 1979) Gregg County, Texas					
CHANGE: Electricians-Electricians	11.00	.60	3%		1/4%
Cable splicer	11.35	.60	3%		1/4%
DECISION NO. TX79-4037 - MOD. #7 (44 FR 31856 - June 1, 1979) Lubbock County, Texas					
CHANGE: Bricklayers & stonemasons	10.35	.57	.30		.03
DECISION NO. TX79-4039 - MOD. #7 (44 FR 16329 - March 16, 1979) Ector & Midland Cos., Texas					
CHANGE: Bricklayers & stonemasons:					
Ector County	10.35	.57	.30		.03
Midland County	10.35	.57	.30		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. TX79-4041 - MOD. #3 (44 FR 56108 - September 28, 1979) Taylor County, Texas					
CHANGE: Electricians-Electricians	$10.90	.60	3%		1/4%
Cable splicer	11.15	.60	3%		1/4%
Line construction:					
Lineman	10.90	.60	3%		1/4%
Cable splicers	11.15	.60	3%		1/4%
Groundman	8.18	.60	3%		1/4%
Equipment operator	8.94	.60	3%		1/4%
Flat bed truck driver	6.54	.60	3%		1/4%
DECISION NO. TX79-4043 - MOD. #4 (44 FR 56109 - September 28, 1979) Smith County, Texas					
CHANGE: Electricians-Electricians	10.65	.60	3%		1/4%
Cable splicer	11.05	.60	3%		1/4%
Plasterers	11.325				
DECISION NO. TX79-4051 - MOD. #8 (44 FR 26535 - May 4, 1979) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
CHANGE: Carpenters:					
Zone 1 - Carpenters	11.205	.60	.45		.005
Millwrights	11.605	.60	.45		.005
Piledrivermen	11.705	.60	.45		.005

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
DECISION NO. TX80-4001 - MOD. #1 (45 FR 1376 - January 4, 1980) Armstrong Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos , Texas					
CHANGE: Cement masons	$10.80				
DECISION NO. TX80-4005 - MOD. #3 (45 FR 1385 - January 4, 1980) Bell, Bosque,Coryell,Falls, Hill & McLennan Cos ,Texas					
CHANGE: Building Construction: Glaziers	7.50				
DECISION NO. TX80-4006 - MOD. #1 (45 FR 1388 - January 4, 1980) Travis County, Texas					
CHANGE: Marble, tile & terrazzo workers	9 80	60			05

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Middlesex
DECISION NO MA80-2001 DATE:Date of Publication
Supersedes Decision No MA78-2086, dated September 22, 1978 in 42 FR 43189
DESCRIPTION OF WORK: Building Construction (including Residential), Heavy and Highway Construction and Marine Construction

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ASBESTOS WORKERS	$12 81	1 20	1.10		01
BOILERMAKERS	13 50	1 175	108		.03
BRICKLAYERS, STONEMASONS:					
Ashland, Framingham, Hollis-ton, Hopkington, Hudson, Sherborn, and Stow	11 10	1 20	1 00		.09
Residential	8 88	1 20	1 00		09
Veneer Plasterers	8 88	1 20	1 00		.11
Reading, North Reading and Wakefield	11 35	70	1.25		.09
Residential	9 08	70	1.25		.09
Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Ft Devens, Groton, Littleton, Lowell, North Acton, Pepperell, Shirley, South Acton, Tewksbury, Townsend, Tyngsboro, West Acton, Westford, and Willmington	11 70	90	70		09
Residential	9.36	90	70		09
Veneer Plasterers	9 30	90	.70		11
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use:					
Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Ft Devens, Groton, Littleton, Lowell, North Acton, Pepperell, Shirley, South Acton, Tewksbury, Townsend, Tyngsboro, West Acton, Westford and Willmington	9.36	.90	.70		09
Newton	11 25	.65	1 40	-	12
Veneer Plasterers	8.60	.65	1 40		.12

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Belmont, Burlington, Concord, Lexington, Lincoln, Stoneham, Sudbury, Waltham Watertown, Wayland, Weston, Winchester, and Woburn	11.55	.75	1.00		.09
Residential	9.24	.75	1.00		.09
Veneer Plasterers	9.24	.75	1.00		.09
All work, including demolition, repair and alteration of any existing structure which is intended for predominiantly residential use:					
Bricklayers:					
Belmont, Burlington, Concord, Lexington, Lincoln, Stoneham, Sudbury, Waltham, Wayland, Weston, Winchester and Woburn	9.24	.75	1.00		.09
Arlington, Cambridge, Everett, Malden, Melford, Melrose and Somerville	11.05	.85	1.40		.12
Veneer Plasterers	8.84	.85	1.40		.12
Residential Construction	8.84	.85	1.40		.12
CARPENTERS & SOFT FLOOR LAYERS:					
Remainder of County	11.65	.95	1.00		.07
Ashby, Ayer, & entire boundaries of Ft. Devens which are the town of Lunenburg, Shirley, Lancaster, & Howard; Groton, Pepperell, Shirley Center; entire boundaries of Shirley Industrial School, Townsend, W. Groton, & W. Townsend	11.90	.70	1.00		.07
All work, including demolition, repair and alteration of any existing structure which is intended from predominantly residential use:					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bedford, Concord, Dover, Lincoln, Natick, Newton, Sudbury, Waltham, Watertown, Wayland, Weston, Acton, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford,	9.32	.95	1.00		.07
CEMENT MASONS:					
Bedford, Burlington, Lowell, Billerica, Tyngsboro, Westford, Tewksbury, Acton, Littleton, Dracut, Wilmington, Dunstable, Chelmsford and Carlisle	10.40	.90	.70		.02
Arlinton, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester and Woburn	11.65	1.15	.60		.20
Reading and North Reading	10.34	.70	.75		
Ashby, Ayer, Boxboro, Groton, North Acton, Pepperell, Shirley, South Acton, Townsent and West Acton	11.70	.90	.70		.09
Ashland, Framingham, Hollston, Hopkington, Hudson, Marlboro, Maynard, Natick, Sherborne, and Stow	11.10	1.20	1.00		.09
Newton	11.10	1.20	1.00		.09
Belmont, Concord, Lexington, Sudbury, Waltham, Watertown, Wayland & Weston	11.55	.75	1.00		.09
ELECTRICIANS:					
Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westfor and Willmington	11.55	1.15	3%+1.05		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
All work, including demolition, repair and alteration of any existing Structure which is intended for predominantly residential use:					
Electricians;					
Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford and Willmington	9.31	.85	3%+.30		.02
Ashby, Ayer, Ft. Devens, Groton, Pepperell, Shirley and Townsend:					
Commercial	11.20	.45	3%+.70		.02
Residential	6.40	.45	3%+.35		.02
Ashland, Hopkinton, Hudson, Marlboro and Stow	12.07	8%	5½%+.30		.01
North Reading	11.22	.75	3%+.40		.02
Remainder of County	13.23	.75	3%+1.55		.07
ELEVATOR CONSTRUCTORS	12.815	1.045	.82	a+b	.035
GLAZIERS	11.85	.77	.69		.03
IRONWORKERS	11.64	1.00	1.50		.06
LABORERS Building):					
Laborers; Carpenters' Tenders; Wrecking Laborers Jackhammer Operator; Pavement Breaker; Asphalt Rakers; Carbide Core Drilling Machine; Chain Saw Operators; Pipelayers; Barco Type Jumping Tampers; Laser Beam Operators; Concrete Pump Operators; Mason Tenders; Mortar Mixers, Rid-on Motorized Buggy; Fence and Beam Rail Erectors	8.95	.70	1.00		
	9.20	.70	1.00		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Track Operators; Block Pavers; Rammers; Curb Setters	9.70	.70	1.00		
Blasterers; Powdermen	9.95	.70	1.00		
Open Air Caisson, Cylindrical work and bring crew:					
Laborer and Top Man	8.95	.70	1.00		
Driller	9.82	.70	1.00		
LATHERS:					
Hudson and Marlboro	10.12	1.42	.25		.01
Remainder of County	11.30	1.00	.55		.03
LINE CONSTRUCTION:					
Linemen	12.50	.70	3%+.50	d	3/8of1%
Equipment Operator	11.17	.70	3%+.50	d	3/8of1%
Driver Groundman	8.93	.70	3%+.50	d	3/8of1%
Groundman	8.18	.70	3%+.50	d	3/8of1%
MARBLE SETTER & TERRAZZO WORKERS	10.40	.85	1.50		
MILLWRIGHTS	11.70	.95	1.00		.10
PAINTERS:					
Arlington, Belmont, Cambridge, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester, Woburn, Reading, North Reading:					
New Construction:					
Brush, Taper	11.91	.82	1.40		.04
Sandblasting, Spray	12.91	.82	1.40		.04
Steel	13.63	.82	1.40		.04
Repaint, Alterations, Residential					
Brush	10.16	.82	1.40		.04
Ashby, Ayer, Groton, Pepperell, Shirley and Townsend					
Brush	10.86	.82	1.30		.04
Sandblasting, Spray	11.86	.82	1.30		.04
Steel	12.98	.82	1.30		.04
Repaint	9.16	.82	1.30		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bedford, Billerica, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford and Wilmington:					
Brush, Taping, Paperhangers	10.10	1.18	.80		.04
Steel	11.15	1.18	.80		.04
Repaint	8.59	1.18	.80		.04
Residential 1 & 2 Family Houses	8.59	1.18	.80		.04
Remainder of County:					
Brush, New; Paperhanger; Taper	9.00	.85	.70		.06
Repaint	8.45	.85	.70		.06
All Work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use	8.50	.65	.55		.06
PILEDRIVERMEN	11.80	.85	1.00		
PLASTERERS:					
Arlington, Cambridge, Everett, Malden, Medford, Somerville, Stoneham, Wakefield, Winchester & Woburn	10.50	.45	1.30		.02
Veneer Plasterers	10.15	.45	.30		.02
Ashland, Framingham, Hollision, Hopkington, Hudson, Marlboro, Maynard, Natick, Sherborn, and Stow	11.10	1.20	1.00		.09
Acton, Ashby, Ayer, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, North Acton, Pepperell, Shirley, South Acton, Tewksbury, Townsend, and West Acton	11.70	1.10	.60		.02
Newton	11.25	.65	1.40		.12

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Belmont, Concord, Lexington, Lincoln, Sudbury, Waltham, Watertown, Wayland and Weston	11.55	.75	1.00		.09
Bedford, Burlington, Lowell, Tyngsboro and Westford	11.70	.90	.70		.09
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use: Bedford, Burlington, Lowell, Tyngsboro and Westford	9.36	.90	.70		.09
PLUMBERS:					
Acton, Ayer (except portion lying West of the Greenville Branch of the Boston and Main RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westboro and Wilmington	12.07	1.10	1.10		.07
Ashby, Ayer (Portion lying west of the Greenville Branch of the Boston and Maine RR), Ft. Devens, Groton, Shirley and Townsend	10.90	.80	.65	4%	.05

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Ashland, Belmont, Concord, Framingham, Holliston, Hopkington, Lexington, Lincoln, Marlboro, Maynard, Natick, Sherborn, Stow, Sudbury, Waltham, Wayland and Weston	12 82	1 23	85		05
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, North Reading, reading, Somerville, Stoneham, Wakefield, Watertown, Winchester and Woburn	13 30	1 02	1 48		05
ROOFERS:					
Journeyman Roofers	10 20	70	1 55		05
Re-roofing and repairs	9 65	70	1 55		05
Pitch Work	11 20	70	1 55		05
SHEET METAL WORKERS	12 58	1 16	1 55		10
SPRINKLER FITTERS	13 31	75	1 05		08
STEAMFITTERS:					
Acton, Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, North Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester and Woburn	13 36	94	1 45		07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
Ayer (except that portion lying west of the Greenville Branch of the Boston and Main RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tynsboro, Westford and Wilmington	12 07	1 10	1 10		02
Ashby, Ayer (portion lying west of the Greenville Branch of the Boston and Main RR), Ft Devens, Shirley and Townsend	10 90	80	65	4%	05
TERRAZZO WORKERS' HELPERS	10 60		1 10		05
TILE SETTERS: (except Cities & Towns of Acton, Ashby, Ayer, Boxboro, Dunstable, East Pepperell, Ft Devens, Groton, Littleton, North Acton, North Pepperell, Pepperell, Shirley, South Acton, Townsend and West Acton	10 30	85	1 10		
TILE SETTERS: (Acton, Ashby, Ayer, Boxboro, Dunstable, East Pepperell, Ft Devens, Groton, Littleton, North Acton, North Pepperell, Pepperell, Shirley, South Acton, Townsend and West Acton)	11 70	90	70		09

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PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay credit.

b. Holidays: A through F

c. Holidays: A through F, and Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.

d. Employer pays $5.00 per day extra above the brush rate.

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HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	8.95	.70	1.00		.10
CLASS II	9.20	.70	1.00		.10
CLASS III	9.70	.70	1.00		.10
CLASS IV	9.95	.70	1.00		.10

CLASS I: Carpenter Tenders; Cement Finisher Tenders; Laborers; Wrecking Laborers

CLASS II: Asphalt Rakers; Fence and Guard Rail Erectors; Laser Beam Operator; Mason tender; Pipelayer; Pneumatic Drill Operator; Pneumatic Tool Operators; Wagon Drill Operator

CLASS III: Air Track Operator; Block Pavers; Rammers; Curb setters

CLASS IV: Blasterers, Powdermen

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BUILDING CONSTRUCTION: POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
CLASS I	12 71	1 18	1 15	a	03
CLASS II	12 59	1 18	1 15	a	03
CLASS III	10 62	1 18	1 15	a	03
CLASS IV	11 58	1 18	1 15	a	03
CLASS V	9 39	1 18	1 15	a	03
CLASS VI	9 97	1 18	1 15	a	03

CLASS I - Cranes, Shovels, Truck Cranes, Cherry Pickers, Draglines, Trench Hoes, Backhoes, Three Drum Machines, Derricks, Pile Drivers, Elevator Towers, Hoists, Gradalls, Shovel Dozers, Front End Loaders, Fork Lifts, Augers, Boring Machine, Rotary Drills, Post Hole Hammers, Post Hole Diggers, Pumpcrete Machines, Asphalt Plant (on site), concrete Batching and/or Mixing Plant (on site), Crusher Plant (on site), Paving Concrete Mixers, Timber Jacks, Boom over 150, Including Jib additional $ 50 per hour; Boom over 185' Including Jib-Additional $ 90 per Hour; Boom 210' Including Jib - Additional $1 25 Per Hour; Boom over 250' Including Jib - Additional $1.90 Per Hour Boom over 295' Including Jib- Additional $1 90 Per Hour Boom Over 295' Including Jib - additional $2 65 Per Hour

CLASS II - Sonic Vibratory Hammers, Graders, Tandem Scrapers, Concrete Pumps, Bulldozers, Tractors, York rakers, Mulching Machines, Portable Steam Boiler, Portable Steam Generators, Rollers, Spreaders, Tampers (Self Propelled or Tractor Drawn), Asphalt Pavers, Mechanics Maintenance, Paving screed Machines, Stationary Steam boilers, Paving Concrete Finishing Machines, Cal Trucks, Ballast Regulators, Switch Tampers, rail Anchor Machinery, Tire Trucks (when Operated by the Employer on the Job site)

CLASS III - Pumps (1-3 Grouped), compressors, Welding Machines (1-3 Grouped), Genrators, Concrete Vibrators, Lighting Plants, Heaters (Power Driven 1-5), Well-Point Systems (Operating and Installing), Syphones-Pullsometers, Concrete Mixers, Values Controlling permanent Plant Air or Steam, Conveyors, Jackson Type Tampers, Single Diaphragn Pump, Lighting Plants

CLASS IV - Assistant Engineers (Firemen)

CLASS V - Oilers (other than truck cranes and gradalls)

CLASS VI - Oilers on Truck Cranes and Gradalls

PAID HOLIDAYS:
A- New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

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HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
GROUP 1	12 71	1 18	1 15	a	03
Hourly Premium for Boom Lengths including jib					
Over 150 feet + $ 50					
Over 185 feet + 90					
Over 210 feet + 1 25					
Over 250 feet + 1 90					
Over 295 feet + 2 65					
GROUP 2	12.59	1 18	1 15	a	03
GROUP 3	10 62	1 18	1 15	a	03
GROUP 4	11 58	1 18	1 15	a	03
GROUP 5	9 39	1 18	1 15	a	03
GROUP 6	9 97	1 18	1 15	a	03

GROUP 1 - Power Shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoists pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills post hole hammers, port hole diggers, asphalt plant on job site, concrete batching an/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 - Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machines, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders, asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 - Pump (1-3 grouped), compressors, welding machines (1-3 grouped), generators, lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

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POWER EQUIPMENT OPERATORS (CONT'D)
HEAVY& HIGHWAY CONSTRUCTION

GROUP 4 - Assistant Engineers (Firemen)

GROUP 5- Oilers (other than truck cranes & gradalls)

GROUP 6 - Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Crhistmas Day, Washington's Birthday, Veterans Day and Patriots Day

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MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	12.71	1.18	1.15	a	.03
GROUP II	13.89	1.18	1.15	a	.03
GROUP III	12.66	1.18	1.15	a	.03
GROUP IV	12.59	1.18	1.15	a	.03
GROUP V	10.62	1.18	1.15	a	.03
GROUP VI	11.58	1.18	1.15	a	.03
GROUP VII	9.39	1.18	1.15	a	.03
GROUP VIII	9.97	1.18	1.15	a	.03

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanic hoists, pavement breakers, cement concrete pavers, dragline, hoisting engines, pump-crete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.50 per hour - booms over 185' including jib - additional $.90 per hour; Booms over 210' including jib - additional $1.25 per hour; Booms over 250' including jib - additional $1.90 per hour; booms over 295' including jib additional $2.65 per hour

GROUP II - Master Mechanic

GROUP III - Swinger Engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, grader, scraper, tandem scraper, concrete pumps, bulldozers, tractors york rakes, mulching machines, rollers, spreaders, tamper self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling pernanent plan air or steam, well point system, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-plusometers, concrete mixers, conveyors

DECISION NO. MA80-2001

POWER EQUIPMENT OPERATORS (CONT'D)

MARINE CONSTRUCTION

GROUP VI - Assistant Engineers (Firemen)

GROUP VII - Oiler (other than/truck cranes and gradalls)

GROUP VIII - Oilers on truck cranes and gradalls

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day;C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

DECISION NO. MA80-2001

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	8.515	.75	.80	a+b	
CLASS II	8.665	.75	.80	a+b	
CLASS III	8.715	.75	.80	a+b	
CLASS IV	8.815	.75	.80	a+b	
CLASS V	8.915	.75	.80	a+b	
CLASS VI	9.165	.75	.80	a+b	
CLASS VII	9.415	.75	.80	a+b	

CLASS I - station wagons, Panel trucks and pickup truck

CLASS II - Two axle equipment; Helpers on low bed when assigned at the discretion of the employer, warehousemen, Forklift operators

CLASS - Three axle equipment and Tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than covential type trucks, lowbed, bachual, mechanics, paving restoration equipment, mechanics

CLASS VI - Specialized earthmoving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment (double hookup)

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' day provided an employee works two days of the calendar week in which the holiday falls.

STATE: New Hampshire COUNTIES: Statewide
DECISION NUMBER: NH80-2008 DATE: Date of Publication
Supersedes Decision No.: NH80-2046 dated May 11, 1979 in 44 FR-27886
DESCRIPTION OF WORK: Highway Construction Projects (excluding tunnels, building structures in rest area projects and railroad construction; bascule, suspension and spandrel arch bridges; bridges designed for commercial navigation; bridges involving marine construction; and other major bridges)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS:					
Cheshire	7.09	.45	.30		.01
CARPENTERS:					
Belknap, Cheshire and Grafton Counties	7.45	.55	.50		.01
Carroll County	8.05	.55	.50		.01
Hillsboro County	8.62	.65	.50		.01
Merrimack County	7.95	.65	.50		.01
Rockingham County	6.78				
CEMENT MASONS:					
Belknap County	8.49	.75	.50		.01
Carroll County	8.79	.55	.40		.01
Grafton County	8.19	.55	.40		.01
Merrimack County	8.89	.80	.60		.02
ELECTRICIANS:					
Rockingham County	10.85	.75	3%+.25		.02
IRONWORKERS:					
Belknap, Cheshire, Grafton and Merrimack Counties	9.70	.70	1.00		.02
Carroll County	9.10	.55	.90		.02
LABORERS:					
Belknap, Carroll, Coosa and Strafford Counties	5.91	.50	.45		.10
Cheshire & Grafton Counties	5.25	.50	.45		.10
Hillsboro County	6.67	.80	.60		.10
Merrimack County	6.56	.50	.45		.10
Rockingham County	6.23				
Sullivan County	5.11				
AIR TOOL OPERATORS:					
Cheshire & Grafton Cos.	5.75	.50	.45		.10
DRILLER, WAGON DRILL					
Carroll County	7.26	.60	.70		.10
Hillsboro County	7.06	.50	.45		.10
PILEDRIVERMEN:					
Cheshire County	8.05	.55	.50		.01

NH80-2008

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
2 AXLE					
Belknap County	4.41	.55	.25		
Cheshire County	5.45				
Grafton County	4.71	.55	.25		
Hillsboro, Merrimack and Rockingham Counties	5.51	.60	.50		
Sullivan County	4.33				
3 AXLE					
Belknap & Grafton Counties	4.94	.45	.25		
Carroll County	6.09				
Cheshire & Coos Counties	5.44	.50	.40		
Hillsboro, Merrimack, Rockingham and Strafford Counties	5.74	.60	.50		
SPECIAL EARTH MOVING EQUIPMENT:					
Belknap, Hillsboro, Merrimack and Rockingham Cos.	5.97	.60	.50		
Cheshire County	5.38				
POWER EQUIPMENT OPERATORS:					
ASPHALT PAVER:					
Belkanp County	8.35				
Carroll County	9.20	1.10	1.00		.03
Cheshire County	5.15				
Coos County	8.70	.85	.75		.05
Grafton County	7.50	.45	.60		.05
Hillsboro County	8.30	.80	.75		.05
Merrimack County	8.70	.85	.75		.05
Rockingham County	7.00				
Strafford COunty	8.53	.75	.60		
Sullivan County	5.11				
ASPHALT ROLLER:					
Belknap County	8.19				
Carroll County	9.20	1.10	1.00		.03
Cheshire County	5.79				
Coos County	8.53	.75	.60		
Hillsboro County	8.30	.85	.75		.05
Merrimack County	8.70	.85	.75		.05
Rockingham County	8.49				
Strafford County	8.81	1.10	.80		.03
Sullivan County	5.33				

NH80-2008

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BACKHOE					
Belknap and Strafford Counties	8.93	1.10	1.00		.03
Grafton County	8.64				
Hillsboro County	9.15	.80	.75		.05
Rockingham County	8.30	.55	.60		.03
Sullivan County	8.36				
BULLDOZER:					
Belknap County	8.70	.85	.75		.05
Cheshire & Hillsboro Cos.	8.30	.80	.75		.05
Coos County	7.99				
Grafton County	7.90	.45	.60		.05
Rockingham County	9.20	1.10	1.00		.03
Strafford County	8.81	1.10	1.00		.03
CRANE:					
Belknap, Cheshire, Hillsboro and Merrimack Cos.	8.75	.80	.75		.05
Carroll County	8.82				
Rockingham County	9.32	1.10	1.00		.03
FRONT END LOADER UNDER 3/4 YARDS:					
Belknap & Merrimack Cos.	8.15	.85	.75		.05
Hillsboro County	7.60	.85	.75		.05
Grafton County	7.35	.45	.60		.05
Sullivan County	7.36				
FRONT END LOADER 3/4 YARDS:					
Belknap County	8.10	.45	.60		.05
FRONT END LOADER 3/4 - 4 YARDS:					
Cheshire County	8.11	.45	.60		.05
Grafton County	8.10	.45	.60		.05
Hillsboro County	8.90	.85	.75		.05
Rockingham County	8.93	1.10	1.00		.03
FRONT END LOADER 4 YARDS AND OVER:					
Belknap, Grafton and Strafford Counties	8.93	1.10	.80		.03
Cheshire County	8.30	.45	.60		.05
Coos County	8.92				
Merrimack County	8.90	.85	.75		.05
Rockingham County	8.93	1.10	1.00		.03

NH80-2008

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GRADALL:					
Belknap County	8.50				
Cheshire County	7.91				
Hillsboro County	8.75	.80	.75		.05
Rockingham County	9.32	1.10	1.00		.03
GRADER:					
Belknap & Grafton Cos.	8.10	.45	.60		.05
Coos County	7.78				
Hillsboro County	8.50	.80	.75		.05
Merrimack County	8.90	.85	.75		.05
Rockingham County	9.20	1.10	1.00		.03
Strafford County	8.36				
Sullivan County	5.60				
MECHANIC:					
Belknap County	8.37				
Cheshire County	8.44				
Coos County	8.70	.85	.75		.03
Grafton County	7.90	.45	.60		.05
Merrimack County	8.30	.80	.75		.05
Rockingham County	9.25	1.10	1.00		.03
OILER:					
Hillsboro County	7.30	.85	.75		.05
OILER-GREASER:					
Cheshire County	6.90	.80	.75		.05
ROLLER, SELF-POWERED:					
Belknap & Rockingham Cos.	9.25	1.10	1.00		.03
Carroll County	9.20	1.10	1.00		.03
Coos County	8.53	.75	.60		
Grafton County	7.35	.45	.60		.05
Marrimack County	8.30	.80	.75		.05
Strafford County	8.81	1.10	.80		.03
Sullivan County	7.91				
SCRAPER:					
Cheshire County	8.50	.80	.75		.05
Hillsboro County	8.50	.85	.75		.05
SHOVEL:					
Cheshire County	8.75	.80	.75		.05
Hillsboro County	9.15	.85	.75		.05

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only an provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: NEW YORK COUNTY: NIAGARA
DECISION NO. NY80-3006 DATE: Date of Publication
Supersedes Decision No. NY79-3022 dated July 20, 1979 in 44 FR 42875D
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction projects.

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKER	$12.25	1.32	1.15		.06
BOILERMAKERS	12.80	1.10	1.5		.02
BRICKLAYERS:					
North Tonawanda:					
Bricklayers & stone masons	12.88	.65	1.40		
Terrazzo workers & tile setters	12.01	.55	1.40		
Marble setters	12.105	.55	1.40		
Remainder of county:					
Bricklayers & stone masons	12.33	1.17	.57		
Marble masons, terrazzo works & tile setters	12.08	1.17	.57		
CARPENTERS; (BUILDING):					
North Tonawanda:					
Carpenters, millwrights and piledrivermen	11.98	1.60	1.95		
Soft floor layers	11.18	1.25	1.55		
Remainder of county:					
Carpenters & soft floor layers	10.80	1.69	1.65		.025
Millwrights	10.90	1.69	1.65		.025
CARPENTERS; (HEAVY & HIGHWAY):					
North Tonawanda:					
Carpenters & piledrivermen	11.98	1.60	1.95		
Remainder of County:					
Carpenters & Piledrivermen	8.51	1.69	1.65	e	.025
CEMENT MASONS	13.01	1.00			
ELECTRICIANS:					
Electricians	13.48	1.40	3%+.80		4%
Cable splicers	14.83	1.40	3%+.80		4%
ELEVATOR CONSTRUCTORS	13.51	1.045	.69	1.08+a	.03
ELEVATOR CONSTRUCTORS' HELPERS	9.46	1.045	.69	1.08+a	.03
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	6.44				
GLAZIERS	11.54	1.70	.70		.25
IRONWORKERS:					
Structural, ornamental & reinforcing	12.16	1.07	.92		
LATHERS	10.715		.20		
LEAD BURNERS	10.75	.40	.25	c	.01

DECISION NO. NY80-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Twps., of Somerset, Hartland, Royalton, New Fane, Lockport, Pendleton and the eastern half of Cambria and Wilson:					
Brush	11.605	1.275	.70		.10
Cranes, steel, tanks, towers, stacks, bridges, flag poles, radio TV towers	12.105	1.275	.40		.11
Sandblasting, swing stages, scaffold, epoxy, spray, bosun chair	11.855	1.275	.40		.11
Bridges 35' high or in depth of 35' from road level	13.27	1.275	.70		.10
Remainder of county:					
Brush	10.24	1.27	1.65		.01
Spray, steel, steeple jack, swing scaffold, sandblasting	10.99	1.27	1.65		.01
Bridge-crossing the Niagara River	11.905	1.27	1.65		.01
PILEDRIVERMEN:					
Piledrivermen, dock carpenters and divers' tenders	11.98	1.60	1.95		
Divers	18.62	1.25	1.55		
PLASTERERS	10.96				
PLUMBERS AND STEAMFITTERS	13.25	1.005	1.37		.025
ROOFERS:					
Composition, damp, waterproofers sprayers, asphalt mastic, wood block floor workers, steam roofers & siders	12.36	.99	1.50		.02
Slate, tile asbestos & pre-cast tile	12.51	.99	1.50		.02
SHEET METAL WORKERS	13.25	1.33	1.16		.10
SPRINKLER FITTERS	13.27	.75	1.05		.06
TRUCK DRIVERS:					
Building, heavy & highway:					
Euclid	10.40	.75			
Dump	10.15	.75			
Ready-mix	10.365	.75	.775		
Welders - Craft Rate					

DECISION NO NY80-3006

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a Holidays: A through F

c Holidays: A through F; Washington's Birthday, Good Friday and Christmas eve, providing employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular schedule work days immediately preceding and following the holiday

e Holidays: B and D

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LABORERS; HEAVY, HIGHWAY, BUILDING CONSTRUCTION					
NIAGARA COUNTY: EXCEPT THE CITY OF NORTH TONAWANDA					
GROUP I	10 01	1 75	1 30		
GROUP II	10 51	1 75	1 30		
GROUP III	10 21	1 75	1 30		
GROUP IV	11 01	1 75	1 30		

LABORERS: HEAVY, HIGHWAY, BUILDING CONSTRUCTION

GROUP I
Laborers

GROUP II
Form setter, wagon drill op , road finishers, gunnite nozzlemen, sandblasters, burning torch, concrete saw op

GROUP III
Potman, pipelayers, pavement breakers or busters, jackhammer op , barco rammers, chain saw, powder monkey, black top rakers, scalers, drill tenders, mortar mixers, men working from swinging scaffold bosun chair, suspended cage or bucket, work in caissons below 8 feet, concrete motor buggy, all other operators of mechanical tools, including vibrators regardless of type of power

GROUP IV
Blasters

DECISION NO NY80-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LABORERS; ROCK TUNNEL FREE AIR CONSTRUCTION					
NIAGARA COUNTY: EXCEPT NORTH TONAWANDA					
GROUP I	9 61	1 75	1 30		
GROUP II	9 51	1 75	1 30		
GROUP III	10 46	1 75	1 30		
GROUP IV	9 76	1 75	1 30		
GROUP V	9 86	1 75	1.30		
GROUP VI	10.26	1 75	1 30		
GROUP VII	9 76	1 75	1 30		

LABORERS: ROCK TUNNEL FREE AIR CONSTRUCTION

GROUP I
Driller, shaft driller

GROUP II
Chucker, mucking machine tender, shaft muckers

GROUP III
Nipper, car pusher (tramer), track gang, bull gang, cage man, concrete gang, powder monkey

GROUP IV
Blasters

GROUP V
Rodman

GROUP VI
Laborer & top man

GROUP VII
Burning torch on demolition work

Line Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Electrical Overhead and Underground Distribution Work:					
Lineman and Technicians	11.00	1.40	3%+.75	k	
Cable Splicers	14.45	1.40	3%+.75	k	
Groundman Digging Machine Operator and Groundman Dynamite man	9.90	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	8.80	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer)	9.35	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experienced	8.25	1.40	3%+.75	k	
All Overhead Transmission Line Work and Lighting for Athletic Fields:					
Lineman and Technician	12.50	1.40	3%+.75	k	
Groundman Digging Machine Operator, Groundman Dynamite Man	11.25	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.00	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	10.625	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experinced	9.375	1.40	3%+.75	k	
Sub-Station, Switching Structures (when not part of the line), Traffic Signal, Street Lighting, and Electrical, Telephone or CATV Commercial Work:					
Lineman and Technicians	13.15	1.40	3%+.75	k	
Cable Splicers	14.465	1.40	3%+.75	k	
Groundman Mobile Equipment Operator, Mechanic 1st Class, Groundman Truck Driver	10.52	1.40	3%+.75	k	
Groundman Truck Driver (Tractor Trailer Unit)	11.1775	1.40	3%+.75	k	
Driver Mechanic, Groundman - Experienced	9.8625	1.40	3%+.75	k	

Line Construction (cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Groundman Digging Machine Operator, Groundman Dynamite Man	11.835	1.40	3%+.75	k	
Telephone and other Communication Systems, Both overhead and underground:					
Linemen and Installer Repairmen	8.34	.40	3%+.25	k	1%
Splicers	8.89	.40	3%+.25	k	1%
Groundman Digging Machine Operator	7.73	.40	3%+.25	k	1%
Groundman	5.72	.40	3%+.25	k	1%
Groundman Truck Driver	6.82	.40	3%+.25	k	1%
Groundman Dynamiteman	6.60	.40	3%+.25	k	1%

Paid Holidays: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

Footnotes:

k. Paid Holidays: A through F, Washington's Birthday, Good Friday, and Election Day for President of the United States and Governor of New York State, provided the employee works the day before and after the holiday.

DECISION NO NY80-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
POWER EQUIPMENT OPERATORS:					
GROUP I	11 16	1 10	1 35	a	15
GROUP II	10 36	1 10	1 35	a	15
GROUP III	7 94	1 10	1 35	a	15
GROUP IV	8 95	1 10	1 35	a	15
GROUP V	8 59	1 10	1 35	a	15
GROUP VI	11 895	1 10	1 35	a	15
GROUP VII	11 66	1 10	1 35	a	15

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Finish blacktop rollers, crane work, shovels, derricks, steel erection, overhead or bridge cranes and clam buckets, all excavating machines, backfillers, cableways, draglines, backhoes, piledriving rigs, tunnel mucking machines, all tractors used in connection with scraper wagon, snowloader, all repair work or maintenance work under the supervison of a master mechanics, lubrication engineers, bulldozers, graders, blacktop spreaders, front and back loaders (except small types), power driver stone spreaders, portable stone crushers, crawler or rubber tire tractor with blade or bucket and crane boom or hoe boom or shovel boom attached (except farm type crawler or rubber tire tractor unless used with hydraulic backhoe), compressor with paving breaker attached, graders with bull-dozer blades, multiple drum hoist with air compressor when used simultaneously for more than one purpose and single drum hoist when used to hoist steel, portable concrete batching machine, automatic batch plant op., concrete spreader op , finishing machine op , form puller, scraper (either double or single bowl), CMI grading machine, truck mounted concrete pumps, self-propelled riding vibrators, kolman loaders, mechanic, welder, euclid type belt loader, mechanical and hydraulic pipe pushing machine, scoopmobiles, forklifts and hoist which lift higher than 25 feet, trenchers when excavation over 6 feet in depth, post drivers (except truck mounted, postdrivers), concrete mixers 1 yard and over, concrete planers

DECISION NO NY80-3006

BUILDING CONSTSRUCTION - POWER EQUIPMENT OPERATORS (CONT'D):

GROUP II: Elevators, material hoist, road rollers except finish blacktop roller, tractors, pavement busters, pumps over 4 inches, concrete blowers, compressors when used in banks of (2) and not over (3) within a 50 foot radius if such is possible, but at least within 50 foot radius, and if fuel is stored it will be stored within the same radius, gunite machines, locomotives, scoop-mobiles (when used as a stationary hoist or one which does not lift over twenty five feet, concrete pumps, conveyors, gas or diesel driven temporary lighting and power systems of 25 kilowatt capacity or over), stone crushers and winch hoist mounted on trucks, all earth drills, le tourneau turnatrailers, highlift hoist which does not lift over 25 feet, gasoline heaters used in banks of (2) and not over (3) within an area of 100 foot radius, and for (2) but not over (3) gasoline or diesel driven welding machines, trenchers on the back of a jeep, truck mounted post drivers, snow-go, small front and back loaders, small type crawler or rubber tire tractor with blade or bucket not to exceed ½ yd capacity, single drum hoist for hoisting materials other than steel, pug machine, self propelled rollers not on finish blacktop and under 7 tons, bobcat loader or forklift which does not lift over twenty five feet, trenchers, winch tractors, trenchers excavating up to 6 feet in depth, air compressors over 165 cu ft

GROUP III: Oilers on shovels, cranes, draglines, backhoe (over 3/4 cu yds) dredges, derrick boats, pavers (excluding stationary set-ups), trenching machines, pile drivers, quarry master (or its equivalent), hydrocranes, automated batch plants (wet or dry mix plants), compressors (165 cu ft per minute or under), pumps up to and including 4 inches

GROUP IV: Truck crane oiler

GROUP V: Steam boiler operator

GROUP VI: Master Mechanic

GROUP VII: Cranes carrying over 100 feet of main boom

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a Holidays: A through F; providing employee works the day before and the day after the holiday

DECISION NO. NY80-3006

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP I	12.06	1.10	1.45	a	.15
GROUP II	11.21	1.10	1.45	a	.15
GROUP III	8.85	1.10	1.45	a	.15
GROUP IV	9.92	1.10	1.45	a	.15
GROUP V	8.51	1.10	1.45	a	.15
GROUP VI	12.83	1.10	1.45	a	.15

HEAVY & HIGHWAY CONSTRUCTION - POWER EQUIPMENT OPERATORS:

GROUP I: Finish blacktop rollers, crane work, shovels, derricks, steel erection, overhead or bridge cranes and clam buckets, all excavating machines, backfillers, cableways, draglines, backhoes, piledriving rigs, tunnel mucking machines, all tractors used in connection with scraper wagon, snowloader, wagons, snowloader, all repair work or maintenance work under the supervision of a master mechanic, lubrication engineers, bulldozers, graders, blacktop spreaders, front and back loaders (except small types), power driver stone spreaders, portable stone crushers, crawler or rubber tire tractor with blade or bucket and crane boom or hoe boom or shovel boom attached (except farm type crawler or rubber tire tractor unless used with hydraulic backhoe), compressor with paving breaker attached, graders with bulldozer blades, multiple drum hoist with air compressor when used simultaneously for more than one purpose and single drum hoist when used to hoist steel, portable concrete batching machine, automatic batch plant op., concrete spreader op., finishing machine op., form puller, self propelled rollers if on blacktop, scraper, either double or single bowl, CMI grading machine, truck mounted concrete pumps, self-propelled riding vibrators, kolman loaders, mechanic, welder, euclid type belt loader, mechanical and hydraulic pipe pushing machine, scoopmobiles, fork-lifts and hoist which lift higher than 25 feet.

DECISION NO. NY80-3006

HEAVY & HIGHWAY CONSTRUCTION - POWER EQUIPMENT OPERATORS (CONT'D):

GROUP II: Elevators, material hoist, road rollers except finish blacktop roller, tractors, pavement busters, pumps over 4 inches, concrete blowers, compressors when used in banks of (2) and not over (3) within a 50 foot radius if such is possible, but at least within 50 foot radius, and if fuel is stored it will be stored within the same radius, gunite machines, locomotives, scoop-mobiles (when used as a stationary hoist or one which does not lift over twenty five feet, concrete pumps, conveyors, gas or diesel driven temporary lighting and power systems of 25 kilowatt capacity or over), stone crushers and winch hoist mounted on trucks, all earth drills, le tourneau turnatrailers, highlift hoist which does not lift over 25 feet, gasoline heaters used in banks of (2) and not over (3) within an area of 100 foot radius, and for (2) but not over (3) gasoline or diesel driven welding machines, trenchers on the back of a jeep, truck mounted post drivers, snow-go, small front and back loaders, small type crawler or rubber tire tractor with blade or bucket not to exceed ½ yd. capacity, single drum hoist for hoisting materials other than steel, pug machine, self propelled rollers not on finish blacktop and under 7 tons, bobcat loader or forklift which does not lift over twenty five feet, trenchers, winch tractors, trenchers excavating up to 6 feet in depth, air compressors over 165 cu. ft.

GROUP III: Oilers on shovels, cranes, draglines, backhoe (over 3/4 cu. yds.) dredges, derrick boats, pavers (excluding stationary set-ups), trenching machines, pile drivers, quarry master (or its equivalent), hydrocranes, automated batch plants (wet or dry mix plants), compressors (165 cu. ft. per minute or under), pumps up to and including 4 inches.

GROUP IV: Truck crane oiler

GROUP V: Steam boiler operator.

GROUP VI: Master Mechanic.

GROUP VII: Cranes carrying over 100 feet of main boom.

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F; providing employee works the day before and the day after the holiday.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: OHIO COUNTIES: FAYETTE & ROSS
DECISION NO : OH80-2003 DATE: Date of Publication
Supersedes Decision No OH77-2089 dated May 20, 1977 in 42 FR 26096
DESCRIPTION OF WORK: Residential Construction Consisting of Single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
BRICKLAYERS	$8 00				
CARPENTERS	5 69				
CEMENT MASONS	6 00				
DRYWALL FINISHERS	7 50				
DRYWALL HANGERS	7 50				
ELECTRICIANS	6 88				
LABORERS:					
Common	4,34				
Mason Tenders	4 50				
PAINTERS	5 25				
PLUMBERS	6,25				
ROOFERS	5,60				
SHEET METAL WORKERS	6 00				
SOFT FLOOR LAYERS	5,00				
TILE SETTERS	5,23				
TRUCK DRIVERS	4,21				
POWER EQUIPMENT OPERATORS:					
Backhoes	6 27				
Bulldozers	6,00				
Front End Loaders	5,88				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5 5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Oregon COUNTIES: Clackamas, Multnomah and Washington
DECISION NUMBER: OR80-5108 DATE: Date of Publication
Supersedes Decision No OR78-5117 dated July 21, 1978, in 43 FR 31568
DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
BRICKLAYERS	$14,26	.95	$1 20		.15
CARPENTERS	12 12	80	1 00	65	04
CEMENT MASONS	11 50	90	1 00	1 00	15
DRYWALL INSTALLERS	12 12	80	1 00	1 00	15
ELECTRICIANS	17,25	.90	3%+1.80		10
LABORERS	6 30				
PAINTERS:					
Brush	10 82	55	70		10
Spray	11 22	55	70		10
Tapers	11 42	55	70		10
PLUMBERS	16 08	1 50	1 60		13
POWER EQUIPMENT OPERATORS:					
Asphalt Roller	11 99	1 00	1 47	50	05
Blade, Finish	12 37	1 00	1 47	50	05
Loader, 4 cu, yds or less	12 15	1 00	1 47	50	05
ROOFERS	12,15	80	1.10		.10
SHEET MERAL WORKERS	14,24	3%+ 98	12.8	1 00	.09
SOFT FLOOR LAYERS	11,565	60	1,05	*	11
TILE SETTERS	13,64	80	1,00		25
TRUCK DRIVERS:					
Dump Truck under 6 cu yds	10 92	78	77	1 28	05
WELDERS: Receive rate for craft performing operation to which welding is incidental					

Unlisted classification needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards clauses 29 CFR, 5 5 (a) (i)(ii)

*FOOTNOTE:
SOFT FLOOR LAYERS:
4% of all gross wages to be placed to the credit of employees with less than one year of service; 6% of all gross wages to be placed to the credit of employees with more than one year of service

STATE: Washington COUNTIES: Statewide
DECISION NUMBER: WA80-5107 DATE: Date of Publication
Supersedes Decision No. WA79-5126 dated July 20, 1979, in 44 FR 42886
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Cos.	$15.78	.72	$1.30		.03
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	16.14	.82	1.30		.16
Remaining Counties	14.64	.72	1.30		.04
BOILERMAKERS	13.61	1.175	1.25	1.00	.04
BRICKLAYERS; MARBLE SETTERS:					
Adams (except City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Grand Coulee Dam Area in Okanogan County and Whitman Counties	13.11	.80	1.00		.05
Benton, Franklin and Walla Walla Counties	13.29	.80	.40		
Chelan, Douglas and Okanogan (except area of Grand Coulee Dam)	11.96	.80	1.00		.05
Clallam, Island, Jefferson, King, Kitsap, Snohomish and Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) Counties	13.43	.80	1.55		.11
Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum Counties and ten mile strip bordering the Columbia River in Klickitat County	14.26	.95	1.20		.15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS; MARBLE SETTERS: (Cont'd)					
Grant County and the portion of Adams County including the City of Othello	$13.25	.40			
Kittitas, Yakima and Klickitat (except a ten mile strip bordering the Columbia River) Counties	13.59	.75	1.00		.07
Grays Harbor, Lewis, Mason, Northern portion of Pacific, Pierce and Thurston Counties	13.43	.80	1.55		.12
San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof), and Whatcom Counties	13.84	.80	1.25		.06
CARPENTERS:					
All Counties and parts of Counties east of the 120th Meridian:					
Carpenters	12.34	.83	.90		.075
Piledriver; Floor Sanders; Saw Filer; Stationary Power Woodworking Tool Operator	12.49	.83	.90		.075
Boom Men; Carpenters (creosoted material)	12.59	.83	.90		.075
Piledriver (creosoted material)	12.74	.83	.90		.075
Millwrights and Machine Erectors	12.84	.83	.90		.075

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARENTERS: (Cont'd)					
All Counties and parts of Counties west of the 120th Meridian except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties:					
Carpenters and Drywall Applicators	$13.04	.70	.85		.02
Carpenters on Creosoted material	13.14	.70	.85		.02
Sawfilers; Stationary Power Saw; Floor Finisher; Floor Layer; Shingles; Floor Sander and other stationary power woodwooking tools	13.17	.70	.85		.02
Millwrights and Machine Erectors	13.54	.70	.85		.02
Piledrivers; Bridge, Dock and Wharf Builders	13.19	.70	.85		.02
Acoustical Workers	13.20	.70	.85		.02
Boommen	13.24	.70	.85		.02
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties:					
Acoustical and Drywall Applicator, Automatic Nailing Machine, Carpenters, Form Strippers, Manhole Builders	12.12	.80	1.00	.65	.04
Floor Layers and Finishers, Stationary Power Saw Operator	12.27	.80	1.00	.65	.04
Millwrights and Machine Erectors	12.37	.80	1.00	.65	.04
Instrument Men	12.52	.80	1.00	.65	.04
Piledrivermen; Bridge, Dock and Wharf Builders	12.22	.80	1.00	.65	.04
Boommen	12.32	.80	1.00	.65	.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:*					
Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas (except for Western portion lying one mile west of the City of Easton), Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties:					
Cement Masons:					
Zone 1	$11.33	.90	$1.25		.10
Zone 2	12.03	.90	1.25		.10
Zone 3	12.28	.90	1.25		.10
Zone 4	12.73	.90	1.25		.10
Zone 5	13.23	.90	1.25		.10
Power Troweling Machine Gunnite Operator:					
Zone 1	11.48	.90	1.25		.10
Zone 2	12.18	.90	1.25		.10
Zone 3	12.43	.90	1.25		.10
Zone 4	12.88	.90	1.25		.10
Zone 5	13.38	.90	1.25		.10
Power Tool Operator (grinding, bushing of toxic material):					
Zone 1	11.78	.90	1.25		.10
Zone 2	12.48	.90	1.25		.10
Zone 3	12.73	.90	1.25		.10
Zone 4	13.18	.90	1.25		.10
Zone 5	13.68	.90	1.25		.10
*See ZONE DESCRIPTION for CEMENT MASONS following TRUCK DRIVERS' Classifications.					
Clallam, Grays Harbor, Jefferson, King (Southern portion), Kittitas (western portion lying one mile west of the City of Easton), Lewis, Mason, Pacific (Northern portion), Pierce and Thurston Counties:					
Cement Masons	11.53	.70	1.00	.50	.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Composition, Color, Mastic, Trowel Machine; Grinder, Power Tool, Gunnite Nozzleman	$11.78	.70	$1.00	.50	.02
Island, San Juan, Skagit, Snohomish, King (Northern portion) and Whatcom Cos.:					
Cement Masons	12.71	.85	1.25		.02
Composition, Color, Mastic, Trowel Machine, Grinder, Power Tools; Gunnite Nozzleman	12.96	.85	1.25		.02
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties:					
Cement Masons	11.50	.90	1.00	1.00	.15
Composition materials and power machinery	11.65	.90	1.00	1.00	.15
ELECTRICIANS:					
Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens and Whitman Cos.:					
Electricians	15.97	.83	3%+.40		.02
Cable Splicers	16.37	.83	3%+.40		.02
Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla and Yakima Counties:					
Electricians	15.77	.83	3%+1.30		.05
Cable Splicers	16.52	.83	3%+1.30		.05
Chelan, Douglas, Grant and Okanogan Counties:					
Electricians	15.72	.83	3%+1.15		.05
Cable Splicers	17.29	.83	3%+1.15		.05
Clallam, Jefferson, King and Kitsap Counties:					
Electricians	16.23	.85	3%+1.10		.05
Cable Splicers	17.85	.85	3%+1.10		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Clark, Klickitat and Skamania Counties:					
Electricians	$17.25	.90	3%+1.80		.10
Cable Splicers	18.00	.90	3%+1.80		.10
Cowlitz and Wahkiakum Cos.:					
Electricians	15.50	.90	3%	5%	.02
Cable Splicers	17.05	.90	3%	5%	.02
Grays Harbor, Lewis, Mason, Pierce, Pacific and Thurston Counties:					
Electricians	15.14	1.00	3%+1.05	8%	.07
Cable Splicers	16.95	1.00	3%+1.05	8%	.07
Island, San Juan, Skagit, Snohomish and Whatcom Counties:					
Electricians	15.77	.90	3%+.40		.04
Cable Splicers	17.35	.90	3%+.40		.04
ELECTRONIC TECHNICIANS: (Installation and repair of low-voltage communication and alarm systems, excluding any work under the jurisdiction of a journeyman wireman):					
Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens & Whitman Cos.:					
Journeyman Installer	8.75	.83	3%		
ELEVATOR CONSTRUCTORS:					
Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties	13.95	.895	.69	a	.035

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
ELEVATOR CONSTRUCTORS: (Cont'd)					
Chelan, Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Cos	$15 735	$1 045	82	a	035
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	13 405	895	69	a	035
GLAZIERS:					
Adams (Northeastern portion), Lincoln (eastern half); Pend Oreille, Spokane and Stevens Cos	11 79	42	50	b	
Adams (Southeastern portion), Benton, Columbia, Franklin and Walla Walla Counties	11 83	47	55	77	
Adams (Southwestern corner), Chelan, Douglas, Grant, Lincoln, (western half) and Okanogan Cos	11 92	47			
Asotin, Garfield, and Whitman Counties	11 06	47	55	b	
Clallam, Island, Jefferson, Grays Harbor, King, Kitsap, Lewis, Mason, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston and Whatcom Cos	11 19	.34	85	b	
Yakima and Kittitas Cos	10 69	42	70		
Clark, Cowlitz, Klickitat, Pacific (Southern protion), Skamania and Wahkiakum Counties	11 41	61	65		01
INSULATION APPLICATORS:					
King County	9 55	60	80		02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
IRONWORKERS:					
Statewide, except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties: Reinforcing; Structural; Fence Erectors; Ornamental; Riggers and Signalmen	$13 66	93	$1 70		10
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties: Reinforcing; Structural; Fence Erectors; Ornamental; Riggers and Signalmen	13 66	93	1 70		10
LATHERS:					
Adams, Asotin, Benton, Chelan, Columbia, Ferry, Franklin, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties	11 00	90	1 25		
Clallam, Island, Jefferson, King, Kitsap, Lewis, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish and Whatcom Counties	13 01	85	1 00		04
Clark, Cowlitz, Klickitat, Pacific (Southern portion); Skamania and Wahkiakum Counties	12 42	75	1 55		06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MASON TENDERS:					
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties: (including tenders of plasterers, bricklayers, tile setters, marble setters, and terrazzo workers; topping for cement finishers and mortar mixers)	$11.15	.95	$1.10		.10
PAINTERS:					
Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties:					
Brush	11.85	.47	1.00		.02
Steel; Spray; Steam Cleaning; Roller over 9" or 10' handle; Drywall Taper	12.10	.47	1.00		.02
Swing Stage work or high rate (over 30')	12.20	.47	1.00		.02
Bitumastic; Sandblasting; Bridge; Tanks on legs; Tower; Stacks; Steeples	12.25	.47	1.00		.02
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties:					
Brush	10.82	.55	.70	.50	.10
Spray	11.22	.55	.70	.50	.10
Bridges, High work over 50' (brush)	11.57	.55	.70	.50	.10
Bridges, High work over 50' (spray)	11.97	.55	.70	.50	.10
Drywall Finishers	10.65	.65	.60	.50	.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston, Pacific (Northern portion) and Whatcom Cos.:					
General Painters	$12.64	.72	.70		.04
Drywall Tapers	13.04	.72	.70		.04
Industrial Painter	13.04				
Towers, Steeplejack	13.39	.72	.70		.04
Statewide except Wahkiakum, Cowlitz and Skamania Cos.:					
Striper	13.63	.72	.25		
PLASTERERS:					
Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties	11.18	.90	1.25		
Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston and Whatcom Cos.	12.74	.85	1.25		.08
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	12.97	.75	1.00		.06
PLASTERERS' TENDERS:					
All Counties and portions of Counties East of the 120th Meridian	10.75	.82	1.00		.05

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr.
PLUMBERS:					
Chelan, Clallam, King, Kittitas (north of 47°15' N. Lat), Douglas (west of the 119°30' W Long), Jefferson and Okanogan (except the area lying east of the 119°30' W. Long , North to 48°30' N Lat , North Lines) Cos	$15 41	94	$1 65	$1 50	12
Adams (except area between a line drawn south from the western boundary of Ferry County to Highway #10 eastward to Whitman County), Asotin, Benton, Columbia, Franklin, Garfield, Grant, Klickitat, Walla Walla, Yakima, Douglas (east of 119°30' W Long), Ferry (west of a line drawn from Creston in Lincoln County northward to the Canadian Border), Kittitas (south of 47°15' N Lat), Lincoln (west of a line drawn from Schrag in Adams County northward to the Ferry County Line), and Okanogan (east of 119°30' W. Long and south of 48°30' N Lat) Counties	14 64	87	1 70	2 00	12

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
PLUMBERS: (Cont'd)					
Adams (area between a line drawn south from the western boundary of Ferry County to Highway #10 and eastward to Whitman County), Asotin, Cowlitz, Ferry (east of a line drawn from Creston in Lincoln County northward to the Canadian Border), Grays Harbor, Kitsap, Lewis, Lincoln (east of a line drawn from Schrag in Adams County northward to the Ferry County Line), Mason, Pend Oreille, Skagit, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Whatcom, Whitman, Clark, and Skamania Counties (those portions lying north of an east-west line drawn through Woodland eastward to the Klickitat County Line	$14 75	90	$1 45	$2 00	12
Clark and Skamania Counties south of an east-west line drawn through Woodland eastward to the Klickitat County Line	16 08	1 50	1 60		13
ROOFERS:					
Adams, Asotin, Chelan, Columbia, Douglas, Ferry, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Cos	11 69	75	1 00		02
Benton, Franklin, Kittitas, Klickitat and Yakima Counties	12 62	75	30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: Cont'd)					
Clallam, Jefferson, King, Kitsap, Mason and Snohomish Counties:					
Roofers; Waterproofers	$12.71	.75	$1.00		.03
Slate and Tile Roofers	12.96	.75	1.00		.03
Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston and Wahkiakum Counties:					
Roofers; Waterproofers	12.33	.75	1.10		.02
Slate and Tile Roofers	12.58	.75	1.10		.02
Island, San Juan, Skagit and Whatcom Counties:					
Roofers; Waterproofers	10.13	.55	.40		
Slate and Tile Roofers	10.63	.55	.40		
Clark and Skamania Counties:					
Roofers	12.15	.80	1.10		.10
Handling of irritating material (coal, tar or epoxy)	12.40	.80	1.10		.10
Handling of irritating material (coal, tar or epoxy) in confined area	12.65	.80	1.10		.10
SHEET METAL WORKERS:					
Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties	15.13	3%+.68	1.14		.14
Clallam, Jefferson, Kitsap and Mason Counties	13.98	3%+.64	.94	2.00	.14
Clark and Skamania Cos.	14.24	3%+.98	1.28	1.00	.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS: (Cont'd)					
Cowlitz, Grays Harbor, Lewis, Pacific, Pierce, Thurston and Wahkiakum Counties	$14.25	3%+.68	$1.06		.04
King, Kittitas, Island and Snohomish Counties	15.29	3%+.73	1.56		.07
Whatcom, Skagit and San Juan Counties	13.51	3%+.73	1.49		.07
SOFT FLOOR LAYERS:					
Adams (Northeastern portion), Ferry, Lincoln (eastern half), Pend Oreille, Spokane and Stevens Counties	11.11	.47	.60		
Adams (Southeastern portion), Benton, Columbia, Franklin and Walla Walla Counties	10.66	.40	.90	1.21	
Adams (Southwestern portion), Chelan, Douglas, Grant, Lincoln (western half), and Okanogan Cos.	11.00	.40	.90	.60	
Asotin, Garfield and Whitman Counties	10.41	.47	1.00		
King and Snohomish Cos.	12.08	.63	1.25		.05
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	11.565	.60	1.05	c	.11
Grays Harbor, Lewis, Mason, Pacific (Northern portion), Pierce and Thurston Counties	11.74	.63	1.25		.05
Yakima and Kittitas Cos.	11.67	.47	.35		
Island and Skagit Counties	11.23	.63	1.25		.05
Whatcom County	11.47	.63	1.00		.05
SPRINKLER FITTERS:					
Skagit, Snohomish, King, Island, Kitsap, Pierce and Thurston Counties	16.76	.75	2.05		.11
Remaining Counties	14.30	.75	1.05		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
TERRAZZO WORKERS; TILE SETTERS:					
Adams, (except that portion including the City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman and Grand Coulee Dam area in Okanogan County	$12 30	80	$1 00		
Benton, Franklin and Walla Walla Counties	12 62	80	40		
Chelan, Douglas, Okanogan (except area of Grand Coulee Dam)	11 96	80	1 00		05
Clallam, Island, Jefferson, King, Kitsap, Skagit (South of the Cities of Burlington, Sedro-Woolley and Concrete) and Snohomish Counties	13 57	80	1.00		11
Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum and a ten-mile strip bordering the Columbia River in Klickitat County	13 64	80	1 00		25
Grant County and that portion of Adams County including the City of Othello	13 25	40			
Grays Harbor, Lewis, Mason, Pierce and Thurston Cos	13 53	80	1 60		11
San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete and north thereof) and Whatcom Counties	12 82	80	85		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
TILE, MARBLE and TERRAZZO FINISHERS:					
All Counties west of the Cascade Mountain Range (except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	$11 69	80	30		

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

*Where Pacific county is stated as "Northern Portion" or "Southern Portion" such areas are defined as follows:

Pacific (Northern portion) - North of Wahkiakum County Northern Boundary extended due west to the Pacific Ocean

Pacific (Southern portion) - South of Wahkiakum County Northern Boundary extended due west to the Pacific Ocean

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit Six Paid Holidays: A thru F

b. Two weeks' vacation with pay after 1 year employment Also seven Paid Holidays: A through F plus Washington's Birthday

c 4% of all gross wages to be placed to the credit of the employee with less than one year's service - 6% of all gross wages to be placed to the credit of the employee with more than one year of service

LINE CONSTRUCTION

	BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
Group 1: Cable Splicer, Leadman Pole Sprayer	$14.41	$15.66	$16.41	$17.16	$18.41
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	13.01	14.26	15.01	15.76	17.01
Group 3: Tree Trimmer	11.75	13.00	13.75	14.50	15.75
Group 4: Line Equipment Man	11.21	12.46	13.21	13.96	15.21
Group 5: Head Ground (Chipper), Head Groundman, Powderman, Jackhammer Man	9.80	11.05	11.80	12.55	13.80
Group 6: Groundman	9.21	10.46	11.21	11.96	13.21

FRINGE BENEFITS PAYMENTS:	GROUPS 1 to 3	GROUPS 4 to 6
Health and Welfare	$.45	$.45
Pension	3%+1.10	3%+.70
Vacation	.10	.10
Apprenticeship Training	1/2%	1/2%

ZONE DESCRIPTIONS:
BASE ZONE* 0 to 3 miles radius from the geographical center of the Cities listed below
ZONE 1 3 to 20 miles radius
ZONE 2 20 to 35 miles radius
ZONE 3 35 to 50 miles radius
ZONE 4 Over 50 miles radius

Spokane	Ellensburg	Astoria	Medford	Corvallis
Tacoma	Ephrata	Baker	Portland	Coeur D'Alene
Walla Walla	Everett	Burns	Pendleton	Kellog
Wenatchee	Kennewick	Bend	Salem	Lewiston
Yakima	Longview	Eugene	Roseburg	Orofino
Wilbur	Olympia	Seattle	Lakeview	The Dalles
Klamath Falls	Bellingham	Umatilla	Sand Point	

*BASE ZONE rate is paid when working out of employer's permanent shop.

LABORERS (AREA 1)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION All Counties and portions of Counties East of the 120th Meridian					
Group 1	$10.20	.82	$1.00		.05
Group 2	10.45	.82	1.00		.05
Group 3	10.70	.82	1.00		.05
Group 4	10.95	.82	1.00		.05
Group 5A	10.90	.82	1.00		.05
Group 5B	11.10	.82	1.00		.05
Group 5C	11.35	.82	1.00		.05
Group 5D	11.40	.82	1.00		.05

LABORERS (AREA 1)*
Counties and portions of Counties East of the 120th Meridian

HEAVY and HIGHWAY CONSTRUCTION

Group Nos.	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	$10.20	$10.90	$11.15	$11.60	$12.10
2	10.45	11.15	11.40	11.85	12.35
3	10.70	11.40	11.65	12.10	12.60
4	10.95	11.65	11.90	12.35	12.85
5A	10.90	11.60	11.85	12.30	12.80
5B	11.10	11.80	12.05	12.50	13.00
5C	11.35	12.05	12.30	12.75	13.25
5D	11.40	12.10	12.35	12.80	13.30

FRINGE BENEFITS:	
Health and Welfare	$.82
Pension	1.00
Apprenticeship Training	.05

*See ZONE DEFINITIONS - following TRUCK DRIVERS' Classifications

LABORERS (AREA 1)
All Counties and portions of Counties East of the 120th Meridian

Group 1: Brush Hog Feeder; Concrete Crewman (to include: Stripping of forms, hand operating jacks on slip form construction, application of concrete curing compounds, Pumpcrete Machine, Signaling, handling the nozzle of Squeezecrete or similar machine - 6 in and smaller); Crusher Feeder; Demolition (to include: clean-up, burning, loading, wrecking and salvage of all material); Dumpman; Fence Erecror (to include; Guard Rail, Guide and Reference Post, Sign Posts, and Right-of-way Markers); Flagman; General Laborer; Grout Machine Header Tender; Nipper; Riprap Man; Scaffold Erector, wood or steel; Scaleman; Stake Jumper; Structural Mover (to include: separating foundation, preparation, cribbing, shoring, jacking and unloading of structures); Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Tractor Laborer (railroad); Truck Loader; Well-point Man; Window Cleaner

Group 2: Asphalt Raker; Asphalt Roller, walking; Carpenter Tender; Cement Finisher Tender; Cement Handler; Concrete Saw, Walking; Demolition Torch; Dope Pot Fireman, non-mechanical; Driller Tender (when required to move and position machine); Form Cleaning Machine Feeder; Stacker; Form Setter, paving; Grade Checker using level; Jackhammer Operator; Nozzleman (to include: squeeze and flow-crete nozzle); Nozzleman, water, air or steam; Pavement Breaker; Pipelayer, corrugated metal culvert; Pipelayer, multi-section; Pot Tender; Powderman Tender; Power Buggy Operator; Power Tool Operator, gas, electric, pneumatic; Railroad Equipment, power driven, except dual mobile power Spiker or Puller; Railroad Power Spiker or Puller, dual mobile; Rodder and Spreader; Sandblast Tailhoseman; Tamper (to include: operation of Barco, Essex and similar tampers, and pavement breakers); Trencher, Shawnee; Tugger Operator; Vibrator, under 4 inches; Wagon Drills; Water Pipe Liner; Wheelbarrow, power driven

Group 3: Air Track Drill; Brush Machine (to include: Horizontal Construction Joint Clean-up Brush Machine, power propelled); Caisson Worker, free air, Chain Saw Operator and Faller; Concrete Stack (to include: Laborers when 40 ft high); Gunnite (to include: operation of machine and nozzle); High Scaler; Hod Carrier; Laser Beam Operator (to include: Grade Checkers and Elevation control); Monitor Operator (track or similar mounting); Mortar Mixer; Nozzleman (to include: Jet Blasting Nozzleman; over 1,200 lbs , Jet Blast Machine, power propelled, Sandblast Nozzle); Pipelayer (to include: working Topman, Caulker, Collarman, Jointer, Mortarman, Rigger, Jacker, Shorer, Valve or Meter Installer); Pipewrapper; Vibrator, 4 inches and over

Group 4: Drills with dual Masts; Powderman

Group 5: Tunnel and Shaft, free air
Class A: Bull Gang, Pump Crete Crewman including Distribution Pipe, Assembling and Dismantle and Nipper
Class B: Brakeman, Dumpman
Class C: Miner and Nozzleman for concrete and Laser Beam Operator in Tunnels
Class D: Raise and Shaft Miner and Laser Beam Operator on Raises and Shafts

LABORERS (AREA 2) All Counties West of the 120th Meridian (except those enumerated in Areas 3 and 4) and the Northern portion of Pacific County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
* Group 1	$11 23	.95	$ 1 10		08
Group 2	11 57	.95	1 10		08
Group 3	11 71	95	1 10		08
Group 4	11.81	95	1 10		08

Group 1: Asphalt Laborer; Batch Weighman; Broomers; Brush Cutter; Brush Hog Feeder; Burners; Car and Truck Loader; Cement Handler; Changehouse or Dry Shack; Chocker Setter; Clean up Laborer; Concrete Form Stripper; Concrete and Monolithic Laborer; Crush Feeder; Curing Laborer; Demolition, wrecking and moving; Ditch Digger; Drierman; Dumpman; Elevator Feeders; Epoxy Technician; Faller and Bucker, hand; Fence Laborer; Fine Graders; Flagman; Form Setter; Grout Machine Header Tender; Header Laborer and Guardrail Erector; House Wrecker; Landscaping or Planting; Material Yard Man (including electrical); Nipper-Swamper; Pilot Car; Pitman; Pot Tender; Rip Rap Man; Scaleman; Signalman; Skipman; Sloper Sprayman; Stockpiler; Toolroom Man (at job site); Track Laborer; Truck Spotter; Window Cleaner

LABORERS (AREA 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian

Group 2: Air, gas or electric Vibrating Screed; Anchor Machine; Ballast Regulator machine; Chippers; Chocker Splicer; Chuck Tender; Clary power Spreader and similar types; Concrete Saw; Gabian Basket Builder; Grinders; Groutman, pressure, including Post Tension Beams; Jackhammer; Multiple Tampers; Pavement Breaker; Pipe Pot Tender; Pipe Wrapper; Powderman Tender; Power Jacks; Power Wheelbarrow or Buggy; Railroad Spike Puller; Ribbon Setter, head; Rip Rap Man, head; Rodder; Sloper, over 20 ft.; Stake Hopper; Swinging Scaffold or Boatswain Chair over water or 25 ft. in height; Tamper, multiple and self-propelled; Tamper and similar electric and air operator tools; Topman-tailman; Track Liners; Vibrator; Wagon Driller and Air Trac Tender Well Point Laborer

Group 3: Bit Grinder and Drill Doctor; Cement Dumper, paving; Cement Finisher Tender; Faller and Bucker Chain Saw; Grade Checker and Transit Man; High Scaler; Laser Beam Operator; Manhole Builder; Mortarman and Hodcarrier; Nozzleman (concrete and rock, sandblast, gunnite, shotcrete); Water Blaster; Pipelayer and Caulker; Powderman; Raker, asphalt; Spreader (carries grade with rodder); Timberman, sewer; Tugger Operator; Vibrator, 4" and over; Wagon Driller and Air Trac Operator

Group 4: Caisson Worker; Laser Beam Operator (tunnel); Powderman; Re-timberman

LABORERS (AREA 3)*
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$10.01	$10.41	$10.76	$11.01	$11.26	$11.51
2	10.36	10.76	11.16	11.36	11.61	11.86
3	10.66	11.06	11.41	11.66	11.91	12.16
4	10.91	11.31	11.66	11.91	12.16	12.41

FRINGE BENEFITS:

Health and Welfare	$.95
Pension	1.10
Vacation	.65
Apprenticeship Tr.	.10

*See ZONE DEFINITIONS - following TRUCK DRIVERS' Classifications

Group 1: General Laborer; Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Changehouse Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Culvert, hand labor; Curing, concrete; Demolition, wrecking and moving Laborers; Drillers' Tenders; Dumpers, road oil crew; Dumpman (for grading crew); Elevator Feeders; Fence Builder (including guard rail, median rail, reference post, guide post, right-of-way marker); Fine Graders; Form Strippers (not swinging stages); Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and similar types); Loading Spotters; Material Yard Man (including electrical); Powderman Tender; Pittsburgh Chipper Operator or similar types Railroad Track Laborers; Ribbon Setters (including Steel Forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipman; Slopers; Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bull Gang (above ground); Weightman - Crusher (aggregate when used)

LABORERS (AREA 3) (Cont'd)
Clark, Colitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 2: Applicator (including pot tender for same) Applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters(power saw); Burners; Choker Splicer; Clary, power spreader and similar types; Clean-up Nozzleman-Greencutter (concrete, rock, et); Concrete Power Buggyman; Crusher Feeder; Demolition and wrecking charred materials; Grade Checker; Gunite Nozzleman Tender; Gunite and Sand Blasting Post Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine, Jackhammer, Chipping Guns, Paving Breakers, Vibrators (less than 4" in diameter); Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers; Ribbon Setter; head; Rip Rap Man, head, hand placed; Sand Blasting (wet); Stake Setter; Tunnel-Muckers; Brakemen; Concrete Crew; Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators; Air Tracks; Cat Drills; Wagon Drills; Rubber-mounted Drills and other similar typed; Concrete Saw Operator; Gunite Nozzleman; High Scalers; Strippers and Drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down or sloping and stripping); Laser Beam (pipe laying); Applicable when employee assigned to move, set up, align Laser Beam; Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumpcrete Nozzleman; Sandblasting (dry); Sewer (Pipe Layers); Sewer Timberman; Track Liners; Anchor Machines, Ballast Regulators, multiple Tampers, power Jacks; Tugger Operator; Tunnel Chuck Tenders; Nippers and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4: Laser Beam (tunnel) - Tunnel Miners; Tunnel Powderman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr Tr
LABORERS (AREA 4) Those portions of Chelan, Douglas, Kittitas, Okanogan, and Yakima lying West of the 120th Meridian					
Group 1	$11 23	95	$1 10		08
Group 2	11 57	95	1 10		08
Group 3	11 71	95	1 10		08
Group 4	11 81	95	1 10		08

Group 1: Asphalt Laborer; Batch Weighman; Broomers; Brush Cutter; Brush Hog Feeder; Burners; Car and Truck Loader; Carpenter Tender; Cement Handler; Changehouse or Dry Shack; Chocker Setter; Clean-up Laborer; Concrete Form Stripper; Concrete and Monolithic Laborer; Crush Feeder; Curing Laborer; Demolition, wrecking and moving; Ditch Digger; Dryerman; Dumpman; Elevator Feeders; Epoxy Technician; Faller and Bucker, hand; Fence Laborers; Fine Graders; Flagman; Form Setter; Grout Machine Header Tender; Header Laborer and Guardrail Erector; House Wrecker; Landscaping or Planting; Material Yard Man (including electrical); Nipper-Swamper; Pilot Car; Pitman; Pot Tender; Rip Rap Man; Scaleman; Signalman; Skipman; Sloper; Sprayman; Stockpiler; Toolroom Man (at job site); Track Laborer; Truck Spotter; Window Cleaner

LABORERS (AREA 4) (Cont'd)
Those portions of Chelan, Douglas, Kittitas, Okanogan and Yakima lying West of the 120th Meridian

Group 2: Air, gas or electric Vibrating Screed; Anchor Machine; Ballast Regulator Machine; Chippers; Chocker Splicer; Chuck Tender; Clary Power Spreader and similar types; Concrete Saw; Gabian Basket Builder; Grinders; Groutman, pressure, including Post Tension Beams; Jackhammer; Multiple Tampers; Pavement Breaker; Pipe Pot Tender; Pipe Wrapper; Powderman Tender; Power Jacks; Power Wheelbarrow or Buggy; Railroad Spike Puller; Ribbon Setter, head; Rip Rap Man, head; Rodder; Sloper, over 20 ft.; Stake Hopper; Swinging Scaffold or Boatswain Chair over water or 25 ft. in height; Tamper, multiple and self-propelled; Tamper and similar electric and air operated tools; Topman-Tailman; Track Liners; Vibrator; Wagon Driller and Air Trac Tender; Well Point Laborer

Group 3: Bit Grinder and Drill Doctor; Cement Dumper, paving; Cement Finisher Tender; Faller and Bucker Chain Saw; Grade Checker and Transit Man; High Scaler; Laser Beam Operator; Manhole Builder; Mortarman and Hod Carrier; Nozzleman (concrete pump, green cutter when using combination of high pressure air and water on concrete and rock, sandblast, gunnite, shotcrete) Water Blaster; Pipelayer and Caulker; Powderman; Raker, asphalt; Spreader (carries grade with rodder); Timberman, sewer; Tugger Operator; Vibrator, 4" and over; Wagon Driller and Air Trac Operator

Group 4: Caisson Worker; Laser Beam Operator (tunnel); Powderman; Re-timberman

POWER EQUIPMENT OPERATORS (AREA 1)*
All Counties and portions of Counties East of the 120th Meridian

Group No.	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	$10.30	$11.00	$11.25	$11.70	$12.20
2	10.60	11.30	11.55	12.00	12.50
3	11.15	11.85	12.10	12.55	13.05
4	11.30	12.00	12.25	12.70	13.20
5	11.45	12.15	12.40	12.85	13.35
6	11.70	12.40	12.65	13.10	13.60
7	11.95	12.65	12.90	13.35	13.85

FRINGE BENEFITS:
Health and Welfare $1.20
Pension 1.55
Apprenticeship Training .03

*See ZONE DEFINITIONS - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS (AREA 1)
All Counties and portions of Counties East of the 120th Meridian

Group 1: Bit Grinders; Bolt Threading Machine; Compressor, under 2,000 cu ft per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Driller's Tender; Fireman and Heater Tender; Grade Checker; Tender (mechanic, H D); Oiler, Oiler and Cable Tender, Mucking Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or Compacting or Vibrator) except when pulled by Dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator; Fireman or Pugmixer Operator, single unit (concrete); Belt Finishing Machine; Bending Machine (Pipeline); Blower Operator (cement); Cement Hog; Compressor (2,000 cu ft. or over, 2 or more gas, diesel or electric power); Concrete Saw (mutliple cut); Distributor Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker; Hydra-lift and similar; Gin Trucks (Pipeline); Hoist, single drum; Loader (Bucker, Elevator and Conveyors); Longitudinal Float; Mixer Operator; Post Hole Auger or Punch; Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad Power Tamper Operator (self-propelled); Railroad Power Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Jack Operator (self-propelled); Straddle Buggy (Ross and similar on construction job site); Tractor (farm type R/T with attachments except Backhoe); Tugger Operator; Ditch Witch or similar

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Beltcrete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Blade Operator (motor patrol and attachments); Boat Operators; Boom Cats (side); Boring Machine (rock under 8" bit)(Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Chipper (without crane); Cleaning and Doping Machine (Pipeline); Concrete Pumps (Squeeze-crete, Flow-crete, Pumpcrete, Whitman and similar); Drills (Churn, Core, Calyx, or Diamond); Elevating Belt-type Loader (Euclid, Barber Green or similar); Elevating Grader-type Loader (Dumor, Adams or similar); Equipment Serviceman, oiler and greaser; Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Hoist (2 or more drums or tower hoist); Loader (Overhead and Front-end under 4 yds R/T); Locomotive Engineer; Mixermobile; Mucking Machines; Paver or Curb Extruder (concrete and asphalt); Pump (grout or jet); Rollerman (finishing pavement); Rubber-tired Scraper (one motor with one scraper, under 40 yds); Screed Operator, Soil Stabilizer (P&H or similar); Spreader Machine; Tractor (Crawler, including Dozer, Scraper, Drills, Boom, Rollers, etc); Traverse Operator; Vacuum Drill (reverse circulation drill, under 8')

POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 4: H D Mechanic; Refrigeration Plant Engineer (under 1,000 tons); Rubber-tired Scraper, multi-engine power, with one scraper (Euclid, TS-24 and similar); Rubber-tired Scrapers, one motor with one scraper (40 yards and over); Surface Heater and Planer Machines; Turnhead (with re-screening)

Group 5: Asphalt Plant Operator; Automatic Subgrader (ditches and trimmers)(Auto-grade, ABC, R R Hansen and similar on grade wire); Backhoes (under 3 yds.); Batch and Wet Mix Operator - multiple units (2 and including 4); Blade (under 3 yds); Concrete Slip Form Paver; Cranes (under 65 tons, sideboom over 24 ft , butt pin to CTR Sheave); Crusher, Grizzle and Screening Plant Operators; Drilling Equipment (8' bit and over)(Robbins' reverse circulation and similar); Loader Operator (front end and overhead, 4 yds to 8 yds); Pile Driving Engineers; Paver (dual drum); Quad-track or similar equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, Multi-engine, power with one scraper (Euclid, TS-24 and similar); Push Pull or Help Mate in use; Rubber-tired Scrapers, multiple engines with 2 scrapers; Shovels (under 3 yds); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whirleys, High-line Hammerheads or similar); Trenching Machines (7 ft depth and over); Multiple Dozer units with single blade

Group 6: Backhoes (3 yards and over); Batch Plant (over 4 units); Cableway Controller-Dispatcher; Cableway Operator; Clamshell Operator (3 yards and over); Cranes, all - 65 tons and over; Derricks and Stifflegs (65 tons and over); Dragline (3 yards and over); Elevating Belt (Holland type); Loader 360 degress revolving Koehring Scooper or similar); Loaders (overhead and front-end, over 8 yards to 12 yards); Rubber-tired Scrapers (multiple engine with 3 or more scrapers); Shovels (3 yards and over); Tower Crane; Whirley and Hammerheads (all)

Group 7: Helicopter Pilot; Loaders (overhead and front-end, over 12 yards)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (AREA 2) All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3)					
Group 1	$13.10	.85	$1.50		.11
Group 2	13.20	.85	1.50		.11
Group 3	13.31	.85	1.50		.11
Group 4	13.36	.85	1.50		.11
Group 5	13.38	.85	1.50		.11
Group 6	13.43	.85	1.50		.11
Group 7	13.44	.85	1.50		.11
Group 8	13.45	.85	1.50		.11
Group 9	13.48	.85	1.50		.11
Group 10	13.50	.85	1.50		.11
Group 11	13.63	.85	1.50		.11
Group 12	13.66	.85	1.50		.11
Group 13	13.69	.85	1.50		.11
Group 14	13.76	.85	1.50		.11
Group 15	13.78	.85	1.50		.11
Group 16	13.79	.85	1.50		.11
Group 17	13.81	.85	1.50		.11
Group 18	13.84	.85	1.50		.11
Group 19	13.88	.85	1.50		.11
Group 20	13.95	.85	1.50		.11
Group 21	13.96	.85	1.50		.11
Group 22	14.01	.85	1.50		.11
Group 23	14.06	.85	1.50		.11
Group 24	14.28	.85	1.50		.11
Group 25	14.32	.85	1.50		.11
Group 26	14.37	.85	1.50		.11
Group 27	14.45	.85	1.50		.11
Group 28	14.67	.85	1.50		.11
Group 29	14.87	.85	1.50		.11
Group 30	14.98	.85	1.50		.11
Group 31	15.00	.85	1.50		.11
Group 32	15.28	.85	1.50		.11

POWER EQUIPMENT OPERATORS (AREA 2)
All Counties and portions of Counties West of the 120th Meridian except those enumerated in Area 3) and including the Northern portion of Pacific County

Group 1: Mechanics' Tenders (Heavy duty)

Group 2: Oilers, Grade-oiler combination and/or Brakeman

Group 3: Firemen; Firemen (drier and hot plant)

Group 4: Rollers, Tampers and Vibrators (other than plant, road mix or multi-lift materials); Tractor (farmall type, 60 h.p. and under); Compressor (excavating and general purposes)

Group 5: Oiler Driver on Truck Cranes (over 45 tons up to 100)

Group 6: Blower Distributors and Mulch Seeding Operator; Oil Distributors

Group 7: Locomotive (Dinkey-air, diesel, electric, gas, steam)

Group 8: Cement Hogs

Group 9: Equipment Service and Fueling Oiler; Oiler Driver on Truck Cranes (100 tons and over)

Group 10: Pump (water); Tractors (Farmall type, over 60 H.P.)

Group 11: Post Hole Diggers (mechanical)

Group 12: Brooms, power (Wayne, Saginaw and similar types); Bulldozers (under D9 or similar); Loaders (Fork Lifts, Lumber Stacker on construction job site, Drott Travel Lift); Rollers, Tampers and Vibrators (twin engine); Saw (concrete); Scrapers (carry-all types, single)

Group 13: Batch Plant Operator (Batch and Mixer, 200 yds. per hour and under); Cranes ("A" Frame Trucks, single power drum); Conveyors; Crusher (rock) Washing and Screening Plants; Finishing Machine Operator, concrete paving; Hoists, Air Tuggers, Strato Tower Bucket, Elevators and Deck Winches (power); Loaders (Elevating-Athey, Barber Greene and similar types, Overhead and Front-end, under 2½ yds.); Mixers (asphalt up to 4 tons per batch, Concrete Mixer and Batch - 200 yds. per hour and under); Power Plant Operators; Pumps (Fuller Kenyon, Concrete and Pumpcrete); Rollers, Tampers and Vibrators (on plant, road mix or multi-lift materials); Screed Man; Spreaders (Blaw Know, Cedarapids, Jaeger, Flarrety or similar types); Trenching Machine (under 16 inches).

POWER EQUIPMENT OPERATORS (AREA 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County

Group 14: Motor Patrol Graders (including Model 14 and similar); Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment (25 yards and under)

Group 15: Compressor (steel erection or tank erecting including sandblasting, painting of the same); Hoists on steel erection, Air Tuggers and Towermobiles; Loaders (fork lifts with power)

Group 16: Mechanic or Welder (heavy duty)

Group 17: Loaders (Elevating Grade type, Dumor and similar); Mixers (paving); Scraper (carryall type, double)

Group 18: Tractors (farmall type, used as Backhoes, Rubber-tired Ford, Ferguson, Case and similar type 60 H.P. and under); Pumps, truck mounted; Concrete Pump with boom attachment

Group 19: Bull Dozer (D-9 or similar)

Group 20: Trenching Machines (16 inches and over)

Group 21: Bump Cutter (Concut, Christianson or similar types)

Group 22: Batch Plant (Batch and Mixer, over 200 yards per hour through 400 yards per hour); Conveyors (Beltcrete with power pack and similar types); Loaders (elevating belt type - Euclid and similar types); Mixer (asphalt, 4 tons and over per batch, concrete mixers and batch - over 200 yards per hour through 400 yards per hour, and paving, dual)

Group 23: Bulldozer engaged in Yo Yo Operation (while clearing and scaling); Cableways (3 yards and under); Cranes ("A" Frame Trucks, double power drum: and Crawler, truck type, Floating, Locomotive, Whirley, either 3 yards and under, or 150' of boom including jibs and under, or 45 tons and under; Hydralifts, Hyster Cat Cranes and attachments; Chipper, wood with boom attachment); Derricks, all; Drilling Machine (Core, Cable Rotary and Exploration); Loader (Fork Lift with power boom and swing attachment; Overhead and Front End, 2½ yards and up to 4 yards); Mixers (mobile type with hoist combination); Motor Patrol Graders over Model 14 and similar; Mucking Machines (Mole, Tunnel Drill, and/or Shield); Paydozer and Linker Pusher (Quad-9 and similar); Piledriver Engineer (L B. Foster Puller or similar, paving breaker); Shovels (Crawler and truck types, all attachments, 3 yards and under); Sub Grader (Gurries, CMI and similar types); Tractors (farmall type, used as Backhoes, Rubber-tired - Ford, Ferguson, Case and similar types - over 60 H P); Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment over 25 yds through 40 yds

POWER EQUIPMENT OPERATORS (AREA 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County

Group 24: Loaders (Overhead and Front End, 4 yards up to 8 yards)

Group 25: Concrete Mixers and Batch, over 400 yards per hour through 600 yards per hour

Group 26: Tournapulls, Caterpillar, Euclid, Scrapers and similar type (over 40 yards through 55 yards)

Group 27: Cableways (over 3 yards); Crane (Crawler, truck type, floating, Locomotive, Whirley, either over 3 yards, or over 150' of boom including jibs or over 45 tons up to 100 tons; and, Tower Cranes, Peco, Lorraine, Bucyrus and similar types); Helicopter Winch Operator; Remote Control Operator on Rubber-tired Earth Moving Equipment; Shovels (Crawler and truck type, all attachments, over 3 yards up to 6 yards); Slip Form Paver (Zimmerman, cmi and similar types)

Group 28: Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment (over 55 yards through 70 yards)

Group 29: Loaders (Overhead and Front End 8 yards and over)

Group 30: Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment (over 70 yards through 85 yards)

Group 31: Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment (over 85 yards through 100 yards)

Group 32: Tournapulls, Caterpillar, Euclid, Scrapers and similar type equipment (over 100 yards)

POWER EQUIPMENT OPERATORS (AREA 3)*
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum, and the Southern portion of Pacific, Counties

Groups	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$11.43	$11.83	$12.18	$12.43	$12.68	$12.93
2	11.57	11.97	12.32	12.57	12.82	13.07
3	11.67	12.07	12.42	12.67	12.92	13.17
4	11.83	12.23	12.58	12.83	13.08	13.33
5	11.85	12.25	12.60	12.85	13.10	13.35
6	11.93	12.33	12.68	12.93	13.18	13.43
7	11.99	12.39	12.74	12.99	13.24	13.49
8	12.09	12.49	12.84	13.09	13.34	13.59
9	12.15	12.55	12.90	13.15	13.40	13.65
10	12.21	12.61	12.96	13.21	13.46	13.71
11	12.23	12.63	12.98	13.23	13.48	13.73
12	12.29	12.69	13.04	13.29	13.54	13.79
13	12.37	12.77	13.12	13.37	13.62	13.87
14	12.53	12.93	13.28	13.53	13.78	14.03
15	12.69	13.09	13.44	13.69	13.94	14.19
16	12.87	13.27	13.62	13.87	14.12	14.37
17	13.01	13.41	13.76	14.01	14.26	14.51
18	13.19	13.59	13.94	14.19	14.44	14.69
19	13.33	13.73	14.08	14.33	14.58	14.83

FRINGE BENEFITS:

Health and Welfare	$1.00
Pension	1.47
Vacation	.50
Apprenticeship Training	.05

*See ZONE DESCRIPTION - following TRUCK DRIVERS' Classifications

POWER EQUIPMENT OPERATORS (AREA 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feederman; Deckhand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler - driver, 25 ton capacity or over; Crane Fireman (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Driller Tender; Auger; Oiler; Boatman; Fork Lift or Lumber Stacker Operator (on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Tender; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Asphalt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with Screed; Compressor Operator (any power), under 2,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy, phones, etc.; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite Work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Lull Hi-lift Operator or similar type; Fork Lift, over 5 ton; Service Oiler (Greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Pactor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps, Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

POWER EQUIPMENT OPERATORS (AREA 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concrete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2½ cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Beltcrete; Pumpcrete Operator (any type); Fuller-Kenyon and similar; Concrete Pump; Grouting Machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck, double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without Front End attachments 2½ cu. yds. and under (Ford, John Deere, Case type); Elevating Grader, Tractor towed requiring Operator or Grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loader, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type lifting device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yds.; Loader, Front End and Overhead, 2½ cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (bit grinder); H.D. Mechanic Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. Flywheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Asphalt Plant Operator

Group 10: Bulldozer, twin engine (TC 12 and similar); Cable Plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Rubber-tired Dozers and Pushers (Michigan, Cat, Hough type); Driller - Percussion, Diamond, Core, Cable, Rotary and similar type

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu .yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

POWER EQUIPMENT OPERATORS (AREA 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper; single and twin engine; Single Scraper, with Push-pull attachments, self-loader; Paddle Wheel, auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engine; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 50 tons; Piledriver Operator; Floating Clamshell, etc., under 3 cu. yds.; Floating Crane (Derrick Barge), less than 30 ton; Elevating Grader, operated by tractor operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc. 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, auger type, finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Autograder or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (Derrick Barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley, over 80 ton and including 150 ton; Floating Crane (Derrick Barge), 80 ton, but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane, 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane, 250 ton and over; Remote controlled earth moving equipment; Underwater equipment, remote or otherwise

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(DREDGING - AREA 1)					
All Counties and portions of Counties East of the 120th Meridian					
Group 1	$13.02	.85	$1.50		.11
Group 2	13.12	.85	1.50		.11
Group 3	13.46	.85	1.50		.11
Group 4	13.51	.85	1.50		.11
Group 5	13.56	.85	1.50		.11
Group 6	13.88	.85	1.50		.11
Group 7:					
(a)	14.27	.85	1.50		.11
(b)	14.82	.85	1.50		.11
(DREDGING - AREA 2)					
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific					
Group 1	13.02	.85	1.50		.11
Group 2	13.12	.85	1.50		.11
Group 3	13.46	.85	1.50		.11
Group 4	13.51	.85	1.50		.11
Group 5	13.56	.85	1.50		.11
Group 6	13.88	.85	1.50		.11
Group 7:					
(a)	14.27	.85	1.50		.11
(b)	14.82	.85	1.50		.11
(DREDGING - AREA 3)					
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Cos.					
Group 1	12.79	1.00	1.47	.50	.05
Group 1A	13.44	1.00	1.47	.50	.05
Group 2	12.42	1.00	1.47	.50	.05
Group 3	12.18	1.00	1.47	.50	.05
Group 4	11.92	1.00	1.47	.50	.05

POWER EQUIPMENT OPERATORS
DREDGING - AREAS 1 and 2

Group 1: Assisstant Mate (deckhand)

Group 2: Fireman; Oiler

Group 3: Assistant Engineer (Electric, Diesel, Steam or Booster Pump); Mates and Boatmen

Group 4: Engineer; Craneman

Group 5: Assistant Engineer (Electric Generator Operator for primary pump, power barge or dredge)

Group 6: Leverman, Hydraulic

Group 7: Leverman, Dipper:
(a) 5 yards and under
(b) Over 5 yards

POWER EQUIPMENT OPERATORS
DREDGING - AREA 3

Group 1: Leverman, Dipper

Group 1A: Leverman, Hydraulic

Group 2: Assistant Engineer (including Watch Engineer, Mechanic, and Machinist) and Mate

Group 3: Tenderman (Boatman, attending Dredge Plant); Fireman

Group 4: Assistant Mate (Deckhand); Oiler

TRUCK DRIVERS (AREA 1)*
All Counties and portions of Counties East of the 120th Meridian

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5
1	$11 39	$12 09	$12 34	$12 79	$13 29
2	11 43	12.13	12 38	12 83	13 33
3	11 49	12 19	12 44	12 89	13 39
4	11 58	12 28	12 53	12 98	13 48
5	11 79	12 49	12 74	13 19	13 69
6	11 83	12 53	12 78	13 23	13 73
7	11 89	12 59	12 84	13 29	13 79
8	11 93	12 63	12 88	13 33	13 83
9	12.04	12.74	12 99	13 44	13 94
10	12 08	12 78	13.03	13 48	13 98
11	12 39	13 09	13 34	13 79	14 29
12	12 53	13 23	13 48	13 93	14 43
13	12 69	13 39	13 64	14 09	14 59
14	12 83	13 53	13 78	14 23	14 73

FRINGE BENEFITS:
Health and Welfare $1 12
Pensions 1 19

*See ZONE DEFINITIONS - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS (AREA 1)
All Counties and portions of Counties East of the 120th Meridian

Group 1: Flat Bed Truck, single rear axle; Escort Driver; Fork Lift, 3,000 lbs and under; Fuel Truck Driver (steam cleaner and washer); Tender and Swamper; Leverperson loading Trucks at Bunkers; Pick-up hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck, 1,800 gallons

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No 1

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yds. and under); Trucks, side, end, and bottom dump (under 6 yds); Water Tank Truck, 1,801 - 4,000 gallons

Group 4: Auto Crane - 2,000 lbs capacity; Bulk Cement Spreader; Dumptor (56 yds and under); Flaherty Spreader, Box Driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.); Oil Distributor Driver (Road, Bootperson, Leverperson Tender); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds to 6 yds); Water Tank Truck, 4,001 - 6,000 gallons; Wrecker and Tow Trucks

Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No 2; Truck, side, end, and bottom dump (over 6 yds to 12 yds)

Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water Tank Truck, 6,001 - 8,000 gallons

Group 7: Dumptor (over 6 yds.); Transit Mixers and Trucks hauling concrete (6 yds. to 10 yds); Trucks, side, end, and bottom dump (over 12 yds including 20 yds)

TRUCK DRIVERS (AREA 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 8: Low Boy (over 50 tons); Water Tank Truck, 8,001 - 10,000 gallons; Tractor with Steer Trailer

Group 9: Transit Mixers and Trucks hauling concrete (10 yards to 15 yards); Trucks, side, end and bottom dump (over 20 yards including 30 ysrds); Water Tank Truck (10,001 - 12,000 gallons)

Group 10: Mechanic, Field

Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (15 yards to 20 yards); Trucks, side, end and bottom dump (over 30 yards to 40 yards); Water Tank Truck, 12,001 - 14,000 gallons

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yards); Trucks, side, end and bottom dump (over 40 yards to 50 yards)

Group 13: Trucks, side, end and bottom dumps (over 50 yards to 100 yards

Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end and bottom dump (over 100 yards)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (AREA 2) All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) including the Northern portion of Pacific County and all of Kittitas and Yakima Counties					
Group 1	$13.41	.94	$1.12		.09
Group 2	12.46	.94	1.12		.09
Group 3	13.51	.94	1.12		.09
Group 4	13.62	.94	1.12		.09
Group 5	13.68	.94	1.12		.09
Group 6	13.72	.94	1.12		.09
Group 7	13.73	.94	1.12		.09
Group 8	13.79	.94	1.12		.09
Group 9	13.84	.94	1.12		.09
Group 10	13.86	.94	1.12		.09
Group 11	13.89	.94	1.12		.09
Group 12	13.99	.94	1.12		.09
Group 13	14.01	.94	1.12		.09
Group 14	14.05	.94	1.12		.09
Group 15	14.17	.94	1.12		.09
Group 16	14.21	.94	1.12		.09
Group 17	14.33	.94	1.12		.09
Group 18	14.38	.94	1.12		.09
Group 19	14.54	.94	1.12		.09
Group 20	14.70	.94	1.12		.09
Group 21	14.86	.94	1.12		.09

TRUCK DRIVERS (AREA 2)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) including the Northern portion of Pacific County and including all of Kittitas and Yakima Counties

Group 1: Leverman and Loaders at Bunkers and Batch Plants; Pickup Trucks, Escort or Pilot Car; Swampers; and Checkers

Group 2: Team Drivers

Group 3: Bull Lifts and similar equipment used in loading and unloading trucks, transporting materials on job site, Dumpsters and similar equipment (including Tournarockers, Tournawagon, Turnatrailer, Cat DW series, Terra Cobra, LeTourneau, Westinghouse, Athey Wagon, Euclid, two and four-wheeled power tractor with trailer and similar top-loaded equipment transporting material: Dump Trucks, side, end and bottom dump, including Semi-trucks and Trains or combinations thereof) - up to and including 5 yards; Flatbed, single rear axle; Fuel Truck; Grease Truck; Greaser, Battery Service Man and/or Tire Service Man; Scissor Truck; Spreader, Flaherty; Tractor (small, rubber-tired); Vacuum Truck; Water Wagon and Tank Trucks, up to 1,600 gallons; Winch Truck, single rear axle; Wrecker, Tow Truck and similar equipment

Group 4: Flatbed, dual rear axle

Group 5: Buggymobile; Hyster Operators; Straddle Carrier (Ross, Hyster, and similar equipment); Water Wagon and Tank Trucks, 1,6000 gallons to 3,000 gallons

Group 6: Transit-mix, 0 to and including 41 yards

Group 7: Dumpsters and similar equipment (as listed in Group 3) - over 5 yards to and including 12 yards; Explosive Truck (field mix) and similar equipment; Lowbed and Heavy Duty Trailer, under 50 tons gross; Road Oil Distributor Driver; Slurry Truck; Sno-go and similar equipment; Winch Truck, dual rear axle

Group 8: Dumpster and similar equipment (as listed in Group 3) - over 12 yards to and including 16 yards

TRUCK DRIVERS (AREA 2) (Cont'd)
All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) including the Northern portion of Pacific County and inlcuding all of Kittitas and Yakima Counties

Group 9: Bulk Cement Tanker; Dumpsters and similar equipment (as listed in Group 3) - over 16 yards to and including 20 yards; Water Wagon and Tank Truck, over 3,000 gallons

Group 10: Bull Lifts or similar equipment used in loading or unloading trucks transporting materials on job site, other than warehousing

Group 11: Transit-mix, over 4½ yards to and including 6 yards

Group 12: "A" Frame or Hydralift Trucks or similar equipment

Group 13: Dumpster and similar equipment (as listed in Group 3) - over 20 yards to and including 30 yards; Lowbed and Heavy Duty Trailer, over 50 tons gross to and including 100 tons gross

Group 14: Transit-mix, over 6 yards to and including 8 yards

Group 15: Dumpsters and similar equipment (as listed in Group 3) - over yards to and including 40 yards; Lowbed and Heavy Duty Trailer, over 100 tons gross

Group 16: Transit-mix, over 8 yards to and including 10 yards

Group 17: Dumpsters and similar equipment (as listed in Group 3) - over 40 yards to and including 55 yards

Group 18: Transit-mix, over 10 yards to and including 12 yards

Group 19: Transit-mix, over 12 yards to and including 16 yards

Group 20: Transit-mix, over 16 yards to and including 20 yards

Group 21: Transit-mix, over 20 yards

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TRUCK DRIVERS (AREA 3)*
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$10.92	$11.32	$11.67	$11.92	$12.17	$12.42
2	10.97	11.37	11.72	11.97	12.22	12.47
3	11.02	11.42	11.77	12.02	12.27	12.52
4	11.07	11.47	11.82	12.07	12.32	12.57
5	11.12	11.52	11.87	12.12	12.37	12.62
6	11.22	11.62	11.97	12.22	12.47	12.72
7	11.32	11.72	12.07	12.32	12.57	12.82
8	11.42	11.82	12.17	12.42	12.67	12.92
9	11.52	11.92	12.27	12.52	12.77	13.02
10	11.69	12.09	12.44	12.69	12.94	13.19
11	11.79	12.19	12.54	12.79	13.04	13.29
12	11.89	12.29	12.64	12.89	13.14	13.39
13	11.99	12.39	12.74	12.99	13.24	13.49
14	12.09	12.49	12.84	13.09	13.34	13.59

FRINGE BENEFITS:

Health and Welfare	$ .78
Pension	.77
Vacation	1.28
Apprenticeship Training	.05

*See ZONE DESCRIPTION - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS (AREA 3)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: 6 cu. yds. and under, Lift Jitneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Leverman on Concrete Dry Batch Plant (manually operated); Pilot Car; Solo Flat Bed and misc. Body Trucks, 0-10 tons; Truck Tender; Truck Mechanic Tender; Warehouseman (warehouse parts, tool men and parts chaser, checkers and receivers); Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame or Hydra-lift Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and Wet or Dry Mix Trucks: 5 cu. yds. and under; Tireman (full-time basis); Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers or doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Stadddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit Mix and Wet or Dry Trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 10 cu. yds. and including 20 cu. yds.; Transit Mix and Wet or Dry Mix Truck, over 7 cu. yds. and including 9 cu. yds.; Truck Mechanic - Welder - Body Repairman; Water Wagons (rated capacity) - 5,000 to 7,000 gallons

TRUCK DRIVERS (AREA 3) (Cont'd)
Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 20 cu. yds. and including 30 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 9 cu. yds. and including 11 cu. yds.; Water Wagons (rated capacity) over 7,000 gallons to 10,000 gallons

Group 8: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 30 cu. yds. and including 40 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 11 cu. yds. and including 15 cu. yds.; Water Wagon (rated capacity) over 10,000 gallons to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 40 cu. yds. and including 50 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 90 cu. yds. and including 100 cu. yds.

Drivers and Tenders (handling sacked cement - add $.15 per hour)

Winch Truck - takes classification of Truck on which Winch is mounted.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc. 80-6872 Filed 3-6-80; 8:45 am]
BILLING CODE 4510-27-C

ZONE WAGE SCALE (AREA 1)

CEMENT MASONS

Travel Zone Centers:
Moses Lake Wenatchee Pasco Yakima
*Coeur d'Alene *Walla Walla Spokane Lewiston

LABORERS
(Heavy and Highway)
POWER EQUIPMENT OPERATORS
TRUCK DRIVERS

Travel Zone Centers:
Moses Lake Pasco Spokane Lewiston
*Coeur d'Alene *Walla Walla
*15 mile free Zone

ZONE 1 - within a 15 mile radius from the center of the above named Cities
ZONE 2 - 15-30 miles radius from the center of the above named Cities
ZONE 3 - 30-45 miles radius from the center of the above named Cities
ZONE 4 - 45-90 miles radius from the center of the above named Cities
ZONE 5 - over 90 miles radius from the center of the above named Cities

ZONE WAGE SCALE (AREA 3) ONLY

LABORERS
Goldendale, Longview and Vancouver

POWER EQUIPMENT OPERATORS
Astoria, Goldendale, Hood River, Longview
The Dalles and Vancouver

TRUCK DRIVERS
Astoria, Goldendale, Longview, The Dalles and Vancouver

ZONE 1 - all jobs or projects located within 10 miles of the respective City Hall
ZONE 2 - more than 10 miles but less than 25 miles from the respective City Hall
ZONE 3 - more than 25 miles but less than 35 miles from the respective City Hall
ZONE 4 - more than 35 miles but less than 45 miles from the respective City Hall
ZONE 5 - more than 45 miles but less than 75 miles from the respective City Hall
ZONE 6 - more than 75 miles from the respective City Hall

Friday
March 7, 1980

Federal Register

Part III

Department of Agriculture

Food and Nutrition Service

Commodity Supplemental Food Program; Interim Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 247

Commodity Supplemental Food Program; Requirements

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: These regulations set forth various changes in the requirements for the Commodity Supplemental Food Program (CSFP).

The major changes will modify the health service requirements except that local agencies are required to maintain the level of effort effective prior to March 3, 1978; revise the administrative funding formula to base the administrative grant on 15 percent of total funds appropriated and provide States with a more stable allocation; allow State agencies to charge transportation costs to local agencies; and clarify the certification procedures. The revisions and additions incorporated into these regulations will increase the efficiency with which the Program is administered and will result in improved services to needy individuals applying for and receiving commodity supplemental foods.

DATES: The administrative funds procedure will become effective April 1, 1980. The other provisions of these regulations must be implemented by June 5, 1980. This allows an adequate period to meet new requirements.

Comments: Comments will be accepted and should be postmarked on or before May 15, 1980.

ADDRESS: Send comments to: Jennifer R. Nelson, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Jane W. McNeil, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250, (202) 447–8704.

SUPPLEMENTARY INFORMATION: On March 3, 1978, interim regulations for the CSFP were published in the Federal Register (43 FR 8777). The regulations were made effective immediately to implement the provisions of Pub. L. 95–113, which required a number of significant changes in the CSFP. The major changes involved the allocation and use of administrative funds and the provision of nutrition education. At that time the Department requested public comments on the interim regulations and 29 letters were received. As a result of these comments, the Department realizes that further changes are necessary to increase the efficiency of CSFP operations and administration and to improve services to participants of this vital Program. Therefore, the Department is issuing this new set of interim regulations which discusses the substantive comments received and the actions taken. Several new sections have also been added; consequently, the numbers of some sections have changed. The Department again extends an invitation for comments from all interested individuals or organizations that wish to offer criticism or suggestions on these new interim regulations. All comments received within the time frame specified will be considered when final regulations are drafted. Copies of all written submissions will be made available for public inspection in Room 4301, 201 14th Street, SW., Washington, D.C. 20250, during regular business hours (8:30 AM to 5:00 PM).

§ *247.1 General Purpose and Scope*

This section has been revised slightly to clarify that the purpose of the Program is to provide supplemental foods and nutrition education to eligible persons through State or local agencies.

§ *247.2 Definitions*

These regulations also contain a few revisions and additions to the definitions section in order to clarify terms in current usage. The changes are as follows:

"A–90" has been defined to clarify that this circular applies to the Program. "A–95" is also defined and refers to the circular requiring the Governor's review of the State Plan.

"Categorical ineligibility" has been added and means persons who do not meet the definition of pregnant women, breastfeeding women, postpartum women, or infants or children. This definition replaces the term "Eligible persons" used in the previous regulations.

"Certification" has also been added in order to clarify the term.

"Local agency" has been redefined to clarify the type of agency that qualifies to participate as a local agency. A number of commenters appeared to misconstrue the previous definition. They felt it implied that only health agencies could participate in the Program, and were concerned since currently some local agencies are not health agencies. Further, it was pointed out that a number of currently participating local agencies are unable to meet the requirement of providing health services. The Department strongly supports the provision of health services to participants. However, in order to avoid terminating any participating local agencies, disrupting services to participants, or preventing the expansion of the Program into needy areas, the Department has decided to modify the requirement that all local agencies provide health services. Many local agencies with the necessary facilities have always provided health services to participants. These agencies are required to continue to maintain the same level of health-ties that was ongoing prior to March 3, 1978 (publication date of interim regulations with expanded health services requirement). Other local agencies, as well as new local agencies, are encouraged, but not required to provide health services. All local agencies are required to advise participants of the importance of health care and where low-income persons can obtain such services.

"Participation" has been defined as the number of persons who have received supplemental foods through the Program in the reporting period.

"Pregnant women" a term which was inadvertently omitted from the previous regulations, is now included, and is defined as women who are determined to have one or more embryos or fetuses in utero.

"SFPD" has been included to reflect, as a result of reorganization, the proper name of the division responsible for administration of the Program within FNX. The term means the Supplemental Food Programs Division.

"State agency" has been modified to remove the reference to the State distributing agency and to clarify that the State must determine which agency at the State level has responsibility for Program administration. Only the agency which contracts with FNS to administer CSFP will be called the State agency. The State agency, however, may sub-contract with other agencies to fulfill other Program responsibilities.

§ *247.3 Administration*

This section delegates Program adminstrative responsibilities among FNS, State and local agencies. The responsibilities of the agency(s) administering the Program at the State level have been clarified. If more than one agency operates the Program at the State level, the State must determine which agency shall be responsible for Program administration in the State and this agency must enter into a written agreement with the Department. The agency which enters into the agreement shall be called the State agency. The

State agency may choose to have certain Program functions performed by another agency(s) of the State. Under such circumstances, the State agency must enter into a written agreement with the other agency which outlines each agency's responsibilities under the Program. For example, if the State Department of Social Service is the State agency, it may enter into an agreement with a distributing agency for food distribution. This procedure should improve continuity of administration by ensuring that one cognizant State agency is responsible for overall Program administration in the State. It should be noted that when a State agency enters into an agreement with a distributing agency, the distributing agency must still enter into a separate agreement with the Department, as required by 7 CFR 250.5(d) Subchapter B Food Distribution.

§ 247.4 Donation of Supplemental Foods

A new provision has been added to this section to clarify that the State agency is liable to FNS for supplemental foods that are lost or destroyed.

In addition, relative to this section, a few comments were received which requested changes in the food package offered under the Program. Several commenters specifically proposed that a soy-based formula be included. The Department is aware that in the majority of the literature concerning soy-based formulas, the formulas are discussed in reference to milk-intolerant infants. Symptoms which are characteristic of milk allergies may also be common to other health disorders. If infants exhibit such symptoms they should be seen by a physician so that an appropriate diagnosis can be made. For these reasons the Department is concerned that if participants are able to request soy-based formulas on the basis of their own diagnoses, rather than on the basis of consultation with a physician, there is a danger that some health problems may go undetected. Also there is some concern that participants might decide to try a new formula because they are curious about it, rather than because their infants have had problems. While the Department endorses the use of soy-base formulas when there is a demonstrated need, it does not endorse the indiscriminate use of these products. In describing their soy-based formula products, manufacturers clearly state that these products are for special uses. Therefore, in accordance with the mandate in Public Law 95-113 that the Department annually review the food package, the Department is currently reevaluating the authorized food items, and serious consideration is being given to the inclusion of a soy-based formula. If such a formula should be authorized it could only be issued upon a showing of proper documentation from a physician stating the need for the substitution. The Department would like to have further comments concerning the feasibility of distributing two types of formula throughout the Program.

§ 247.5 State Plan

This section describes the requirements related to the State Plan of Program Operations and Administration which is the document that describes the State agency's goals and action plans for efficient and effective Program operation. These regulations require each State agency to submit a State Plan to FNS by August 15th of each year. However, State agencies are required to submit only those portions of the State Plan which have changed since the previous year. This new provision will relieve State agencies from having to duplicate the unchanged portions of the previous year's State Plan. To further benefit State agencies, these regulations require FNS to expeditiously evaluate State Plans and to provide written approval or denial of a Plan or amendment within 30 days of receipt.

A requirement had also been added that the State Plan include a copy of the forms to be used for agreements between the State agency and other agencies of the State, agreements between the State and local agencies (except when the State agency and local agency are the same) and for certification. The use of an agreement between the State and other agencies of the State and between State and local agencies will serve to clearly delineate the responsibilities reserved to each agency. The certification form will assure that all necessary data is collected in a uniform manner from individuals applying for Program benefits.

One commenter questioned the requirement of a nutrition education evaluation. The commenter suggested that it would be difficult to assess measurable improvement without an accurate record of health indicators. While an assessment of improvement in various health indices could be used to evaluate all Program benefits, such an assessment might not be the sole indicator of the effectiveness of the nutrition education received by participants. There are methods other than health assessment which may be used, such as tests of participants' knowledge, surveys of participants' shopping habits or questioning participants as to their opinion on the value of the nutrition education received. Since Pub. L. 95-113 establishes nutrition education as a basic benefit of the Program, the Department believes it is especially important to evaluate the effectiveness of the component. Therefore, the requirement for an evaluation of nutrition education remains in the regulations.

The State agency is responsible for detecting and preventing dual participation within each local agency, between local agencies and between the CSF Program and the WIC Program. This is a particularly important requirement when more than one CSF State agency, or a CSF Program and a WIC Program, operate in the same area. In these cases, the State agency must enter into a written agreement with the other CSF State agency or with the WIC State agency operating in that area. This agreement must specify the responsibilities of the two agencies in preventing dual participation. Copies of these agreements must be submitted in the State Plan.

Further, in order to delineate the State agency's standards and objectives concerning nondiscrimination and fair hearings, a description of the State agency's procedures in these areas is required in the State Plan.

§ 247.6 Selection of Local Agencies

In the past, the CSFP and the WIC Program were not allowed to operate simultaneously in the same area. However, Pub. L. 95-627 now authorizes the simultaneous operation of the two Programs in the same area. This provision is intended to help meet the unserved need that either CSFP or the WIC Program is incapable of meeting in a particular area. In order to document that there is a definite and justifiable need which warrants both Programs in one area, any State agency that approves the operation of one Program by a local agency in an area already served by the other Program must maintain on file at the State agency office written justification for review and evaluation by the FNS Regional Office. When evaluating the need for both Programs, the State agency is expected to consider such factors as the total number of potentially eligible participants in the area compared to the number already being served by the existing Program. If there is reason to believe that the existing Program is already meeting the need of the area, then the application should be disapproved by the State agency.

§ 247.7 Certification

A number of local agencies have indicated their inability to meet the requirements of interim regulations concerning health care and nutritional assessments. It is evident that the use of nutritional criteria to determine eligibility varies considerably among the local agencies now administering the Program. Some local agencies require that all applicants meet nutritional need criteria in order to participate, while others certify only on the basis of categorical eligibility and income. While the Department believes there is merit in using nutritional criteria to determine eligibility, the Department does not wish to disrupt ongoing operations by local agencies unable to meet this requirement. To disqualify such agencies would mean that many participants would lose Program benefits, perhaps for an extended period. Therefore, in the interest of maintaining services to CSFP participants, the requirement of a nutritional need examination has been deleted. However, the Department strongly believes that in addition to receiving the supplemental foods, on-going health care is vital in further ensuring the good health of this high risk target population. For this reason each participant shall be advised of the importance of participating in on-going, routine health care and where health service facilities providing such health care for low-income persons are located.

Other portions of this section have been restructured and several paragraphs have been added to improve clarity. A sentence has been added to explain that local agencies may choose to issue either a monthly supply of supplemental foods or a 2-month supply every other month. However, if a local agency chooses to issue a 2-month supply of supplemental foods every other month, the local agency must inform participants that they may still receive a monthly supply every month if they so request. This requirement is intended to simplify distribution for local agencies without inconveniencing those participants with limited storage or refrigeration facilities.

Further, the minimum information that must appear on the certification form has also been added to the regulations. This requirement is intended to ensure that specific basic information is included on each State's certification form and that applicants are aware of their basic rights and responsibilities prior to signing the form.

A paragraph has also been included in the regulations to require the State agency to notify participants of their right to fair hearings, nondiscrimination, and nutrition education.

In addition, another new paragraph sets forth the State agency's responsibility to issue explanatory notices to applicants denied Program benefits and to participants terminated during a certification period. Also, participants whose certification periods are expiring must be notified of the forthcoming expiration of eligibility.

The previous regulations contained no requirement for the length of certification periods. The Department believes that the State agency should be allowed flexibility in determining the intervals within which a person's eligibility must be reestablished. However, certification should be done often enough to ensure that nutrition education is provided at regular intervals, and to prevent Program abuse. It would be imprudent to allow continuous participation without periodic certification periods since the economic status as well as categorical eligibility of an individual could change.

At a minimum, the Department believes that infants, children, and postpartum or breastfeeding women should be certified at least annually and that pregnant women should be certified for the duration of pregnancy and for 6 weeks postpartum. In addition, language has been added to allow Program benefits to be continued until the end of a month in which the participant becomes categorically ineligible. For example, a child could continue to receive supplemental foods until the end of the month in which the child reaches the sixth birthday. This provision is included for the administrative convenience of the local agency, so they do not have to issue partial food packages to certain participants.

The requirements regarding transfers of certification have been expanded to include all participants, unlike the previous requirement which pertained to migrant farmworkers only. In addition, it is required that the State agency must allow the local agencies under its jurisdiction to accept evidence of certification from persons who have been participating in the Special Supplemental Food Program for Women, Infants and Children or the Commodity Supplemental Food Program in another local agency within or outside of the jurisdiction of the State agency. Verification of certification now includes the name and address of the local agency which performed the original certification to enable the receiving agency to acquire additional information from the originating agency if necessary.

Provisions concerning dual participation were also added to the regulations. Individuals may not participate at more than one local agency and may not participate at more than one site in local agencies with multiple certification and distribution sites. Pub. L. 95-627 specifies that this Program and the WIC Program may operate in the same or overlapping areas. However, participants are still prohibited from simultaneously receiving benefits from both this Program and the WIC Program. This section has been added to clarify these prohibitions and set forth procedures to prevent dual participation.

The State agency shall be responsible for detecting and preventing dual participation within each local agency and between local agencies. Before a State agency for the Program and either an Indian State agency for the Program or a WIC Program may operate in the same area, the State agency must enter into a written agreement with the Indian State agency or the WIC Program State agency for a plan to detect and prevent dual participation. The State agency shall terminate dual participators from one of the programs and may also disqualify dual participators from continued Program participation in both programs. However, disqualification for dual participation or disqualification for other forms of fraud from both programs shall not exceed a 3-month period and shall be waived altogether if it is determined that a serious health risk may be a consequence of disqualification from the Program. Participants shall be afforded the opportunity to appeal both a termination and a disqualification from the Program. These regulations list examples of actions which constitute fraud. If the State or local agency believes fraud has occurred, appropriate sanctions may be pursued. These measures, plus checking the identification of each participant at certification and when issuing supplemental foods, are designed to assure that individuals do not abuse the Program.

§ 247.8 Nutrition Education

The nutrition education provisions of the previous regulations have not been substantially changed. One comment received by the Department stated that the nutrition education section was too vague. Although some minor revisions of this section have been made to improve clarity, the Department believes it is important for local agencies to be allowed flexibility in delivering nutrition education during the initial stages of nutrition education development. Two other comments suggested that nutrition

education include food demonstration and recipe development for participants. While the Department encourages both these ideas as long as they reinforce the importance of having foods consumed by the participant to whom they are issued, the Department believes that State and local agencies should be allowed flexibility in designing an appropriate nutrition education plan and that a requirement for food demonstration and recipe development would be too structured a requirement. A paragraph was added to clarify that supplemental foods issued to a State or local agency administering the Program may be used by that agency only for the purpose of providing nutrition education to participants and parents or guardians of participants. Supplemental foods shall not be used for outreach or other purposes.

§ 247.9 Financial Management Systems

Although this section is new, the requirements of the section are derived from OMB Circular A–102 and are not new requirements. The Department has included the requirements as a separate section to improve the clarity of the regulations.

In the previous regulations the paragraphs describing Letters of Credit and their disbursement were located in the Administrative Funding Section. The addition of this new section enabled the Department to more appropriately relocate that information here where it applies to all Program funds.

§ 247.10 Administrative Funding

Since publication of the previous rules, the Department has received a number of comments regarding the sections on administrative funding and costs. Most of the comments requested changes in allowable administrative costs. The commenters stated that the burden of the cost of transportation of food within the State should be borne by the local agencies rather than State agencies, or that more monies should be given to the State agencies. The Department agreed that some changes were needed and revised the section on administrative costs accordingly.

Until passage of Pub. L. 95–113, the Department had no authority to fund expenses of State and local agencies for administering the CSFP. Funds had to be obtained from State and local sources or from Federal sources, such as the Community Services Administration. Pub. L. 95–113 does not preclude continued funding from such sources, but also provides authority for the Secretary of Agriculture to provide funds to State and local agencies to cover allowable administrative costs.

In fiscal years 1978 and 1979 the amount of administrative funds provided to each State agency was calculated as follows:

$$\frac{\text{Each State's participation}}{\text{National participation}} \times \text{15\% of the estimated value of foods ordered} = \text{Each State's quarterly grant amount}$$

First, the percent that each State agency's monthly participation represents of the total CSFP State agencies' participation for the latest month is determined. Each State agency's percentage is multiplied by the administrative funds available for that quarter. The figure derived represents the quarterly administrative grant for each CSFP State agency. The determination of available administrative funds is based on 15 percent of the estimated value of State agency needs, e.g., total foods ordered by the State agencies for the quarter.

The estimated needs for commodities are solicited from CSFP State agencies by the FNS Food Distribution Division (FDD). Once all food estimates are received, FDD assigns a cost value to the commodities requested based on the most recent cost paid for that food item by the Federal Government. The total cost as assigned results in the estimated value of the total foods ordered. It should be noted that this estimate does not reflect any cancellations by the States at a later time, or foods that are not purchased because of market conditions.

Some State agencies have voiced opposition to the above method of computing funding levels. These State agencies maintain that they are not receiving 15 percent of the foods ordered or actually distributed to participants. Further, they have expressed concern that the present method does not allow them the opportunity to administer the Program in an efficient and effective manner. By not being able to predict their administrative grant throughout the fiscal year, they cannot properly plan or budget for Program operations. In the same vein, CSFP State agencies have expressed concern that they are unable to meet the requirements contained in the Program regulations with the administrative funds provided.

An analysis of our data reveals that the CSFP State agencies are correct in stating that they are not all receiving 15 percent of the commodities ordered to be distributed. Due to the fluctuation in State orders depending on their inventory levels, some State agencies are receiving more, and others less, than 15 percent. From a national perspective, administrative grants equal 15 percent of the total estimated value of commodities ordered by CSFP State agencies. However, it should be noted that this 15 percent is based on food cost estimates and that this procedure has not resulted in the distribution of the entire administrative appropriation. In reference to the CSFP State agency concerns regarding their inability to budget for Program operations due to fluctuating quarterly grant amounts, we agree that not knowing the grant amount can cause uncertainty which may result in significantly inhibited Program operations. By tying food costs (e.g., value of commodities ordered) to the method of computing administrative grant levels. CSFP State agencies can never be assured of knowing the exact amount of their annual grant amount.

In light of the problems cited above, we believe that the method of computing funding levels should be changed so that the entire administrative appropriation can be allocated and the CSFP State agencies can be advised or be able to predict their grant level throughout the fiscal year.

Therefore, the funding method has been changed to reflect these concerns. The new formula is:

$$\frac{\text{Each State agency's average participation}}{\text{National average participation}} \times \text{Administrative Funds appropriation} = \text{Each State's annual grant}$$

As the value of commodities which can be made available to State and local agencies is equal to the funds appropriated by Congress for purchasing commodities, then 15 percent of the appropriation for commodity purchases is allowed for the administrative funds grant. Thus, all administrative funds appropriated are available to State and local agencies.

Under this method, participation figures used will be based on the average participation reported for the most recent 12 months. The percent that each State agency's participation represents of the total CSFP State agencies' participation is derived. Each State agency's percentage is then multiplied by the administrative funds appropriation to determine the annual funding level for each State agency. FNS reserves the right to adjust participation data used in the computation process upward or downward to ensure adequate funds are allocated for future operations such as anticipated start-up or termination of State agencies. Since this formula distributes the entire administrative appropriation for the fiscal year, participation of new State

agencies during the course of the fiscal year will depend upon the availability of funds. The actual allocation of administrative funds to State agencies will be made on a quarterly basis. However, each State agency will be made aware of their annual grant level at the beginning of the fiscal year.

Caseload assignment would still be used to ensure that the food funds appropriated are not exceeded. Thus, quarterly adjustments to those State agencies exceeding or not meeting projected expenditures would probably be necessary to ensure both the efficient use of funds and that State agencies are operating within their allotted administrative and food levels. To ensure that each State agency can properly budget for the Program's operation, this formula includes a special provision that 75 percent of a State agency's administrative grant be protected from future recoveries.

Since fiscal year funds have already been distributed for 6 months of fiscal year 1980, this section, including funding amounts, will be effective on April 1, 1980, with third and fourth quarter grants being computed based on the new formula. The participation figures used will be based on August 1978 through July 1979 months, as these months would normally be used to compute the initial fiscal year grant if the formula had been in effect beginning in fiscal year 1980. However, State agencies should be aware that the grants received under the new formula might be lower than prior quarter grants since estimated food orders were unusually high for the first two quarters, resulting in prior distribution of more than half of the appropriated administrative funds for the fiscal year.

The administrative funding formula for allocation of funds between State and local agencies, in combination with the requirements placed on the State agency, also caused concern among the States. Comments at the CSFP meeting in Atlanta in April 1978, and comment letters from State agencies, a local agency, and one Congressman complained about the administrative funds available to the States. At issue was each State's responsibility for food distribution costs in addition to the formula for distributing administrative funds within the State.

In these regulations no change has been made in the formula for distributing administrative funds within a State, but relief has been provided to State agencies through a change in the billing for the distribution of food within a State and a special provision is made for State agencies which provide warehousing services. These changes are discussed in the following section.

§ 247.11 Administrative Costs

Section 247.10(b)(7) of the previous regulations stated that the State agency could not charge any part of the (food) transportation costs to local agencies. The State agency was required to assume all costs incurred as a result of transporting food to local agencies. This was in addition to other administrative costs the State agency had to bear.

Commenters indicated that in certain States, after transportation costs were paid, there would be very few funds available for all other State administrative costs. Further, many local agencies had been sharing, and could continue to share, the cost of transporting food within the State. In response to such comments, the Department revised these regulations to allow State agencies to charge local agencies for distribution costs. The Department believes this revision allows State agencies greater flexibility in the allocation of costs while continuing to assure that a certain percentage of funds are passed on to the local agencies. As is currently done, storage and handling costs at local warehouses are costs borne by local agencies. However, some State agencies have their own warehousing facilities. This results in a larger share of the administrative costs at the State level. In these instances, the State agency may request FNS approval to retain funds in excess of the amount authorized by the intra-State formula. Before approving such a request, FNS would assess the impact of the retention of these additional funds at the State level to ensure that it will not adversely affect local agencies.

In further response to comments, a sentence has been added to the regulations to clarify that the costs of interpreters, audits, administrative appeals and fair hearings are allowable administrative costs. Also, in the interest of clarity, paragraphs have been added to enumerate those costs which are allowable only with prior FNS approval, as specified in FMC 74-4 and to enumerate costs which are specifically unallowable.

We have received requests to allow Program funds to be used to provide transportation to participants. Since this Program serves a number of areas where there is little public transportation and since carrying home a monthly food package is a considerable burden on participants even when there is public transportation, the cost of transporting participants has been made an allowable cost when the need is documented by the local agency. Another source of funding for this purpose may be through Section 18 of the Department of Transportation's Formula Grant Program for Areas Other than Urbanized Areas of the Urban Mass Transportation Act. Section 18 provides funds to States for the capital and operating expense of rural transportation service. Besides this type of grant there are over 100 other Federal programs which provide transportation assistance. All of these should be thoroughly considered before any type of transportation system is developed for a CSFP agency. Although expenses incurred for the transportation of participants are allowable, in cases where the participant has been transported to the local agency for services in addition to CSFP the transportation cost must be prorated between the two services. In no event shall a participant be reimbursed for transportation.

§ 247.12 Program Income

This is a new section of the regulations which specifies how income from Program funds must be used. This section has been added to more clearly outline the use of Program income as required by OMB Circular A-102.

§ 247.13 Records and Reports

The time period for record retention has been revised slightly to comply with the requirements of the Office of Management and Budget. The regulations require record retention for three years following the date of submission of the annual expenditure report for the period to which the reports pertain.

One change requires that Program and financial reports be submitted quarterly, rather than "as required by FNS, at a frequency required by FNS." The reports are needed quarterly and are currently submitted on that schedule. OMB Circular A-102 requires reporting to be at least annually, but no more frequently than quarterly. The Department selected quarterly reporting as the appropriate interval for the Program. In addition, a requirement for an annual physical inventory has been added.

§ 247.14 Procurement and Property Management Standards

Although no comments were received on this section, some slight technical amendments, such as titles to paragraphs, were made for clarity.

§ 247.15 Audits

Only one comment was received on this section. A public accounting group misinterpreted the previous regulations to mean that the Department permitted only Certified Public Accountants (CPA's) to perform audits. In accordance with the Standards for Audits of Governmental Organizations, Programs, Activities and Functions, the Department permits State-licensed accountants to perform audits if they were licensed prior to 1971. These regulations have been revised to clarify this policy.

A sentence has been added to make it clear that corrective action plans submitted in response to audits must include timeframes for the correction of deficiencies and problems. Also, a paragraph has been added to establish the frequency with which audits must be conducted.

§ 247.16 Investigations

No comments were received on this section and the provisions are unchanged from those in the previous regulations.

§ 247.17 Claims

The Department added this new section to the regulations for the purpose of assigning to States the responsibility for the management of Program funds and to provide authority for FNS claims against State agencies for negligence, fraud or other misuse of Program funds.

§ 247.18 Closeout Procedures

No comments were received on this section. However, a revision has been included to correct an error in the previous regulations. State agencies must submit final fiscal year closeout reports to FNS within 90 days after the end of the fiscal year. The previous regulations erroneously permitted a period of 120 days for the submission of such reports. Preliminary fiscal year closeout reports are still required within 30 days after the end of the fiscal year.

§ 247.19 Nondiscrimination

In compliance with the requirements of Title VI of the Civil Rights Act of 1964 these regulations prohibit discrimination on the basis of race, color or national origin. Although no comments were received on this section, the previous regulations prohibiting discrimination because of creed, political beliefs or sex, have been deleted from these regulations at this time. The Department does not condone discrimination on any basis, but chose not to delay this docket while awaiting the necessary clearances on the Nondiscrimination Section of the regulations.

In addition, a provision has been added to require State agencies to ensure that, where necessary, bilingual staff members or interpreters are available. Also, the requirement for translated Program information was retained in these regulations. If volunteer interpreters are used rather than hiring bilingual staff members the local agency must ensure that such volunteers are reliable and available when needed.

§ 247.20 Fair Hearing Procedures for Participants

The fair hearing section has been reorganized and expanded to clarify and improve upon the previous regulations. Additions were made in order to clarify the hearing official's responsibilities and the applicant's rights during the hearing procedure. Also for clarification, the regulations specify that fair hearing decisions must comply with Federal law or regulations and must be factually based on the hearing record. Furthermore, a statement has been added to specify that in addition to a decision being reached within 45 days, benefits must also be issued within that timeframe if the hearing is decided in favor of the applicant. In addition, the regulations require that applicants who lose a decision must be told about the availability of a judicial review of a State agency decision.

These regulations specify that aggrieved individuals must be provided at least 60 days in which to request a fair hearing. Also, if they are participating in the Program and are terminated within a certification period and they appeal the termination within the 15-day advance adverse notice period they must be given continued benefits. Even if an individual is terminated because of categorical ineligibility, the benefits continue until the hearing official reaches a decision.

Individuals who apply or reapply for a new certification period and whose applications are denied, may appeal the action but will not receive benefits during the appeal.

Several commenters suggested that the previous fair hearing requirements were too restrictive to State agencies and that not enough time was provided to process appeals. After reviewing the requirements, the Department concluded that processing standards and other uniform requirements are essential to ensure fair and equal treatment to all applicants. Needy applicants, particularly those not eligible for continued benefits, warrant rapid attention when they appeal an agency action. The Department believes that State agencies do have considerable flexibility, within the basic requirements, to set their own hearing procedures.

§ 247.21 Management Evaluation and Reviews

Prior to the issuance of these regulations, a section was not included on management evaluation and reviews. However, because of the important role that this phase of the management cycle plays in assuring an effective and efficient administration of the Program, the Department felt that it was essential to include a management evaluation section in these regulations. Management evaluation is an ongoing process and an important element in the areas of Program operation and accountability. This review process can be utilized to assess Program compliance as well as denote any needed Program improvements. The findings of the reviews can show the staff at the local, State, and Federal levels what is required to improve the Program and ensure that overall objectives are met and as many eligible persons as possible are reached.

Guidance presenting the concept of management evaluation, background information, and the minimum steps necessary to successfully carry out the management evaluation process will be issued by FNS. FNS will provide technical assistance to help establish the State review operation.

§ 247.22 Miscellaneous Provisions

No comments were received on this section; however, some provisions have been added in an effort to safeguard the rights of the participants.

Accordingly, Part 247 is revised to read as follows:

PART 247—COMMODITY SUPPLEMENTAL FOOD PROGRAM

Sec.

247.1 General purpose and scope.
247.2 Definitions.
247.3 Administration.
247.4 Donation of supplemental foods.
247.5 State agency plan of program operation and administration.
247.6 Selection of local agencies.
247.7 Certification.
247.8 Nutrition education.
247.9 Financial management systems.
247.10 Administrative funding.
247.11 Administrative costs.
247.12 Program income.
247.13 Records and reports.
247.14 Procurement and property management standards.
247.15 Audits.
247.16 Investigations.
247.17 Claims.

Sec.
247.18 Closeout procedures.
247.19 Nondiscrimination.
247.20 Fair hearing procedure.
247.21 Management evaluation and reviews.
247.22 Miscellaneous provisions.

Authority: Sec, 32, Pub. L. 74-320, 49 Stat. 774, as amended (7 U.S.C. 612c); Pub. L. 75-165, 50 Stat. 323, as amended (15 U.S.C. 713c); sec. 416, Pub. L. 81-439, 63 Stat. 1058, as amended (7 U.S.C. 1431); sec. 4(a). Pub. L. 93-86, 87 Stat. 249, as amended (7 U.S.C. 612c note); sec. 1304(b), Pub. L. 95-113 (7 U.S.C. 612c note).

§ 247.1 General purpose and scope.

This part specifies the policies and prescribes the regulations for the Commodity Supplemental Food Program (CSFP) under which women, infants and children in low-income groups, vulnerable to malnutrition, may obtain supplemental nutritious foods donated by the U.S. Department of Agriculture. The purpose of the Program is to provide supplemental foods and nutrition education to eligible persons through State or local agencies.

§ 247.2 Definitions.

For the purpose of this part and of all contracts, guidelines, instructions, forms, and other related documents, the term:

"Administrative costs" means those direct and indirect costs, identified under FMC 74-4, which State and local agencies determine to be necessary to support Program operations. Such costs are further addressed in § 247.11.

"A-90" means Office of Management and Budget Circular A-90 which provides guidance for the coordinated development and operation of information systems.

"A-95" means Office of Management and Budget Circular A-95 which sets forth procedures for evaluation, review and coordination of Federal and federally assisted programs and projects.

"A-102" means Office of Management and Budget Circular A-102 which sets forth uniform administrative requirements for grants-in-aid to State and local governments and federally recognized Indian tribal governments.

"A-110" means Office of Management and Budget Circular A-110 which sets forth uniform administrative requirements for grants to, and other agreements with, institutions of higher education, hospitals, and other quasi-public and private non-profit organizations.

"Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

"Categorical ineligibility" means persons who do not meet the definition of pregnant women, breastfeeding women, postpartum women, or infants or children.

"Certification" means the use of criteria and procedures to assess and document each applicant's eligibility for the Program.

"Children" means persons who are at least one year of age but have not reached their sixth birthday.

"Department" means the U.S. Department of Agriculture.

"Distributing agency" means an agency which has entered into an agreement with a State agency and with the Department for the distribution of commodities under 7 CFR Part 250, Subchapter B—Food Distribution Regulations.

"Dual participation" means simultaneous participation by an individual in the CSFP in more than one local agency or clinic, or simultaneous participation in the CSFP and in the Special Supplemental Food Program for Women, Infants and Children (WIC) 7 CFR Part 246.

"Fiscal year" means the Federal fiscal year covering the period of 12 calendar months beginning October 1 of any calendar year and ending September 30 of the following year.

"FMC 74-4" means Federal Management Circular 74-4, which sets forth principles for determining costs applicable to grants and contracts with State and local governments.

"FNS" means the Food and Nutrition Service of the U.S. Department of Agriculture.

"Infants" means persons under one year of age.

"Local agency" means a public or private nonprofit agency which enters into an agreement with the State agency to administer the Program at the local level. A local agency determines the eligibility of applicants, distributes supplemental foods and provides nutrition education to low-income persons, either directly or through another agency with which it has entered into a written agreement in accordance with § 247.6. In addition, existing local agencies are required to maintain the health-ties at the same level that were effective prior to March 3, 1978. All other local agencies are encouraged to develop health service linkages and at the minimum are required to advise participants of the importance of health care and where low-income persons can obtain such services. The term local agency includes an IHS service unit, an Indian tribe, band or group recognized by the Department of the Interior, or an intertribal council or group that is an authorized representative of Indian tribes, bands or groups recognized by the Department of the Interior.

"Nonprofit agency" means a private agency which is exempt from income tax under the Internal Revenue Code of 1954, as amended.

"Participants" means pregnant women, breastfeeding women, postpartum women, infants and children who are receiving supplemental foods under the Program.

"Participation" means the number of persons who have received supplemental foods through the Program in the reporting period.

"Postpartum women" means women up to 12 months after termination of pregnancy.

"Pregnant women" means women determined to have one or more embryos or fetuses in utero.

"Program" means the Commodity Supplemental Food Program (CSFP) of the Food and Nutrition Service of the U.S. Department of Agriculture.

"Secretary" means the Secretary of the U.S. Department of Agriculture.

"SFPD" means the Supplemental Food Programs Division of the Food and Nutrition Service of the U.S. Department of Agriculture.

"State" means any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands and the Northern Mariana Islands.

"State agency" means the agency of a State designated by the State to administer the Program; or an Indian tribe, band or group recognized by the Department of the Interior; or an intertribal council or group recognized by the Department of the Interior and which has an ongoing relationship with Indian tribes, bands or groups for other purposes and has contracted with them to adminster the Program; or the appropriate area office of the Indian Health Service of the Department of Health, Education, and Welfare.

"State Agency Plan of Program Operation and Administration (State Plan)" means the document which, as required by § 247.5, describes the manner in which the State agency intends to implement and operate all aspects of Program administration within its jurisdiction.

"Supplemental foods" means foods donated by the Department for use by eligible persons in low-income groups who are vulnerable to malnutrition.

"WIC Program" means the Special Supplemental Food Program for Women, Infants and Children (7 CFR Part 246).

§ 247.3 Administration.

(a) *Delegation of Authority to FNS.* Within the Department, FNS shall act on behalf of the Department in the administration of the Program. Within FNS, SFPD and the Regional Offices are responsible for Program administration. FNS will provide assistance to State and local agencies and evaluate all levels of Program operations to assure that the goals of the Program are achieved in the most effective and efficient manner possible.

(b) *Delegation of authority to State agency.* The State agency is responsible for all operations under the Program within its jurisdiction and shall administer the Program in accordance with the requirements of this part, FMC 74–4, A–90, A–95, A–102, A–110, and 7 CFR Part 250 Subchapter B where applicable. The State agency shall provide guidance to local agencies on all aspects of Program operations. If distribution of supplemental foods or other Program operations at the State level are performed by an agency of the State other than the State agency, the State agency shall enter into a written agreement with the other agency. The agreement shall outline the responsibilities of each agency under the Program and shall be included in the State Plan. In addition, when a State agency enters into an agreement with a distributing agency, the distributing agency still must enter into a separate agreement with the Department as required by 7 CFR Part 250 Subchapter B, Food Distribution.

(c) *Agreement and State Plan.* Each State agency desiring to take part under the Program shall annually submit a State Plan and enter into a written agreement with the Department for the administration of the Program within its jurisdiction in accordance with the provisions of this part.

(d) *Delegation of authority to local agency.* The local agency shall provide Program benefits to participants in the most effective and efficient manner, and shall comply with this part and the State Plan.

§ 247.4 Donation of supplemental foods.

The Department shall donate supplemental foods for use in the Program in accordance with the terms and conditions of this part. The Department shall also administer the Program in accordance with the terms and conditions applicable to distributing agencies under 7 CFR Part 250 Subchapter B, Food Distribution Regulations, as long as these provisions are not inconsistent with this part. The State agency is strictly liable to FNS for all losses of supplemental foods donated by the Department and shall safeguard them from theft, spoilage, other damage or destruction or other loss. If supplemental foods donated by the Department are lost through any cause, prior to issuance to the participant, the State agency shall submit payment to FNS for the documented value of the loss.

§ 247.5 State agency plan of program operation and administration.

(a) *Requirements.* By August 15 of each year the State agency shall submit to FNS for approval a State Plan for the following fiscal year. FNS shall provide written approval or denial of a completed State Plan or amendment within 30 days of receipt. Within 15 days after FNS receives an incomplete submission, FNS shall notify the State agency that additional information is needed to complete the Plan. Any disapproval shall be accompanied by a statement of the reasons for the disapproval. Approval of the Plan by FNS is a prerequisite to the payment of funds to the State agency for Program administration and the delivery of commodities. The Plan and all amendments shall be signed by the Chief Officer of the State agency or equivalent. Portions of the State Plan which do not change from year to year need not be resubmitted. However, the State agency shall provide the title of the section(s) that remain unchanged as well as the year of the last plan in which the section was submitted. The State Plan shall provide the following:

(1) The names and addresses of the local agencies which have an agreement with the State agency for the administration of the Program

(2) The name and location of the local agency or agencies which will be responsible for certification of persons; the identity of the agency or agencies that will distribute foods and the storage and distribution facilities to be used.

(3) A copy of the forms to be used for: (i) Certification of participants; (ii) agreements between the State agency and other agencies of the State; (iii) agreements between the state and local agencies; and (iv) verification of certification, if a State form is used.

(4) The specific income criteria and methods to be used in certifying persons as being in need of supplemental foods and the period of time covered by certifications in each local agency.

(5) The plan for nutrition education services for the fiscal year. The nutrition education portion of the State Plan shall include an evaluation component which includes a systematic procedure for participants' input.

(6) A description of the manner in which the State agency plans to monitor each local agency.

(7) A description of how the financial management system will provide an accurate, current and complete disclosure of the financial status of the State's Program including an accurate accounting of all administrative funds received and expended.

(8) A plan for the detection of dual participation within the jurisdiction of the State agency. In States where the CSFP and an Indian State agency for CSFP or a WIC Program State agency operate in the same area, a copy of the written agreement between the State agencies for the detection and prevention of dual participation must be submitted.

(9) A description of the State agency audit procedures, including: (i) A description of the scope and frequency of audits of the State agency and local agencies and a delineation of the procedures used to assure audit examinations at reasonable frequency. State agency guidelines for selecting a sample of grant programs for audits should be included; (ii) A description of the State agency and the audit organization in sufficient detail to demonstrate the independence of the audit organization; and (iii) The names of the local agencies in which the CSFP was included in an audit in the last full four quarters, the total number of local agency audits planned, and the number of local agencies to be audited in the coming fiscal year which will include the CSFP in the audit.

(10) A description of the procedures used to comply with the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964 and with 7 CFR Part 15, including racial and ethnic participation data collection, public notification procedures and the annual civil rights compliance review process.

(11) A description of the fair hearing procedures for participants.

(b) *Submission of local agency information.* Local agencies under the State agency's jurisdiction may be required to submit information, similar to the eleven preceding requirements, to the State agency for its use in assuring compliance with this section.

(c) *Submission to Governor.* Annually, by June 30, all State agencies, except Indian State agencies, shall submit the State Plan to the Governor, or a delegated authority, for comment as required by Circular A–95 (38 FR 32874) issued by the Office of Management and Budget, September 13, 1973. A period of 45 days from the date the Governor receives the State Plan shall be afforded

for comment. The Governor's comments shall be submitted to FNS with the State Plan. If the Governor makes no comment, a statement to that effect shall be attached to the State Plan. Amendments to the State Plan need not be submitted to the Governor unless there is a significant change. Indian State agencies are encouraged to consult areawide Federal planning offices in the development of their State Plan.

(d) *Amendments.* At any time the State agency may amend the State Plan to request changes. The State agency shall submit the amendments to FNS for approval.

(e) *Retention of copy.* A copy of the approved State Plan shall be kept on file at the State agency for public inspection.

§ 247.6 Selection of local agencies.

(a) *Application of local agencies.* The State agency shall require each agency which desires approval as a local agency to submit a written application which contains sufficient information to enable the State agency to make a determination as to the eligibility of that agency. If the State agency and the local agency are the same, this requirement does not apply. The State agency may approve the application of a local agency in an area already served by the Program or a WIC Program only if a new local agency is necessary to serve the full extent of need in that area or population. If the State agency approves the operation of a new local agency in an area already served by an existing Program or a WIC Program, documentation which indicates the need for both local agencies in that area shall be maintained on file at the State agency for FNS review and evaluation.

(b) *Agreements between State and local agencies.* (1) State agencies shall enter into agreements with local agencies which are approved to participate in the Program. If the State agency and the local agency are the same this requirement does not apply. Copies of the agreement shall be kept on file at both the State and local agency for purposes of review and audit. Such agreements shall be in writing and shall contain the following: (i) An assurance that local agencies will comply with all the fiscal and operational requirements prescribed by the State agency pursuant to this part; (ii) An assurance that local agencies will provide nutrition education pursuant to this part; (iii) For those local agencies in existence prior to March 3, 1978, an assurance that they will continue to maintain the same level of health-ties available prior to that date; (iv) An assurance that issuance of supplemental food is in accordance with this part; (v) A statement that local agencies are responsible to the State agency for any loss resulting from improper or negligent issuance by them of prescriptions for supplemental foods; (vi) A statement that local agencies are responsible to the State agency for any Program losses caused by other agencies which have entered into agreements with the local agency; (vii) The name and address of each certification, food distribution and storage site under the jurisdiction of the local agency; and (viii) An assurance that the local agencies will maintain accurate and complete records with respect to their activities under the Program and retain such records for a period of 3 years following the date of submission of the final expenditure report for the period to which the report pertains.

(c) *Agreements between local agencies and other agencies.* A local agency which cannot fulfill one or more of these requirements shall enter into a written agreement with another agency(s) in order to comply with these requirements. The written agreement shall state the Program responsibilities of the other agency, shall be approved by the State agency, and shall be on file at both the State agency and local agency. State agency approval of agreements with applicant agencies shall be accomplished during the application process.

§ 247.7 Certification.

(a) *Eligibility requirements.* To be certified as eligible to receive supplemental foods under the Program, each applicant shall meet the following requirements:

(1) Categorical eligibility as an infant, child, or pregnant, postpartum or breastfeeding woman; and

(2) Eligibility for local benefits under existing Federal, State or local food, health or welfare programs for low-income persons.

(b) *Processing standards.* When maximum caseload has not been reached, the local agency shall either certify the applicant or notify the applicant of ineligibility for the Program within 20 days of the applicant's first visit to the local agency to apply for participation in the Program. A person who is determined to be eligible shall receive supplemental foods within 10 days of notification of eligibility.

(c) *Issuance of supplemental foods.* Participants shall be issued prescriptions for supplemental foods by personnel of a local agency or by such other personnel the local agency may designate. The local agency may choose to issue either a one month supply of supplemental foods each month or a two month supply of supplemental foods every other month. However, local agencies which choose to issue a two month supply every other month shall inform participants that they may still receive one month's supply every month if they so request.

(d) *Certification forms.* All certification data for each applicant shall be recorded on a certification form. At a minimum the information on the form shall include the following:

(1) The person's name and address.

(2) The date of initial visit to apply for participation and the date of certification.

(3) The criteria used to determine the person's eligibility and the signature and title of the persons making the eligibility determinations.

(4) The following statement shall be located directly above the applicant's signature line and shall be read by or to the applicant or applicants' parent or caretaker before the application is signed:

"This certification form is being made in connection with the receipt of Federal assistance. Program officials may verify information on this form. I am aware that deliberate misrepresentation may subject me to prosecution under applicable State and Federal statutes. I have been advised of my rights and obligations under the Program. I certify that the information I have provided for my eligibility determination is correct to the best of my knowledge."

(e) *Applicant's rights.* The following sentences shall be read by, or read to, the applicant or the applicant's parent or caretaker at the time of certification. Where a significant proportion of the population served by a local agency is composed on non-English or limited English speaking persons who speak the same language, the sentences shall be stated to such persons in a language they understand:

(1) *Standards for participation in the Program are the same for everyone regardless of race, color, or national origin.*

(2) *You may appeal any decision made by the local agency regarding your denial or termination from the Program.*

(3) *If your application is approved, the local agency will make nutrition education available to you and you are encouraged to participate.*

(f) *Notification requirements.* The following responsibilities shall be performed by the State or local agency:

(1) A person found ineligible for Program benefits during a certification visit shall be advised in writing of the agency's decision, of the reasons for the decision, and of the right to a fair hearing.

(2) A person found ineligible for the Program at any time during the certification period shall be advised in writing at least 15 days before termination of eligibility, of the reasons for ineligibility, and of the right to a fair hearing.

(3) Each participant shall be notified before the expiration of each certification period that eligibility for the Program is about to expire.

(4) Each participant shall be advised of the importance of participating in on-going, routine health care, and where such health service facilities providing such health care for low income persons are located.

(g) *Certification periods.* Eligible pregnant women shall be certified for the duration of their pregnancy and for six weeks postpartum. Eligible postpartum or breastfeeding women and eligible infants and children shall be certified at the time of their entrance into the Program and at intervals prescribed by the State agency, provided such intervals do not exceed one year in length. Program benefits may be continued until the end of the month in which categorical ineligibility begins, for example, until the end of the month in which a child reaches the sixth birthday.

(h) *Restrictions.* The following restrictions shall be observed by State agencies:

(1) Durational residence requirements shall not be imposed as a condition of eligibility.

(2) Participants shall not be required to make any payments in money, materials or services for, or in connection with, the receipt of supplemental foods. Also they shall not be solicited in connection with the receipt of supplemental foods for voluntary cash contributions for any purpose.

(3) Distribution of supplemental foods shall not be used as a means for furthering the political interest of any person or party.

(i) *Transfer of certification.* Each State agency shall ensure issuance of a verification of certification form to every participant who intends to relocate during the certification period. The State agency shall require the local agencies under its jurisdiction to accept verification of certification forms from participants who have been participating in the Program or the WIC Program in another local agency within or outside of the jurisdiction of the State agency. The verification or certification is valid until the certification period expires, and shall be accepted as proof of eligibility for Program benefits. However, if the receiving local agency has waiting lists for participation, the transferring participant shall be placed on the list ahead of all waiting applicants. The verification of certification shall include the name of the participant, the date the certification was performed, the date the certification period expires, the signature and printed or typed name of the local agency official in the originating jurisdiction, the name and address of the certifying local agency and an identification number or some other means of accountability. The verification of certification form shall be uniformed throughout the jurisdiction of the State agency.

(j) *Dual participation.* The State agency shall be responsible for the following:

(1) In conjunction with the local agency, the detection and prevention of dual participation within each local agency and between local agencies. As part of the certification process, applicants shall be informed of the illegality of simultaneous participation in the WIC Program and this Program or of simultaneous participation in more that one CSFP.

(2) In areas where a local agency serves the same area as an Indian State agency or WIC Program, the CSFP State agency and the Indian State agency for the Program or the WIC State agency shall agree to a plan for the detection and prevention of dual participation. The agreement must be in writing and must be made prior to operation within the same area.

(3) Participants found committing dual participation shall be terminated from one of the Programs immediately.

(4) At certification the local agency shall check the identification of each participant. For a child participant, an immunization record, birth certificate, or other records that local agency personnel consider adequate identification shall be acceptable. Also, when issuing supplemental foods the local agency shall check the identification of each participant or the identity of the adult responsible for picking up the food for a child participant.

(k) *Disqualification.* (1) The State agency may disqualify applicants and participants from Program participation for a period not to exceed 3 months if it is established by the State or local agency that the applicant, participant, parent, or caretaker fraudulently applied for and/or obtained Program benefits. However, if the person who determined the participant's eligibility determines that a serious health risk will result from disqualification from the Program and the participant is currently eligible the disqualification shall be waived. In addition, participants may request a fair hearing, as specified in § 247.20, to contest a disqualification.

(2) For Program purposes, fraud consists of the following inclusive, but not exclusive, actions if they are made knowingly, willfully and deceitfully:

(i) Making false statements orally or in writing in order to obtain benefits to which the individual would not otherwise be eligible;

(ii) Concealing information in order to obtain benefits to which the individual is not eligible;

(iii) Altering Program documents for the purpose of receiving increased benefits to which the individual is not eligible or for the purpose of transferring benefits to an unauthorized individual;

(iv) Using supplemental foods in an unauthorized manner, such as trading or selling the foods; or

(v) Committing dual participation.

§ 247.8 Nutrition education.

(a) *General.* Nutrition education shall be thoroughly integrated into Program operations. Nutrition education shall be designed to be easily understood by individual participants and shall bear a practical relationship to their nutritional needs and household situations.

(b) *Goals.* Nutrition education shall be based on the following two broad goals:

(1) To emphasize the relationship of proper nutrition to the total concept of good health, with special emphasis on the nutritional needs of pregnant, postpartum, and breastfeeding women, infants and children under six years of age; and

(2) To assistant participants in obtaining a positive change in food habits, resulting in improved nutritional status and in the prevention of nutrition-related problems through maximum use of the supplemental and other nutritious foods. This use is to be within the context of ethnic, cultural and geographic preferences. Consideration should also be given to tailoring nutrition education to meet any limitations experienced by groups of participants, such as lack of running water, lack of electricity, and limited cooking or refrigeration facilities.

(c) *State agency responsibilities.* The State agency shall ensure that the local agency fully performs its responsibilities as set forth in paragraph (d) of this section. The State agency shall also ensure that an evaluation procedure is maintained to determine the effectiveness of the nutrition education. Such evaluation procedure shall include a systematic procedure for participant input and may be conducted directly by State and local agencies or by contract for such services, so long as the

evaluation is directed by a nutritionist or other professional determined by the State agency to be qualified to perform the evaluation procedure.

(d) *Local agency responsibilities.* (1) The local agency shall make nutrition education available to all adult participants and to parents or guardians of infant and child participants. Where appropriate, nutrition education for child participants is encouraged.

(2) The local agency shall direct Program funds for nutrition education to the benefit of participants and local agency staff members involved in nutrition education, in accordance with this part.

(3) The local agency shall conduct or arrange for nutrition education in a manner consistent with the nutrition education portion of the State Plan.

(4) The local agency shall include the following subject matter in the instruction given to participants:

(i) An explanation of the importance of the consumption of the supplemental foods by the participant for whom they are prescribed rather than by other family members;

(ii) Reference to any special nutritional needs of participants and ways to provide adequate diets;

(iii) An explanation of the Program as a supplemental rather than a total food program;

(iv) Information on the use of the supplemental foods and on the nutritional value of these foods;

(v) Information on the benefits of breastfeeding; and

(vi) An explanation of the importance of health care.

(e) *Food demonstrations.* Any food demonstrations using supplemental foods shall be conducted by the State or local agency and solely in conjunction with nutrition education under the Program. Supplemental foods may not be used for outreach, refreshments for participants, or any other such purpose. Supplemental foods may not be provided to any other community agency or facility for any purpose whatsoever, unless such agency has entered into a signed written agreement with the State or local agency to provide nutrition education services under the Program.

§ 247.9 Financial management systems.

(a) *Disclosure of expenditures.* The State agency shall maintain a financial management system which provides accurate, current and complete disclosure of the financial status of the Program. This shall include an accounting for all property and other assets and all Program funds received and expended each fiscal year.

(b) *Reports.* The State agency shall maintain its financial accounts in a manner sufficient to permit the preparation of the reports required in § 247.13.

(c) *Record of expenditures.* The State agency shall maintain records which adequately identify the source and use of funds expended for Program activities. These records shall contain, but are not limited to, information pertaining to authorization, receipt of funds, obligations, unobligated balances, assets, liabilities, outlays and income.

(d) *Payment of costs.* The State agency shall implement procedures which ensure prompt and accurate payment of allowable costs, and ensure the allowability and allocation of costs in accordance with the cost principles and standard provisions of this part, and FMC 74–4.

(e) *Identification of obligated funds.* The State agency shall implement procedures which accurately identify obligated Program funds at the time obligations are made.

(f) *Resolutions of audit findings.* The State agency shall implement procedures which ensure timely and appropriate resolution of claims and other matters resulting from audit findings and recommendations.

(g) *Letters of Credit.* All administrative funds made available under this section shall be provided to participating State agencies by means of issuance of Letters of Credit unless other funding arrangements are made with FNS. If at the end of the fiscal year, funds authorized by a letter of Credit issued to any State agency exceed obligations, FNS shall reduce the amount of the Letter of Credit by the unobligated portion.

(h) *Payments.* Letters of Credit shall be issued to the appropriate Regional Disbursing Office in favor of the State agency. The State agency shall obtain funds needed through presentation by designated officials of a payment voucher on the Letter of Credit to the designated Regional Disbursing Office, in accordance with procedures prescribed by FNS and consistent with the U.S. Treasury Department Circular 1075.

(i) *Transfer of cash.* The State agency shall have controls to minimize the time elapsing between receipt of Federal funds from the U.S. Department of Treasury and the disbursement of these funds for Program costs. In the Letter of Credit system, the State agency shall make drawdowns from the U.S. Department of Treasury's Regional Disbursing Office as close as possible to the time of the actual disbursement of funds. Advances made by the State agency to local agencies shall also conform to these same standards.

(j) *Local agency financial management.* The State agency shall ensure that all local agencies develop and implement a financial management system consistent with the requirements prescribed by the State agency pursuant to the requirements of this section.

§ 247.10 Administrative funding.

(a) *General.* This section prescribes the policies and procedures for payment by FNS of funds for administrative costs to participating State agencies and disbursements by State agencies to local agencies. The funds shall be paid to State agencies as specified in § 247.9, Financial Management Systems. As a prerequisite to the receipt of such funds each fiscal year, the State agency shall have executed a written agreement with the Department and shall have received FNS approval of its State Plan.

(b) *State agency funding.* Funds for total State administrative costs for each year shall be allocated by FNS based on 15 percent of the annual appropriation available for the purchase of commodities. Each State agency shall receive its proportionate share of the administrative funds based on its percentage of the total average participation reported (up to the authorized caseload level) for the latest 12 months prior to the beginning of a fiscal year. FNS shall determine the specific amount due each State agency by: (1) Dividing each State's average participation by the total average participation; and (2) multiplying the result by the administrative funds appropriated to derive an annual grant level which will be distributed to each State on a quarterly basis. FNS shall reserve the right to adjust participation figures used in the computation process upward or downward to ensure adequate funds are allocated when the Department believes that the participation level reported will not reflect future plans for operation, such as when a State agency plans to start-up or terminate the Program during the year. Participation of new State agencies during the course of the fiscal year will depend on the availability of funds. FNS shall use caseload assignments to ensure that food funds appropriated are not exceeded. FNS reserves the right to periodically recover and redistribute unspent administrative funds. To ensure that State agencies can properly budget for program operations, FNS guarantees that 75 percent of each State agency's annual grant level will be protected from further recoveries. The State agency may retain a percentage of the amount paid to it, based on the

following formula: 15 percent of the first $50,000; plus 10 percent of the next $100,000; plus 5 percent of the next $100,000. The State agency may retain a maximum amount of $22,500 annually for its administrative expenditures. However, if the State agency provides warehousing services, FNS approval may be requested for funds greater than those allowed under the formula; provided, the State agency can document the need and ensure that the increase will not impose undue hardship on local agencies. The remaining funds and any unused funds at the State level shall be distributed to the local agencies.

(c) *Local agency funding.* The State agency, in disbursing administrative funds to local agencies, shall apportion such funds among the local agencies on the basis of their respective needs so as to ensure that those local agencies evidencing higher administrative costs, while demonstrating prudent management and fiscal controls, receive a greater portion of the administrative funds. The State agency also may redistribute any unused portion of the local administrative funds among local agencies. All administrative funds which are unused shall be returned to FNS.

§ 247.11 Administrative costs.

(a) *General.* Funds provided to State and local agencies may be used to cover administrative costs identified under FMC 74–4 which State agencies determine to be necessary to carry out the Program within their jurisdiction.

(b) *Allowable costs.* The following costs are specifically identified as illustrative of costs allowable under the Program:

(1) The cost of certifying persons;

(2) The cost of nutrition education services provided to participants and parents and guardians of participants, and used for training local agency staff members;

(3) The cost of transporting food and of administering the food distribution system;

(4) The cost of interpretors and translators for Program materials;

(5) The cost of outreach services;

(6) The cost of audits and fair hearings;

(7) General administration of the State and local agencies including, but not limited to, personnel, warehousing, and insurance;

(8) The cost of monitoring and reviewing Program operations; and

(9) The cost of transportation for participants to the local agency when the local agency has determined and documented the need for such assistance.

(c) *Restrictions on Allowable Costs.* The following costs are allowable only with the prior approval of FNS:

(1) Automatic Data Processing equipment and system purchases whether by outright purchase, rental-purchase agreement or other method of purchase;

(2) Capital expenditures over $2500.00 such as the cost of facilities, equipment, other capital assets and any repairs that materially increase the value or useful life of capital assets. Provided that any subsequent sale of real or personal properties, purchased in whole or in part with Program funds, shall be used to reimburse FNS in an amount computed by applying to the sale proceeds the percentage of FNS participation in the original acquisition cost; and

(3) Management studies performed by agencies or departments other than the State or local agency or those performed by outside consultants under contract with the State or local agency.

(d) *Unallowable Costs.* Expenditures by a State agency or local agencies which result in costs that may not be applicable to the Program objectives are "unallowable costs." A State agency's system for financial management shall identify such unallowable costs. In addition to unallowable costs identified in FMC 74–4 the following are specifically unallowable costs for reimbursement by FNS:

(1) Costs incurred for rearrangement and alteration of facilities not required specifically for the program;

(2) Occupancy of space under rental-purchase or a lease with option to purchase agreements;

(3) Equipment rental costs where the agreement provides for rental-purchase or a lease with option to purchase; and

(4) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise).

§ 247.12 Program income.

Program income means gross income the State agency or local agencies earn from grant supported activities, with the exception of income from the sale of property as specified in § 247.11(c)(2). Program income earned during the agreement period shall be retained by the State agency and used to further Program objectives; except that interest earned on advances may be retained and used at State agency discretion. A State agency's financial management system shall provide guidelines to assure that: Income earned is recorded as individual transactions within the accounting records in conformance with generally accepted accounting principles for recording expenditures and revenues; and that specifically earmarked Program income is used for the purpose(s) intended.

§ 247.13 Records and reports.

(a) *Recordkeeping requirements.* Each State agency shall maintain accurate and complete records with respect to the receipt, disposal, and inventory of supplemental foods, including the determination made as to liability for any improper distribution or use of, or loss of, or damage to, such foods and the result obtained from the pursuit of claims arising in favor of the State agency. Accurate and complete records shall also be maintained with respect to the receipt and disbursement of administrative funds received. State agencies shall require all local agencies to maintain accurate and complete records with respect to the receipt, disposal and inventory of supplemental foods and with respect to any administrative funds received. All records required by this section shall be retained for a period of 3 years following the date of submission of the annual expenditure report for the period to which the reports pertain. All records, except medical case records of participants (unless they are the only source of certification data), shall be available during normal business hours for representatives of the Department and the General Accounting Office of the United States to inspect, audit, and copy. Any reports resulting from such examinations shall not divulge names of individuals.

(b) *Financial reports.* All financial data shall be submitted quarterly.

(c) *Program reports.* All Program performance data shall be submitted quarterly, unless otherwise specified by FNS.

(d) *Inventory reports.* Inventory reports shall be submitted as required by FNS, at a frequency prescribed by FNS. Annually, a physical invintory of all foods at each storage and distribution site is required to be submitted to FNS at a date specified by FNS.

(e) *Civil rights.* Each local agency participating under the Program shall submit a report of racial and ethnic participation data, at a frequency prescribed by FNS.

(f) *Audit acceptability of reports.* To be acceptable for audit purposes, all financial and Program performance reports shall be traceable to source documentation.

(g) *Certification of reports.* Financial and Program reports shall be certified as to their completeness and accuracy by the person given that responsibility by the State agency.

(h) *Use of reports.* FNS shall use State agency reports to measure progress in achieving objectives set forth in the State Plan. If it is determined, through review of State agency reports, Program or financial analysis, or an audit, that a State agency is not operating according to its State Plan, FNS may request additional information and take other appropriate actions.

§ 247.14 Procurement and property management standards.

(a) *Requirements.* State and local agencies shall comply with the requirements of Circular A–102, Attachment O for procurement of equipment and other services with Program funds. These requirements are adopted by FNS to ensure that such materials and services are obtained for the Program in an effective manner and in compliance with the provisions of applicable law and executive orders.

(b) *Contractual responsibilities.* The standards contained in Circulars A–90, A–102 and A–110, were applicable, do not relieve the State or local agency of the responsibilities arising under its contracts. The State agency is the responsible authority, without recourse to FNS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in connection with the Program. This includes, but is not limited to: disputes, claims, protests of awards, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State or Federal authority as may have proper jurisdiction.

(c) *State regulations.* The State or local agency may use its own procurement regulations which reflect applicable State and local regulations, provided that procurements made with Program funds adhere to the standards set forth in Circulars A–90, A–102 and Circular A–110, where applicable.

(d) *Property acquired with Program funds.* State and local agencies shall observe the standards prescribed in A–102, Attachment N, and A–110, Attachment N, where applicable, in their utilization and disposition of property acquired in whole or in part with Program funds.

§ 247.15 Audits.

(a) *Federal access to information.* The Secretary, the Comptroller General of the United States, or any of their duly authorized representatives, or State auditors shall have access to any books, documents, papers, and records of the State and local agencies and their contractors, for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

(b) *State agency response.* The State agency may take exception to particular audit findings and recommendations. The State agency shall submit a response or statement to FNS as to the action taken or planned regarding the findings. A proposed corrective action plan developed and submitted by the State agency shall include specific time frames for its implementation and for completion of the correction of deficiencies and problems leading to the deficiencies.

(c) *Corrective action.* FNS shall determine whether Program deficiencies have been adequately corrected. If additional corrective action is necessary, FNS shall schedule a followup review, allowing a reasonable time for such corrective action to be taken.

(d) *State sponsored audits.* (1) Each State agency shall provide for an independent audit of the financial operations of the State agency and local agencies. Audits may be conducted by State and local government audit staffs, State licensed public accountants who were licensed on or before December 31, 1970, or by Certified Public Accountants and audit firms under contract to the State or local agencies. Audits shall conform to: "The Standards of Audit of Governmental Organizations, Program Activities and Functions," issued by the Comptroller General of the United States (Reprint 1974, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402); the "Guidelines for Financial and Compliance Audits of Federally Assisted Programs," issued by the U.S. General Accounting Office, October 1978 (for sale by the U.S. General Accounting Office, Distribution Section, Room 1518, 441 G Street, NW., Washington, D.C. 20013); any compliance supplements approved by OMB; and generally accepted auditing standards established by the American Institute of Certified Public Accountants. An audit shall be used to determine whether:

(i) Financial operations are properly conducted;

(ii) The financial reports are fairly presented;

(iii) The State or local agency has complied with applicable laws, regulations, and administrative requirements pertaining to financial management; and

(iv) Proper inventory controls (physical and paper) are being maintained.

(2) The State agency shall conduct audits in accordance with the provisions of A–102, Attachment G. Audits of the State agency and the local agencies under the State agency's jurisdiction shall be performed in a representative sample of grant program audit examinations during each audit cycle which occurs, not less frequently than once every two years. In some audit cycles, a grant program or programs other than this Program may be audited. However, audits of the Program shall be performed at intervals frequent enough to ensure consistency with good Program management. Also, at any time, the Department, FNS or the State agency may at its discretion audit a Program if an audit appears to be warranted. If FNS in the course of Program reviews of State agency operations finds that the efficiency and effectiveness of the State agency's financial management system is in question, FNS may request the State agency to include the Program in the sample for the next audit examination.

(3) Each State agency shall make all State or local agency sponsored audit reports of Program operations under its jurisdiction available for the Department's review upon request. The cost of these audits shall be considered a part of administrative costs and funded from either State or local agency administrative funds.

§ 247.16 Investigations.

(a) *Authority.* The Department may make an investigation of any allegation of noncompliance with this part. The investigation may include, where appropriate, a review of pertinent practices and policies of any State or local agency, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the State or local agency has failed to comply with the requirements of this part.

(b) *Confidentiality.* No State or local agency, participant, or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege under this part because the individual has made a complaint or formal allegation, or testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of every complainant shall be kept confidential except to the extent necessary to carry out the purpose of this part, including the conduct of any investigation, hearing, or judicial proceeding.

§ 247.17 Claims.

If FNS determines through a review of the State agency's reports, program or financial analysis, monitoring, audit, or otherwise, that any Program funds provided to a State agency for administrative purposes were, through State agency or local agency negligence or fraud, misused or otherwise diverted from Program purposes, a claim shall be made by FNS against the State agency, and the State agency shall pay promptly to FNS a sum equal to the amount of the administrative funds so misused or diverted. Further, if FNS determines that any part of the money received by a State agency was lost as a result of thefts, embezzlements, or unexplained causes, the State agency shall, on demand by FNS, pay to FNS a sum equal to the amount of the money so lost. Claims for losses or misuse of supplemental foods shall be handled in accordance with 7 CFR Part 250—Subchapter B—Food Distribution. The State agency shall have full opportunity to submit evidence, explanations or information concerning alleged instances of noncompliance or diversion before a final determination is made in such cases.

§ 247.18 Closeout procedures.

(a) *Fiscal year closeout reports.* State agencies shall submit preliminary and final closeout reports for each fiscal year or part thereof. All obligations shall be liquidated before final closure of a fiscal year grant. Obligations shall be reported for the fiscal year in which they occur. State agencies shall:

(1) Submit to FNS, within 30 days after the end of the fiscal year, preliminary financial reports which show cumulative actual expenditures and obligations for the fiscal year, or part thereof, for which Program funds were made available; and

(2) Submit to FNS, within 90 days after the end of the fiscal year, final fiscal year closeout reports.

(b) *Revised closeout reports.* Revised closeout reports may be submitted at any time. However, FNS shall not be responsible for reimbursing unpaid obligations later than one year after the close of the fiscal year in which they were incurred.

(c) *Grant closeout procedures.* When grants to State agencies are terminated, the following closeout procedures for the Program shall be performed in accordance with OMB Circular A–102.

(1) *Termination for cause.* FNS may terminate a state agency's participation under the Program, in whole or in part, whenever FNS determines that the State agency has failed to comply with the conditions prescribed in this part. FNS shall promptly notify the State agency in writing of the termination and the reasons for the termination, including the effective date. A State agency shall terminate a local agency's participation under the Program by written notice whenever it is determined by FNS or the State agency that the local agency has failed to comply with the requirements of the Program. When a State agency's participation under the Program is terminated for cause, any payments made to the State agency, or any recoveries by FNS from the State agency, shall be in conformance with the legal rights and liabilities of the parties.

(2) *Termination for convenience.* FNS or the State agency may terminate the State agency's participation under the Program, in whole or in part, when both parties agree that continuation under the Program would not produce beneficial results commensurate with the further expenditure of funds. The State agency or the local agency may terminate the local agency's participation, in whole or in part, under the same conditions. The two parties shall agree upon the termination conditions, including the effective date thereof and, in the case of partial termination, the portion to be terminated. The State agency shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. FNS shall allow full credit to the State agency for the Federal share of the noncancellable obligations, properly incurred by the State agency prior to termination.

§ 247.19 Nondiscrimination.

(a) *Requirement.* The State agency shall comply with the requirements of Title VI of the Civil Rights Act of 1964, and the Department's regulations concerning nondiscrimination (7 CFR Part 15), including requirements of racial and ethnic participation data collection, public notification of the nondiscrimination policy, and annual reviews of each local agency to assure compliance with such policy, to the end that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the Program.

(b) *Non-English materials and staff.* Where a significant proportion of the population of the area served by a local agency is composed of non-English or limited English speaking persons who speak the same language, the State agency shall take action to ensure that Program information, except certification forms, is provided to such persons in the appropriate language orally and in writing. The State agency shall ensure that there are bilingual staff members or interpreters available to serve these persons.

(c) *Complaints.* Complaints of discrimination filed by applicants or participants shall be referred to the Director, Supplemental Food Programs Division, Food and Nutrition Service, U.S.D.A., Washington, D.C. 20250.

§ 247.20 Fair hearing procedures.

(a) *Availability of hearings.* The State agency shall provide a hearing procedure through which any individual may appeal a State or local agency action which results in the individual's denial or termination from the Program.

(b) *Notification of appeal rights.* At the time of application and at the time of denial or termination from the Program, each individual shall be informed in writing of the right to a fair hearing, of the method by which a hearing may be requested, and that any positions or arguments on behalf of the individual may be presented personally or by a representative such as a relative, friend, legal counsel or other spokesperson. Such notification is not required at the expiration of a certification period.

(c) *Request for hearing.* A request for a hearing is defined as any clear expression by the individual or the individual's parent, guardian or other representative, that an opportunity to present its case to a higher authority is desired. The State or local agency shall not limit or interfere with the individual's freedom to request a hearing.

(d) *Time limit for request.* The State or local agency shall provide individuals a reasonable period of time to request fair hearings. Such time limit shall not be less than 60 days from the date the agency mails or gives the applicant or participant the notice of adverse action to deny or terminate benefits, as required in § 247.7(f)(2).

(e) *Denial or dismissal of request.* A request for a hearing shall not be denied or dismissed unless:

(1) The request is not received within the time limit set by the State agency in accordance with paragraph (d) of this section.

(2) The request is withdrawn in writing by the applicant or a representative.

(3) The applicant or representative fails, without good cause, to appear at the scheduled hearing.

(f) *Continuation of benefits.* Participants who appeal the termination of benefits within the 15 day advance adverse notice period provided by § 247.7(f)(2) shall continue to receive

Program benefits until the hearing official reaches a decision. Applicants who are denied benefits at initial certification or at subsequent certifications may appeal the denial but shall not receive benefits while awaiting the hearing.

(g) *Rules of procedure.* The State and local agency shall process each request for a hearing under uniform rules of procedure. The uniform rules of procedure shall be available for public inspection and copying. At a minimum, the uniform rules of procedure shall include: the time limits for requesting and conducting a hearing; all advance notice requirements; the rules of conduct at the hearing; and the rights and responsibilities of the applicant. The procedures shall not be unduly complex or legalistic and the applicant's background shall be taken into consideration.

(h) *Hearing official.* Hearings shall be conducted by an impartial official who does not have any personal stake or involvement in the decision and who was not directly involved in the initial determination of the action being contested. The hearing official shall:

(1) Administer oaths or affirmations if required by the State;

(2) Ensure that all relevant issues are considered;

(3) Request, receive and make part of the hearing record all evidence determined necessary to decide the issues being raised;

(4) Regulate the conduct and course of the hearing consistent with due process to ensure an orderly hearing;

(5) Render a hearing decision which will resolve the dispute.

(i) *Conduct of the hearing.* The hearing shall be accessible to the applicant. The State or local agency shall provide the applicant with a minimum of 10 days advance written notice of the time and place of the hearing and shall enclose the rules of procedure. The State and local agency shall also provide the applicant or representative an opportunity to:

(1) Examine, prior to and during the hearing, the documents and records presented to support the decision under appeal;

(2) Be assisted or represented by an attorney or other persons;

(3) Bring witnesses;

(4) Advance arguments without undue interference;

(5) Question or refute any testimony or evidence, including an opportunity to confront and cross-examine adverse witnesses; and

(6) Submit evidence to establish all pertinent facts and circumstances in the case.

(j) *Hearing decisions.* (1) Decisions of the hearing official shall comply with Federal law or regulations and shall be based on facts in the hearing record. The verbatim transcript or recording of testimony and exhibits, or an official report containing the substance of what transpired at the hearing, together with all papers and requests filed in the proceeding shall constitute the exclusive record for a final decision by the hearing official. This record shall be retained in accordance with § 247.13. This record shall also be available, for copying and inspection, to the appellant or representative at any reasonable time.

(2) A decision by the hearing official shall be binding on the local agency and shall summarize the facts of the case, specify the reasons for the decision, and identify the supporting evidence and the pertinent regulations. The decision shall become a part of the record.

(3) Within 45 days of the request for the hearing, the applicant or representative shall be notified in writing of the decision and the reasons for the decision in accordance with paragraph (j)(2) of this section. Also, if the decision is in the favor of the applicant and benefits were denied, benefits shall begin within this 45-day time period. If the decision is in favor of the agency, as soon as administratively feasible any continued benefits shall be terminated as decided by the hearing official.

(4) All State and local agency hearing records and decisions shall be available for public inspection and copying, subject to the disclosure safeguards provided in § 247.22(d), and provided the names and addresses of participants and other members of the public are kept confidential.

(k) *Judicial review.* If a State level decision upholds the agency action, the State agency shall explain any available State review of the decision and any State rehearing process. If neither are available or have been exhausted, the State agency shall explain the right to pursue judicial review of the decision.

§ 247.21 Management evaluation and reviews.

(a) *General.* FNS and each State agency shall establish a management evaluation system in order to assess the accomplishment of Program objectives as provided under these regulations, the State Plan, and the written agreement with the Department. FNS will provide assistance to States in discharging this responsibility and, will establish standards and procedures to determine how well the objectives of this part are being accomplished.

(b) *Responsibilities of FNS.* FNS shall establish evaluation procedures to determine whether State agencies carry out the purposes and provisions of this part, the State Plan, and the written agreement with the Department. As a part of the evaluation procedures, FNS shall review audits performed by the State agency to ensure that the Program at both the State and local levels has been included in audit examinations at a reasonable frequency. These evaluations shall include a review of each State agency, including on-site reviews of selected local agencies, at least once every year. These evaluations will measure the State agency's progress toward meeting the objectives outlined in its State Plan and compliance with these regulations.

(c) *Responsibilities of State agencies.* The State agency is responsible for meeting the following requirements:

(1) The State agency shall establish evaluation and review procedures and document the results of such procedures. The procedures shall include, but not be limited to:

(i) Annual monitoring of the operation of all local agencies to evaluate certification procedures, management, nutrition education, civil rights compliance, food storage, inventory, accountability, and financial management systems. However, more frequent reviews may be performed as the State agency deems necessary. The State agency shall provide a continuing evaluation of each local agency through on-site reviews of the local agency, reviews of local agency reports including inventory reports, reviews of storage facilities and safeguards for supplemental foods.

(ii) Instituting the necessary followup procedures to correct identified problem areas.

(2) On its own initiative or when required by FNS, the State agency shall provide special reports on Program activities, and take positive action to correct deficiencies in Program operations.

(3) The State agency shall require that local agencies establish Program review procedures to be used in reviewing their operations and those of subsidiaries or contractors.

§ 247.21 Miscellaneous provisions.

(a) *No aid reduction.* The value of benefits or assistance available under the Program shall not be considered as income to or resources of participants or their families for any purpose under Federal, State or local laws, including, but not limited to, laws relating to taxation, welfare and public assistance programs.

(b) *Statistical information.* FNS reserves the right to use information obtained under the Program in a summary, statistical or other form which does not identify particular individuals. FNS may require the State or local agencies to supply data and other information collected under the Program in a form that does not identify particular individuals, to enable the Secretary or the State agencies to evaluate the effect of food intervention upon low-income individuals determined to be eligible for Program benefits.

(c) *Confidentiality.* Each State agency shall restrict the use or disclosure of information obtained from Program applicants or participants to persons directly connected with the administration or enforcement of the Program.

(d) *Public information.* Any person who wishes information, assistance, records or other public material shall request such information from the State agency, or from the FNS Regional Office serving the appropriate State as listed below:

(1) Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont: U.S. Department of Agriculture, FNS, New England Region, 33 North Avenue, Burlington, Massachusetts 01803.

(2) Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, Virgin Islands, West Virginia: U.S. Department of Agriculture, FNS, Mid-Atlantic Region, One Vahlsing Center, Robbinsville, New Jersey 08691.

(3) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee: U.S. Department of Agriculture, FNS, Southeast Region, 1100 Spring Street, NW., Atlanta, Georgia 30309.

(4) Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin: U.S. Department of Agriculture, FNS, Midwest Region, 536 South Clark Street, Chicago, Illinois 60605.

(5) Arkansas, Louisiana, New Mexico, Oklahoma, Texas: U.S. Department of Agriculture, FNS, Southwest Region, 1100 Commerce Street, Room 5–C–30, Dallas, Texas 75242.

(6) Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah, Wyoming: U.S. Department of Agriculture, FNS, Mountain Plains Region, 2420 West 26th Avenue, Room 430–D, Denver, Colorado 80211.

(7) Alaska, American Samoa, Arizona, California, Guam, Hawaii, Idaho, Nevada, Oregon, Trust Territory of the Pacific Islands, Washington: U.S. Department of Agriculture, FNS, Western Region, 550 Kearney Street, Room 400, San Francisco, California 94108.

Note.—The reporting and/or recordkeeping requirements contained herein are subject to clearance by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

(Catalog of Federal Domestic Assistance, Program No. 10.565, National Archive Reference Service).

Note.—This rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. An impact statement has been prepared and is available from Jennifer R. Nelson, Director.

Signed At Washington, D.C., on February 29, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-6945 Filed 3-6-80; 8:45 am]

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Friday
March 7, 1980

Federal Register

Part IV

Federal Election Commission

Amendments to Federal Election Campaign Act of 1971

FEDERAL ELECTION COMMISSION

11 CFR Parts 100-115, 9008

[Notice 1980-8]

Amendments to Federal Election Campaign Act of 1971; Regulations Transmitted to Congress

AGENCY: Federal Election Commission.

ACTION: Transmittal of Regulations to Congress.

SUMMARY: FEC Regulations relating to the Federal Election Campaign Act, Pub. L. 96-187, January 8, 1980, 93 Stat. 1339-69, have been written and transmitted to Congress pursuant to Pub. L. 96-187, Title III, section 303, January 8, 1980, 93 Stat. 1368-69. The amendments were proposed by the Committee on House Administration of the House of Representatives (H.R. 5010) to simplify the recordkeeping, reporting and disclosure requirements of the Act, to increase the role of State and local political parties in campaigns, to reduce the procedural requirements of the enforcement process and for other purposes. Further information on the intended effect of the proposed regulations is contained in the supplementary information below.

Pub. L. 96-187, title III, section 303 requires the Commission to transmit to the Congress prior to February 29, 1980 proposed rules and regulations prescribed by the Commission to implement the provisions and amendments made by Act. If neither House of Congress disapproves of the regulations within 15 legislative days after their receipt, the Commission may finally prescribe the regulations in question. The following regulations were transmitted to Congress on February 28, 1980.

DATE: Further action, including the announcement of an effective date and deletion of existing regulations in affected parts of 11 CFR will be taken by the Commission after these regulations have been before Congress for 15 legislative days in accordance with Pub. L. 96-187, title III, section 303.

The Administrative Procedure Act, at 5 U.S.C. 553(d)(3), provides that a substantive rule become effective not less than 30 days after publication, except as otherwise provided by the agency for good cause found and published with the rule.

It is possible that the 15 legislative day review period will expire in fewer than 30 calendar days from the date of publication of these regulations. Because the 1979 Amendments are already in effect and the 1980 election campaigns are already underway, it is essential that these regulations take effect as soon as possible to provide guidance to candidates and committees for compliance with the new requirements of the FECA. The Commission, in accordance with 2 U.S.C. 553(d)(3), finds good cause for waiving the 30 calendar day period of the APA and intends to finally prescribe these regulations as soon as possible following either Congressional approval or the expiration of the 15 legislative day review period.

FOR FURTHER INFORMATION, CONTACT: Ms. Patricia A. Fiori, Assistant General Counsel, 1325 K Street, NW, Washington, DC 20463 (202-523-4143).

Explanation and Justification of Regulations Concerning January 8, 1980 Amendments to Federal Election Campaign Act of 1971

Part 100—Scope and Definitions

§ 100.1 Scope.

This subchapter is issued by the Federal Election Commission to implement the Federal Election Campaign Act of 1971 (Pub. L. 92-225), as amended by Pub. L. 93-443, Pub. L. 94-283, Pub. L. 95-216 and Pub. L. 96-187.

§ 100.2 Election.

These definitions follow current regulation 11 CFR 100.6.

§ 100.3 Candidate.

Subsections (a) (1) and (2) follow 2 USC 431(2) (A) and (B), which establish the $5,000 threshold for becoming a candidate.

Subsection (a)(3) of this definition generally follows the disavowal requirement of current regulation 11 CFR 100.2(c), except that the $5,000 threshold is incorporated.

Subsection (a)(4) adds to the statutory definition by providing that all contributions received or expenditures made by an individual or his or her committees will be aggregated toward the $5,000 threshold. Thus, for example, if an individual receives $2,000 in contributions and his or her committees receive $3,001, that individual will become a candidate under the Act. If all contributions or expenditures were not aggregated in this manner, the $5,000 threshold could be circumvented.

Subsection (b) defines the election cycle during which contributions or expenditures are aggregated for purposes of determining whether an individual is a candidate. This time frame begins on the day following the previous general election for the office the candidate seeks and ends on the date when the general election for that office is held. However, where an individual receives contributions or makes expenditures designated for another election cycle, then the election cycle begins when the individual first receives contributions or makes expenditures in connection with the designated election. The establishment of this time frame is necessary to prevent the aggregation of an individual's campaign receipts or expenditures over several different election periods.

§ 100.4 Federal office.

This definition follows 2 USC 431(3).

§ 100.5 Political committee.

Subsections (a), (b) and (c) of this definition follow 2 USC 431(4) (A), (B) and (C).

Subsection (d) adds to the statutory definition and provides that when an individual becomes a candidate by exceeding the $5,000 threshold, his or her principal campaign committee and authorized committees become political committees. Absent this provision, an individual's authorized committees would become political committees upon reaching the $1,000 threshold even though the individual would not become a candidate until reaching the $5,000 threshold.

Subsection (e) follows current regulation 11 CFR 100.14(a), subsection (f) follows current regulation 11 CFR 100.14(b), and subsection (g) follows current regulation 11 CFR 100.14(c).

§ 100.6 Connected organization.

Subsection (a) follows current regulation 11 CFR 100.15.

Subsections (b) and (c) add to the statutory definition and reflect language found in H.R. Rep. No. 96-422, 96th Cong., 2d Sess. (1979) (hereinafter referred to as House Report 96-422) at page 6, as follows:

Subsection (b) provides that where an entity such as a trade association establishes a political committee, member organizations of the trade association would not in turn be regarded as connected organizations of the political committee.

Subsection (c) makes it clear that an entity which makes contributions to a political committee does not become a connected organization of that committee. Rather, only an entity that pays for the establishment, administration or solicitation costs of the committee will be regarded as a connected organization.

§ 100.7 Contribution.

Subsection (a)(1) follows 2 USC 431(8)(a)(i).

Subsections (a)(1)(i) (A)–(C) clarify the relationship between the terms "loan" and "contribution." Under subsection (A), no loan may exceed the contribution limitations, regardless of whether or not it is repaid.

Subsection (B) provides that a loan is a contribution at the time it is made and for such time and to the extent that it remains unpaid. Thus, any contributions made by an individual must be added to the balance of all unpaid loans and any other contributions made by that individual from that individual to determine whether he or she has exceeded the contribution limitations.

Subsection (C) makes it clear that a loan is a contribution by each endorser or guarantor. Where a written agreement sets forth the amount of an endorser's or guarantor's liability for the loan, then he or she is deemed to have contributed that amount. Similarly, where there is a written agreement, any reduction in the unpaid balance of the loan reduces the amount guaranteed by each endorser or guarantor in accordance with the terms of such agreement. In the event that the written agreement does not state the amount of the loan for which each is liable, then the loan is reduced proportionately among the total number of endorsers or guarantors.

Subsection (D) was added to make it clear that where a political committee makes a loan to any person, the repayment of the loan shall be subject to the provisions set forth at 11 CFR Parts 110 and 114. Similarly, payment of interest on such a loan is not a contribution to the extent that it has not exceeded a commercially reasonable rate prevailing at the time the loan was made.

Subsection (a)(1)(ii) follows current regulation 11 CFR 100.4(a)(1)(i).

Subsections (a)(1)(iii) (A) and (B) essentially follow current regulations 11 CFR 100.4(a)(1)(iii) (A) and (B) (1)–(2), respectively.

Subsection (a)(2) follows current regulation 11 CFR 100.4(a)(2) and makes it clear that the entire amount paid to purchase a ticket to a fundraising or other political event is a contribution. For example, the entire amount paid to attend a fundraising dinner, including the amount paid for the cost of a meal, is a contribution. Subsection (a)(2) also adds to current regulations by specifying that the entire amount paid for a fundraising item is a contribution. This addition follows Commission policy with regard to the purchase of fundraising items, such as watches, etc. (See AO 75–15).

Subsection (a)(3) follows 2 USC 431(8)(A)(ii).

Subsection (a)(4) follows current regulation 11 CFR 100.4(a)(1)(iii)(B)(6).

§ 100.7(b).

This subsection sets forth numerous activities which are excluded from the definition of contribution.

Subsection (b)(1) essentially follows current regulation 11 CFR 100.4(b)(1). In addition, this subsection makes it clear that funds received or payments made in order to amass campaign funds to be spent after the individual becomes a candidate fall within the definition of contribution. Also, funds received or payments made for general public political advertising fall within the definition of contribution.

Subsection (b)(2) follows current regulation 11 CFR 100.4(b)(8).

Subsection (b)(3) follows 2 USC 431(8)(B)(i).

Subsections (b) (4), (5) and (6) essentially follow 2 USC 431(8)(B)(ii) with the following amplifications.

Subsection (b)(4) incorporates language in House Report 96–422 at page 7, which expands the definition of residential premises to include a recreational room in an apartment complex.

Subsections (b)(4) and (5) add the proviso that such a recreational, church or community room must be available for use without regard to political affiliation.

Subsections (b) (4) and (5) further make it clear that the mere payment of a nominal fee for the use of the room which is not commensurate with its rental value does not constitute a contribution.

Subsection (b)(7) follows 2 USC 431(8)(B)(iii).

Subsection (b)(8) follows 2 USC 431(8)(B)(iv). This subsection reflects a change in the statute by expanding the travel payment exemption to encompass *all* individuals. House Report 96–422 at page 8 makes it clear that this travel expense exemption applies not only to individuals who volunteer their personal services (as provided under current regulation 11 CFR 100.7(b)(6)), but extends as well to individuals who are being paid by a candidate or party committee.

Subsection (b)(9) essentially follows 2 USC 431(8)(B)(v) regarding the payment by State and local party committees of costs incurred with respect to printed slate cards, sample ballots, *etc.* Language from House Report 96–422 at page 8 is incorporated by providing that the portion of the costs allocable to federal candidates must be paid from funds subject to the Act's limitations and prohibitions. If made by a party committee which qualifies as a political committee, such payments must be reported as disbursements but need not be allocated to specific candidates.

Subsection (b)(10) follows 2 USC 431(8)(B)(vi).

Subsection (b)(11) regarding loans made by lending institutions in the ordinary course of business generally follows 2 USC 431(8)(B)(vii). In addition, this subsection incorporates language from House Report 96–422 at page 8 and provides that an overdraft is to be considered a contribution by the lending institution unless it is made on an account subject to automatic overdraft protection and to a definite and customary interest rate and repayment schedule.

Subsection (b)(12) follows 2 USC 431(8)(B)(viii) and provides reporting requirements for donations toward construction costs of office facilities. Such donations are to be reported only if they are made directly to a political committee. However, if the donations are made to a separate entity or committee which is not a political committee under the Act and which is established solely to receive and disburse such donations, no reporting is required.

Subsections (b) (13) and (14) concerning the provision of legal or accounting services follow 2 USC 431(8)(B)(ix) and current regulation 11 CFR 100.4(b) (11) and (12).

Subsection (b)(15) follows and clarifies the provisions of 2 USC 431(8)(B)(x) regarding the exclusion of payments made by State or local party committees for campaign materials, such as pins, bumper stickers and handbills, used in connection with volunteer activities, as follows:

Subsection (b)(15)(i) defines the term "direct mail" (see 2 USC 431(8)(B)(x)(1)) as any mailing made by a commercial vendor or from commercial lists. This definition is intended essentially to follow the definition of "direct mail" as it appears in House Report 96–422 at page 10. Thus, mailings by a commercial vendor or from commercial lists would not be included under this exemption. The term "commercial lists" refers generally to lists that were not developed by the State or local party committee, that is, to lists developed by a commercial vendor or lists purchased or obtained by such committee, except where the lists are obtained from a public office, such as voter registration lists obtained from a Secretary of State. Mailings from lists developed by a State or local committee are permissible.

Examples of lists developed by a committee are lists of contributors to a committee, lists of volunteers who have worked for the committee and lists developed as a result of substantial volunteer activity on behalf of the committee.

Subsection (b)(15)(iii) reflects language in House Report No. 96–422 at page 9 to the effect that a contribution shall not be considered "designated" (see 2 USC 431(8)(B)(x)(3)) where the party committee disbursing the funds makes the final decision regarding its use.

Subsection (b)(15)(iv) incorporates language from House Report No. 96–422 at page 9 and provides that payments by a State or local party committee for travel and subsistence or customary token payments to volunteers do not alter their volunteer status.

Subsection (b)(15)(v) makes it clear that such payments, if made by a committee which qualifies as a political committee under the Act, must be reported by the committee as disbursements but need not be allocated to specific candidates.

Subsection (b)(15)(vi) makes it clear that payments by a State candidate for his or her share of expenses for such campaign materials are not contributions so long as the amount paid does not exceed the State candidate's proportionate share of the expenses.

Subsection (b)(15)(vii) follows House Report 96–422 at page 9 and provides that campaign materials which are purchased by a national party committee for use by a State or local committee do not qualify under this exemption. Similarly, this subsection also provides that materials purchased through the use of funds donated by a national committee for the purchase of such materials do not qualify under this exemption. Rather, the costs of these materials are subject to 2 USC 441a(d) and 11 CFR 110.7 regarding party committee expenditure limitations.

Subsection (b)(16) follows 2 USC 431(8)(B)(xi) and, in addition incorporates the definition of "direct mail" from House Report 96–422, at page 10. For the purposes of this section, the term "direct mail" means mailings by commercial vendors or mailings made from lists not developed by the candidate. A mailing by a candidate from a list of contributors to his or her campaign, a list of individuals who had volunteered to work for his or her campaign or other types of lists developed by the candidate would not be considered direct mail.

Subsection (b)(17) basically follows the provisions of 2 USC 431(8)(B)(xii) concerning the payment by State or local party committees of costs of voter registration activities.

Subsection (b)(17)(i) defines "direct mail" in the same way it is defined under 11 CFR 100.7(b)(15)(i).

Subsection (b)(17)(iii) incorporates language contained in House Report No. 96–422 at page 9, which states that a contribution shall not be considered "designated" where the party committee disbursing the funds makes the final decision as to its use.

Subsection (b)(17)(iv) incorporates language from House Report No. 96–422 at page 10, which provides that if voter registration activities by State or local party committees on behalf of presidential and vice presidential nominees include references to candidates for the House or Senate as well, the costs attributable to the House or Senate candidates would be considered contributions by the State or local party committees. If, however, the reference to the House or Senate candidates is merely incidental to the overall activity, then such incidental mention would not be considered a contribution to such candidates.

Subsection (b)(17)(v) incorporates language found in House Report No. 96–422 at page 10, concerning phone banks. When phone banks are operated by volunteers in connection with voter registration and get-out-the-vote activities, the payment of costs incurred in the use of such phone banks is not a contribution. Any payment incurred in the use of paid professionals to design the phone bank system, develop calling instructions and train supervisors is not a contribution, but, if made by a political committee must be reported as a disbursement.

Subsection (b)(17)(vii) provides that if payments for voter registration and get-out-the-vote activities are made from funds donated for that purpose to a State or local party committee by a national committee, such payments are not exempt. House Report 96–422 at page 9, makes it clear that campaign materials purchased by a national party committee and given to a State or local committee do not quality for the exemption at 2 USC 431(8)(B)(x). This subsection extends the same rationale to payments made for voter registration and get-out-the-vote activities where the national committee donates funds to the State or local committee for such activities.

Subsection (b) (18) and (19) follow 2 USC 431(8)(B)(xiii) and (xiv), respectively.

Subsection (b)(20) follows current regulation 11 CFR 100.4(b)(15).

§ *100.7(c).*

This section incorporates established Commission policy into the regulations and provides that any contributions or payments made by a married individual shall not be attributed to that individual's spouse unless otherwise specified by that individual or by his or her spouse.

§ *100.8 Expenditure.*

Subsection (a) and (a)(1) follow 2 USC 431(9)(A)(i).

Subsections (a)(1) (i) and (ii) follow current regulation 11 CFR 100.7(a)(1)(i)(A)–(C).

Subsection (a)(1)(iii) follows current regulation 11 CFR 100.7(a)(1)(ii).

Subsection (a)(1)(iv)(A) essentially follows current regulation 11 CFR 100.7(a)(1)(iii).

Subsection (a)(1)(iv)(B) follows current regulations 11 CFR 100.7(a)(1)(iii)(A)–(B).

Subsection (a)(2) follows 2 USC 431(9)(A)(ii) and makes the additional clarification that such an agreement is considered an expenditure as of the date the contract, promise or obligation is made.

Subsection (a)(3) follows current regulation 11 CFR 100.7(a)(4).

§ *100.8(b).*

This section sets forth numerous activities which are excluded from the definition of expenditure. The regulations under this section essentially follow the statutory language, the current regulations, or the proposed regulations pertaining to exclusions from the definition of "contribution" as discussed above.

Subsection (b)(1) follows proposed regulations at 11 CFR 100.7(b)(1).

Subsection (b)(2) follows 2 USC 431(9)(B)(i) and current regulation 11 CFR 100.7(b)(3).

Subsection (b)(3) follows 2 USC 431(9)(B)(ii) and current regulation 11 CFR 100.7(b)(4).

Subsection (b)(4) follows 2 USC 431(9)(B)(iii).

Subsection (b)(4)(i) follows current regulation 11 CFR 100.7 (b)(5)(i).

Subsection (b)(4)(ii) follows current regulation 11 CFR 100.7 (b)(5)(ii).

Subsection (b)(4)(iii) follows current regulation 11 CFR 100.7 (b)(5)(iii).

Subsections (b)(4)(iii)(A)(1)–(2) follow current regulations 11 CFR 100.7(b)(5)(iii)(A)(1)–(2).

Subsections (b)(4)(iii)(B)(1)–(4) follow current regulations 11 CFR 100.7(b)(5)(iii)(B)(1)–(4).

Subsection (b)(4)(iii)(C) follows current regulations 11 CFR 100.7(b)(5)(iii)(C).

Subsection (b)(4)(iii)(D) follows current regulations 11 CFR 100.7(b)(5)(iii)(D).

Subsections (b)(4)(iv)–(vii) follow current regulations 11 CFR 100.7(b)(5)(iv)–(vii), respectively.

Subsections (b)(5), (6), and (7) essentially follow current regulations 11 CFR 100.7(b)(6) and (7).

Subsection (b)(8) was added to reflect the addition of its parallel provision under "contribution" at 11 CFR 100.7(b)(7).

Subsection (b)(9) follows current regulations 11 CFR 100.7(b)(8) and (10) and incorporates the new $1,000 and $2,000 limitations established in its counterpart provision under "contribution" at 11 CFR 100.7(b)(8).

Subsections (b)(10) and (11) essentially follow 2 USC 431(9)(B)(iv) and (v). In addition, subsection (b)(10) incorporates the provisions concerning the portion of costs allocable to Federal candidates found in the parallel provision under "contribution" at 11 CFR 100.7(b)(9).

Subsection (b)(12) basically follows current regulation 11 CFR 100.7(b)(16) and incorporates those additional provisions of its counterpart provision under "contribution" at 11 CFR 100.7(b)(11).

Subsection (b)(13) was added to reflect the addition of its parallel "contribution" provision at 11 100.7(b)(12).

Subsections (b)(14) and (15) follow 2 USC 431(9)(b)(vii)(I) and (II) and incorporate the language regarding partnerships found in their parallel provisions at 11 CFR 100.7 (b)(13) and (14). In addition, subsection (b)(15) makes it clear that expenditures for legal or accounting services by a candidate certified to receive public funds under 11 CFR Parts 143 or 9034 do not count against the candidate's expenditure limitations.

Subsections (b)(16)(i)–(iii) essentially follow 2 USC 431(9)(B)(viii)(1)–(3), respectively, and incorporate the additions made to their parallel provisions under "contribution" at 11 CFR 100.7(b)(15)(i)–(iii). In addition, subsections (b)(16)(iv)–(vi) were inserted to reflect the additions made at 100.7(b)(15)(iv)–(vi).

Subsection (b)(17) was added to reflect the addition of a parallel provision under "contribution" at 11 CFR 100.7(b)(16).

Subsections (b)(18)(i)–(vi) follow 2 USC 431(9)(B)(ix)(1–3) and incorporate those additions made to the parallel provisions under "contribution" at 11 CFR 100.7(b)(17)(i)–(vi).

Subsection (b)(19) follows 2 USC 431(9)(B)(x).

Subsection (b)(20) follows current regulation 11 CFR 100.7(b)(17).

Subsections (b)(21), (21)(i) and (ii) follow current regulations 11 CFR 100.7(b)(13)(i)–(iii).

Subsection (b)(22) follows current regulation 11 CFR 100.7(b)(10).

Subsection (c) was added to reflect the addition of its counterpart provision under "contribution" at 11 CFR 100.7(c).

§§ 100.9–100.18.

These definitions follow 2 USC §§ 431(10)–(19), respectively. Section 100.14(b) additionally incorporates current regulation 11 CFR 100.19(b).

§ 100.19. File, filed or filing.

This definition follows current regulation 11 CFR 100.9.

§ 100.20 Occupation.

This definition follows current regulation 11 CFR 100.11.

§ 100.21 Employer.

This section makes it clear that the term "employer" means the name of the organization by which an individual is employed and not the name of the individual's supervisor.

Part 101 Candidate Status and Designations.

§ 101.1 Candidate designations.

Subsections (a) and (b) generally follow 2 USC 432(e)(1). In addition, subsection (a) incorporates language in House Report 96–422 at page 12 and sets forth registration procedures to be followed by principal campaign committees and the Commission.

§ 101.2 Candidate as agent of authorized committee.

Subsection (a) follows 2 USC 432(e)(2). Under subsection (b), once an individual becomes a candidate, he or she will be deemed to have acted as an agent of his or her authorized committees in receiving funds, obtaining loans or making disbursements in connection with the campaign prior to becoming a candidate.

§ 101.3 Funds received or expended prior to becoming a candidate.

This subsection clarifies the agency principle set forth in subsection 101.2. Funds received or expended by an individual prior to becoming a candidate, which were used in connection with that individual's election campaign, are subject to the limitations and prohibitions of the Act. As these funds and payments must be reported by the individual after candidate status is attained, such individual should keep accurate records of all such funds received and payments made. All funds received which violate the provisions of the Act must be refunded within 10 days from the date on which the individual attains candidate status.

Part 102—Registration, Organization and Recordkeeping by Political Committees.

§ 102.1 Registration of political committees.

Subsections (a)–(d) generally follow 2 U.S.C. 433(a) and 432(f) (1) and (2). In addition, subsection (c) makes it clear that a fund established solely for the purpose of financing State or local elections is not required to file a Statement of Organization with the Commission.

§ 102.2 Statement of organization: Forms and committee identification numbers.

Subsections (a)(1)(i)–(vi) generally follow 2 U.S.C. 433(b)(1)–(6), respectively. To insure that communications from the Commission reach the appropriate person, subsection (a)(1)(v) adds the requirement that the authorized committee also include the address to which communications should be sent.

Subsection (a)(2) generally follows 2 U.S.C. 433(c) and current regulation 11 CFR 102.3.

Subsections (b)(1)(i) and (b)(1)(ii)(A)–(B) generally follow current regulations 11 CFR 102.2(b)(1)(i) and (b)(1)(ii)(A)–(B), respectively.

Subsection (b)(1)(ii)(C) incorporates the committee identification number procedure set forth in current regulation 11 CFR 102.5

Subsection (b)(2) follows current regulation 11 CFR 102.2(b)(2).

§ 102.3 Termination of registration.

Subsections (a) and (b) essentially follow current regulation 11 CFR 102.4 (a) and (b), respectively.

§ 102.4 Administrative termination.

This subsection sets forth procedures to implement 2 U.S.C. 433(d)(2) which provides the Commission with authority to terminate a committee's reporting obligations. See also House Report 96–422 at page 15.

§ 102.5 Organizations financing political activity in connection with Federal and non-federal elections, other than through transfers and joint fundraisers.

Subsection (a) basically tracks current regulations at 11 CFR 102.6. It sets forth requirements for organizations which finance political activity in connection with both federal and non-federal

elections where those organizations qualify as political committees under the Act. Such organizations must either (1) establish a separate account for federal activity that accepts only funds subject to the limitations and prohibitions of the Act; or (2) establish one committee to conduct both federal and non-federal activity, which committee may accept only funds subject to the limitations and prohibitions of the Act.

Subsection (b) deals with organizations which finance both federal and non-federal election activity, but which do not qualify as political committees under the Act. Such organizations must demonstrate through a reasonable accounting method that their federal activity is financed with funds subject to the limitations and prohibitions of the Act. Upon request, the committee must supply the Commission with records which will demonstrate compliance with subsection (b).

§ 102.6 Transfers and joint fundraisers.

Subsection (a) provides that transfers of funds may be made without limit between affiliated committees, whether or not they are political committees. For example, a committee established by a labor organization for State and local election activity may transfer funds to any political committee established by the labor organization or by any local unit of that labor organization. Similarly, a committee established by a corporation for State and local election activity may transfer funds to any political committee established by the corporation or by any of its subsidiaries, branches, divisions or departments. These transfers apply toward the thresholds for determining whether the committee becomes a political committee under the Act. Hence, if a committee established by a corporation or labor organization for State or local activity transferred any amount (other than transfers under 11 CFR 102.6(b)) to an affiliated political committee such committee would become a political committee under the Act.

With regard to party committees, subsection (a) provides that transfers of funds may be made without limit between any party committees, regardless of whether or not they are political committees or of whether or not they are affiliated. These transfers would apply toward the threshold in determining whether such committees become political committees under the Act.

Subsection (b) deals with the transfer of contributions collected by a committee which is not a political committee under the Act in joint fundraising with or as a fundraising agent for an affiliated political committee. In transferring such contributions, a committee which is not a political committee under the Act may either: (1) establish a transmittal account for transferring contributions; (2) transmit the contributions by money order, cashier's check or similar instrument without depositing them in any account; or (3) for collections through joint fundraising or a check-off plan, deposit such contributions in its account and subsequently transfer them to the political committee with which it is affiliated. A committee which deposits contributions into its account prior to making a transfer must keep detailed records of the contributions, deposits and transfers.

Past Commission policy has been to require such committees to establish a transmittal account when engaging in joint fundraising with or when acting as a fundraising agent for a political committee. An exception was created for contributions collected through check-off plans. (See AO 78-42 and 78-98.) The proposed regulations effect a change in Commission policy by permitting contributions collected in joint fundraising to be deposited into a committee's account prior to their transfer to a political committee. This change is based on the legislative history of Public Law 96-187. During debate on H.R. 5010, both Senator Pell and Representative Thompson stated that under the new amendments a committee which is established for non-federal election activity need not establish a separate account when transferring contributions collected in joint fundraising with an affiliated political committee. (125 Cong. Rec. S19,099 (daily ed. December 18, 1979) (remarks of Senator Pell); 125 Cong. Rec. H12,365 (daily ed. December 20, 1979) (remarks of Representative Thompson)).

§ 102.7 Organization of political committee.

Subsection (a) follows the amendment made by 2 U.S.C. 432(a), in that a committee is only required to have a treasurer, and in addition permits the designation of an assistant treasurer as set forth in current regulation 11 CFR 102.7(b)(2).

Subsections (b) and (c) follow 2 U.S.C. 432(a) and current regulation 11 CFR 102.7(d).

Subsection (d) incorporates the provisions of 2 U.S.C. 432(e)(2) and proposed regulation 11 CFR 101.2(a) so as to make it clear that a candidate who receives contributions or makes disbursements in connection with his or her campaign shall be deemed to do so as an agent of his or her authorized committee(s).

§ 102.8 Receipt of contributions.

Subsections (a) and (b)(1)-(2) basically follow 2 U.S.C. 432(b)(1) and (2)(A)-(B), respectively, and further impose the duty on every person receiving contributions in excess of $200 to forward the identification of the contributor to the treasurer together with the contribution. Absent such a duty, the treasurer would be unable to keep an account of the identification of such contributors as required by 2 U.S.C. 432(c)(3) in situations where someone other than the treasurer received the contribution.

Similarly, subsection (c) was added to clarify the situation where an intermediary or conduit receives earmarked contributions. Under this subsection, all duties imposed upon those receiving contributions apply to intermediaries and conduits as well. In addition, this subsection makes it clear that the date of receipt of a contribution is the date on which the treasurer or any other person acting on behalf of a committee obtains possession of such contribution.

§ 102.9 Accounting for contributions and expenditures.

Subsections (a) and (b) basically follow 2 U.S.C. 432(c). Subsection (b)(1)(iv) clarifies the meaning of the term "purpose" of the disbursement as used in 2 U.S.C. 432(c)(5) to require a brief description of why the disbursement was made and cites to 11 CFR 104.3(b)(3)(i)(A) for examples of descriptions which would or would not satisfy this requirement.

Subsection (b)(2) essentially follows those provisions of 2 U.S.C. 432(c)(5) concerning documentation for disbursements in excess of $200. This subsection also sets forth documentation requirements for disbursements made by cash advance, share draft or check drawn on a credit union account, and for credit card transactions, to provide adequate notice to those committees using such methods of disbursements.

Subsection (c) essentially follows 2 U.S.C. 432(d).

Subsection (d) incorporates language from House Report 96-422, p. 14, and details more specific procedures to be followed by the treasurer in satisfying the "best efforts" test set forth in 2 USC 432(i). Unless the treasurer has made at least one written effort per transaction to obtain a duplicate copy of the receipt, invoice or cancelled check, he or she will not be deemed to have exercised his or her best efforts to comply with the

Act's recordkeeping requirements. Recordkeeping requirements for receipts, invoices and cancelled checks are extremely important. Without such documentation, it would be impossible to verify how contributions received by a committee are spent.

Subsection (e) follows current regulation 11 CFR 101.2(d). It should be noted that the procedure set forth in subsection (e) is necessary only where contributions from one contributor exceed $1,000.

§ 102.10 Disbursement by check.

This section generally follows 2 USC 432(h)(1).

§ 102.11 Petty cash fund.

This section essentially follows 2 USC 432(h)(2).

§ 102.12 Designation of principal campaign committee.

Subsection (a) essentially follows 2 USC 432(e)(1).

Subsection (b) follows current regulation 11 CFR 102.11(b).

Subsection (c)(1) follows 2 USC 432(e)(3)(A)(i).

Subsection (c)(2) follows 2 USC 432(e)(3)(B).

§ 102.13 Authorization of political committees.

Subsections (a) and (b) generally follow current regulations 11 CFR 102.12 (a) and (b).

Subsections (c) (1) and (2) essentially follow 2 USC 432(e)(3)(A)(ii) and (e)(3)(B), respectively. In addition, subsection (c)(2) incorporates the language in House Report 96-422 at page 13 as set forth above regarding a national political party committee which has been designated the principal campaign committee of its Presidential candidate.

§ 102.14. Name of political committees.

Subsection (a) follows 2 USC 432(e)(4).

Subsection (b) (1) and (2) clarify requirements for naming delegate and draft committees. A delegate committee must include the word "delegate(s)" in its name and may also include the name of the presidential candidate it supports. Similarly, a committee established solely to draft a candidate may include the individual's name, provided that the committee's name also clearly indicates that it is a draft committee.

Subsection (c) follows 2 USC 432(e)(5) regarding names of separate segregated funds but also incorporates language from the House Report 96-422 at page 13. A fund may use a clearly recognized abbreviation or acronym by which its connected organization is commonly known, so long as both its full name and such abbreviation or acronym are included on all required disclosure statements and on all advertisement and solicitation notices. The fund may make contributions in its acronym or abbreviation. While a newly formed labor organization or corporation may not have an acronym or abbreviation with which the public is familiar, the fund of such an organization may use an acronym or abbreviation by which the organization intends to be known. If a corporation with a number of subsidiaries establishes a fund, the fund will not have to include the name of each subsidiary in its name. By the same token, a fund established by a subsidiary is not required to include in its name the name of its parent or another subsidiary of its parent.

§ 102.15. Commingled funds.

This section follows 2 USC 432(b)(3).

§ 102.16. Notice: Solicitation of contribution.

This section was inserted to make it clear that political committees must comply with the notice requirements set forth at 2 USC 441d.

Part 103—Campaign Depositories

§ 103.1 Notification of the Commission.

This section follows current regulations at 11 CFR 103.1.

§ 103.2 Depositories.

This section follows those provisions of 2 USC 432(b)(1) and 432(h)(1) which expanded the permissible types of campaign depositories. In addition, it incorporates the provisions of current regulation 11 CFR 103.2 which permits the establishment of one or more depositories in one or more States and one or more accounts per depository.

§ 103.3 Deposit of receipts and disbursements.

This section follows 2 USC 432(h) (1) and (2) and current regulation 11 CFR 103.3.

§ 103.4 Vice Presidential candidate campaign depository.

This section follows current regulation 11 CFR 103.4.

Part 104—Reports by Political Committees

§ 104.1 Scope.

This section generally follows 2 USC 434(a)(1) and in addition permits voluntary registration and reporting by an individual seeking federal office who has not yet attained candidate status under the Act. Subsection (b) makes it clear that such an individual does not become a candidate solely by registering and reporting and the individual's committee need not file any reports until the individual becomes a candidate.

§ 104.2 Forms.

This section was added to standardize and clarify reporting formats. Subsection (e) specifies the appropriate FEC forms to be used by various types of reporting committees. Under subsection (d), a committee is permitted to use computer-produced schedules of receipts and disbursements for reporting purposes. However, the schedules must be reduced to the size of FEC forms and the Commission must have approved the proposed format prior to its use.

§ 104.3 Contents of reports.

This section generally follows 2 USC 434. The cash-on-hand requirement of subsection (a)(1) provides a starting point for each report. It requires the reporting of all cash-on-hand, in whatever form, as of the beginning of the reporting period. The section also requires the reporting of the total amount of receipts received during the reporting period.

Subsection (a)(2)(ii) specifies that contributions from all political party committees, including party committees which are not registered committees under the Act, must be reported. The Commission believes that it is important for public disclosure purposes that contributions from unregistered party committees be reported along with contributions from registered political party committees, rather than being reported as "contributions from persons other than political committees." For the same reason, subsection (a)(2)(iii) specified that contributions from committees which are not political committees under the Act must be reported along with contributions from political committees which are registered under the Act.

Under subsection (a)(4)(i), the threshold for itemizing contributions from persons other than committees has been increased from an aggregate amount in excess of $100 to an aggregate amount in excess of $200. Also, under subsection (a)(4)(v) and (a)(4)(vi) the threshold for identifying persons who provide a rebate, refund, or other offset to operating expenditures to the reporting committee, or who provide any dividend, interest, or other receipt, has been raised to $200.

The reporting requirements for disbursements are similar to the reporting requirements for receipts. The threshold for the identification of

persons to whom disbursements are made has been increased to $200 per disbursement.

Subsection (b)(3)(i)(A) explains the requirement for reporting the "purpose" of an expenditure, and sets forth examples of those statements and descriptions which will meet the requirements, as well as examples of those statements and descriptions which are unacceptable. The latter are illustrative of those descriptions which, in the Commission's view, would not provide sufficient public disclosure of how a committee used its funds.

Subsection (b)(3)(viii) adds the requirement that each person who receives an expenditure from the reporting committee in connection with an expenditure under 2 USC 441a(d) be identified by name and office sought, including the state and congressional district where applicable.

Subsection (c) provides for a summary of contributions and operating expenditures.

Subsection (d) requires disclosure of the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Included are loans obtained by an individual prior to becoming a candidate which are used in connection with the individual's campaign.

Pursuant to 2 USC 438(a)(4), subsection (e) was added to permit a political committee to submit ten (10) pseudonyms on each report filed in order to determine if the names and addresses of its contributors are being used to solicit contributions or for commercial purposes in violation of 11 CFR 104.5. The subsection also includes the proper method of reporting amounts attributed to pseudonyms. A list of such pseudonyms must be submitted to the Commission. In addition, a limitation is placed on the amount of contributions which may be attributed to a pseudonym. This provision is designed to prevent the possibility of pseudonyms becoming the subject of Commission compliance actions.

Subsection (f) explains the method by which a principal campaign committee files consolidated reports based on reports submitted to it by any authorized committees and the principal campaign committee's own report.

Subsection (g) requires the reporting on a separate schedule of any contributions received by a political committee to defray the costs of construction or the purchase of office facilities.

Subsection (h) requires that a committee which receives legal or accounting services report on a separate schedule the amounts paid for these services by the regular employer of the persons providing such services, the date the services were performed and the name of the person performing such services.

§ 104.4 Independent expenditures by political committees.

The reporting requirements for political committees making independent expenditures is now wholly contained in this subsection, which includes instructions on where to file such reports, as well as requirements for reporting certain independent expenditures within 24 hours after they are made.

§ 104.5 Filing dates.

Subsection (a) generally follows 2 USC 434(a)(2) and (a)(8).

Subsection (b) generally follows 2 USC 434(a)(3).

Subsection (c) essentially follows 2 USC 434(a)((4) and clarifies the procedures to be followed by political committees who wish to change the frequency of their reporting and limits each committee to no more than one change in its filing status per calendar year.

Subsection (d) follows 2 USC 434(a)(10).

Subsection (e) generally follows 2 USC 434(a)(5) with the added clarification that when reports are sent by first class mail, they must be received by the required filing date.

Subsection (f) follows 2 USC 434(a)(6).

Subsection (g) generally follows the 24 hour reporting requirement for certain independent expenditures set forth in the last paragraph of 2 USC 434(c)(2).

Subsection (h) was added to incorporate 2 USC 434(a)(9).

§ 104.6 Form and content of internal communication reports.

Subsection (a) generally follows 2 USC 431(9)(B)(iii).

Subsection (b) gererally follows 2 USC 434(a)(4)(A)(i)–(ii).

Subsection (c) incorporates well-established Commission practice regarding the specific information to be included in such reports.

§ 104.7 Best efforts.

This subsection incorporates language found in House Report 96–422 at page 14, which gives examples of procedures that may be followed by a treasurer in satisfying the "best efforts" test set forth at 2 USC 432(i). In determining whether or not a committee has exercised "best efforts," the Commission's primary focus will be on the system established by the committee for obtaining disclosure information. The main concern will be whether the committee has in place a systematized method for complying with the Act's disclosure requirements. Under proposed regulation 11 CFR 104.3(a)(4), the treasurer of a political committee must report the identification of each person whose contributions to such committee and its affiliates aggregate in excess of $200 per calendar year. The treasurer must make at least one effort, by clear written request or clear oral request contemporaneously documented in writing, to obtain identification information from the contributor. The request must also inform the contributor that the reporting of such information is required by law. The treasurer is provided with the option of making the request orally or in writing. Thus, he or she is given some latitude in deciding which type of request would be more effective in eliciting required information from the contributor. The requirement that the treasurer keep a written record of an oral request will assist in verifying that such a request was indeed made.

§ 104.8 Uniform reporting of contributions.

Subsections (a) and (b) were amended to conform to 2 USC 434(b)(3)(A). Subsection (a) also incorporates the provision of current regulation 11 CFR 104.5(a) regarding a change in the contributor's name. Subsection (b) adds to the statutory language by specifying procedures for the reporting of contributions received through a payroll deduction plan.

Subsections (c) and (d) follow current regulations 11 CFR 104.5(c) and (e), respectively.

§ 104.9 Uniform reporting of expenditures.

This section was amended to comply with 2 USC 434(b)(5)(A). In addition, the term "purpose" is defined as a brief statement or description of the reason for the disbursement. (See proposed regulation 11 CFR 104.3(b)(3).)

§ 104.10 Allocation of expenditures among candidates.

This section follows current regulation 11 CFR 104.7.

§ 104.11 Continuous reporting of debts and obligations.

This section follows current regulation 11 CFR 104.8, with the addition of the reporting requirements for those debts which were settled for less than their reported value, the authority for which is found at 2 USC 434(b)(8).

§ 104.12 Beginning cash on hand for political committees.

This section essentially follows current regulation 11 CFR 104.10.

§ 104.13 Disclosure of receipt and consumption of in-kind contributions.

This section generally follows current regulation 11 CFR 104.3.

§ 104.14 Formal requirements regarding reports and statements.

This section generally follows current regulation 11 CFR 104.12.

§ 104.15 Sale or use restriction.

This section essentially follows current regulation 11 CFR 104.13. It specifically states that the use of information copied from the FEC reports in newspapers, magazines, and similar communications is permissable so long as the principal purpose is not to communicate contributor information for any commerical purpose.

§ 104.16 Audits.

This section has been added to follow 2 USC 438(b).

§ 104.17 Content of reports; Presidential and Vice Presidential committees.

This section incorporates the effective dates provided in the footnote to 2 USC 431 and affords authorized committees of Presidential and Vice Presidential candidates for the 1980 elections the option of following the requirements set forth in proposed regulations 11 CFR 104.3 (a) and (b) or adhering to existing reporting procedures.

Part 105—Document Filing

§ 105.1 Place of filing: House candidates, their principal campaign committees, and committees supporting only house candidates.

This section follows current regulations at 11 CFR 105.1 and 105.4(a)(1).

§ 105.2 Place of filing; Senate candidates, their principal campaign committees, and committees supporting only Senate candidates.

This section follows current regulation at 11 CFR 105.2 and 105.4(a)(2).

§ 105.3 Place of filing; Presidential candidates and their principal campaign committees.

This section follows current regulation 11 CFR 105.3.

§ 105.4 Place of filing; political committees and other persons.

This section follows current regulation 11 CFR 105.4(b).

§ 105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate.

The two (2) day requirement for transmittal of records in subsection (a) follows 2 USC 432(g)(3) and subsections (b) and (c) follow current regulation 11 CFR 105.5 (a) and (b), respectively.

Part 106—Allocations of Candidate and Committee Activities

§ 106.1 Allocation of expenditures among (or between) candidates and activities.

This section follows current regulation 11 CFR 106.1 with the exception of the addition of subsection (c)(3). The addition of this subsection was necessary to make it clear that while payments made for get-out-the vote activities conducted by state and local party organizations on behalf of any Presidential or Vice Presidential candidates are exempt from the definition of expenditure (see 11 CFR 100.8(b)(18)), references to Congressional candidates, unless such references are incidental, are contributions to or expenditures on behalf of such candidates and a proportionate share of the costs will be allocated to such candidates.

§ 106.2 Allocation of expenditures among states by candidates for Presidential nomination.

This section essentially follows current regulation 11 CFR 106.2.

§ 106.3 Allocation of expenses between campaign and non-campaign related travel.

This section essentially follows current regulation 11 CFR 106.3.

§ 106.4 Allocation of polling expenses.

This section follows current regulation 11 CFR 106.4.

Part 108—Filing Copies of Reports and Statements With State Officers

§ 108.1 Filing requirements.

This section follows 2 USC 439(a)(1).

§ 108.2 Filing copies of reports and statements in connection with the campaign of any candidate seeking nomination for election to the office of President or Vice President.

This section follows current regulations 11 CFR 108.2 as amended by 2 USC 439(a) (1) and (2)(A) in that the requirement for committees of Presidential candidates to file reports pertaining to the general election with any Secretary of State has been eliminated. See House Report 96-422 at page 25.

§ 108.3 Filing copies of reports and statements in connection with the campaign of any congressional candidates.

This section follows current regulation 11 CFR 108.3 and adds the amendment set forth at 2 USC 439(a)(2)(B) that political committees are only required to file and Secretaries of State are only required to keep that portion of each report applicable to candidates seeking election in that State.

§ 108.4 Filing copies of reports by committees other than principal campaign committees.

This section generally follows current regulation 11 CFR 108.4.

§ 108.5 Time and manner of filing copies.

This section generally follows current regulation 11 CFR 108.5.

§ 108.6 Duties of state officers.

This section has been amended to incorporate the changes made by 2 USC 439(b), which were intended to alleviate the burden on Secretaries of State. See House Report 96-422 at page 25.

§ 108.7 Effect on state law.

This section follows current regulation 11 CFR 108.7.

§ 108.8 Exemption for the District of Columbia.

This section follows current regulation 11 CFR 108.8.

Part 109—Independent Expenditures

§ 109.1 Definitions.

This section follows current regulation 11 CFR 109.1.

§ 109.2 Reporting of independent expenditures by persons other than a political committee.

This section has been amended to incorporate the changes set forth at 2 USC 434(c) (1) and (2) regarding reporting requirements for persons, other than a political committee, who make independent expenditures.

§ 109.3 Non-authorization notice.

This section generally refers to 11 CFR 110.11, which has been amended by 2 USC 441d. Such notice need not appear on the front face or page of the document. See 125 Cong. Rec. H12,366 (daily ed. December 20, 1979) (remarks of Congressman Thompson).

Part 110—Contribution and Expenditure Limitations and Prohibitions

§§ 110.1 through 110.5

These sections follow current regulations 11 CFR 110.1 through 110.5.

§ 110.6 Earmarked contributions.

This section follows current regulation 11 CFR 110.6, except that the contribution threshold for the reporting of the contributor's occupation and employer is raised to $200.

§ 110.7 Party committee expenditure limitations.

This section follows current regulation 11 CFR 110.7, except that the provisions regarding limitations and allocations of expenditures by State and local party committees (110.7(b)(5) and 110.7(c)(2)(i)–(iii)) are deleted.

§§ 110.8 through 110.10

These sections follow current regulations 11 CFR 110.8 through 110.10.

§ 110.11 Communications; advertising.

This section essentially follows 2 USC 441d (a) and (b) and incorporates the exemption found in current regulation 11 CFR 109.4(a)(1) for small items upon which the disclaimer cannot be conveniently printed. The Act no longer requires that the notice be on the front page or face of any materials. See 125 Cong. Rec. H12,366 (daily ed. December 20, 1979) (remarks of Congressman Thompson).

§ 110.12 Honoraria.

This section was amended to reflect the 1977 Amendments to the Act (Pub. L. No. 95–216).

Subsection (a) was amended to include the guidelines set forth in the 1977 Amendments for determining the aggregate amount of honoraria accepted in a calendar year (2 USC 441i (c) and (d)).

Subsection (b)(5) has been amended to reflect the changes made in the definition of "accepted" by 2 USC 441i(b).

Subsection (b)(6) has been added to include the definition of "charitable organization" found in 2 USC 441i(b).

Part 111—Compliance Procedure

§ 111.1 Scope.

The compliance regulations provide procedures for processing possible violations of the Federal Election Campaign Act of 1971, as amended (2 USC 431, *et seq.*), the Presidential Primary Matching Payment Account Act, as amended (26 USC 9031, *et seq.*) and the Presidential General Election Campaign Fund Act, as amended (26 USC 9001, *et seq.*) (chapters 95 and 96 of the Internal Revenue Code of 1954). The procedures set forth below essentially follow 2 USC 437g and explain the steps by which the Commission exercises its power to investigate, conciliate and redress cases involving violations of those statutory provisions.

§ 111.2 Computation of time.

This section sets forth the rules for computing time to be followed in calulating the date when responses, notifications, *etc.* must be served under this Part. In accordance with House Report 96–422 at page 21, the provision of the Federal Rules of Civil Procedure which governs the calculation of time has been incorporated into this section.

§ 111.3 Initiation of compliance matters.

This section sets forth the two means by which the Commission may begin an enforcement proceeding.

§ 111.4 Complaints.

The manner for filing of complaints by members of the public alleging violations of the statutes within the Commission's jurisdiction is set forth in this section. Subsection (b) sets forth the statutory requirements with which a complaint must comply in order for the Commission to act upon it. A complaint is improper if it does not comply with this subsection, and shall not be acted upon by the Commission. Subsection (d) sets forth additional requirements which should be complied with in order to provide the Commission with sufficient information to address a complaint fully. The Commission may find that a complaint which does not comply with subsection (d) provides insufficient information, and for that reason, may vote to take no action on a complaint.

§ 111.5 Initial complaint processing.

This section sets forth the requirement that a respondent be notified within 5 days of receipt of a complaint. Subsection (b) provides that, in the case of a complaint which does not conform with the requirements of section 114.4(a), the Commission shall notify both the complainant and respondent within 5 days that no action will be taken on the basis of the improper complaint.

§ 111.6 Opportunity to demonstrate that no action should be taken on complaint-generated matters.

For any compliance matter initiated by the filing of a complaint, a respondent shall be given 15 days to respond in writing to the complaint before the Commission takes any action other than dismissal of the complaint.

§ 111.7 General Counsel's recommendation on complaint-generated matters.

This section describes the first recommendations which the General Counsel may make to the Commission on a compliance matter initiated by the filing of a complaint.

§ 111.8 Internally generated matters; referrals.

This section sets forth the procedure for handling compliance matters initiated on the basis of information ascertained by the Commission in the normal course of its supervisory responsibilities. Referrals from other government agencies are also handled in this manner. The Commission may find reason to believe on such matters without waiting 15 days. If the Commission finds reason to believe, a copy of a staff report setting forth the factual and legal basis of the finding shall accompany the notification to the respondent as set forth in House Report 96–422 at page 22.

Subsection (c) sets forth the additional requirement of publishing the names of persons failing to file pre-election and quarterly disclosure reports due immediately prior to an election. Such names must be published before the Commission may find reason to believe the Act was violated.

§ 111.9 The reason to believe finding; notification.

If the Commission by 4 affirmative votes finds reason to believe in any compliance matter, the notification of such finding shall be signed by the Chairman and shall describe the alleged violation. Notification of any action which terminates the Commission's proceedings shall be made by the General Counsel.

§ 111.10 Investigation.

This section sets forth a general outline of the procedure for Commission investigations which occur after a finding of reason to believe. Review of reports and statements filed with the Commission may constitute an investigation.

§ 111.11 Written questions under oath.

This section sets forth the Commission's power to issue orders.

§ 111.12 Subpoenas and subpoenas duces tecum; depositions.

This section sets forth the Commission's power to issue subpoenas. Subsection (c) provides that

Rule 30(e) of the Federal Rules of Civil Procedure governs the review and signing of depositions. Thus, if a deponent does not expressly waive signature, he or she must sign a deposition within 30 days.

§ 111.13 Service of subpoenas, orders and notifications.

This section describes the proper manner of service of all Commission subpoenas, orders and notifications (including letters). In accordance with House Report 96-422 at page 21, this section tracks the Federal Rules of Civil Procedure for service. Subsection (b) provides that all service shall be made upon the attorney in any case in which a respondent has advised the Commission in writing of representation in accordance with 11 CFR 111.23. Subsection (c) describes proper service on individuals (natural persons) and subsection (d) describes proper service on other persons, such as organizations or corporations.

§ 111.14 Witness fees and mileage.

This section sets forth the requirements for witness fees for depositions. Witness fees must be tendered in advance or within a reasonable time after a deposition.

§ 111.15 Motions to quash or modify a subpoena.

This section provides persons subpoenaed an opportunity to request that the Commission quash or modify a subpoena. Such a motion must be filed within 5 days of receipt of the subpoena.

Subsection (c) provides that the General Counsel and a person subpoenaed may agree to change the place, date or time for a deposition or for production of documents without affecting the validity of the subpoena. Such agreements must be confirmed in writing by one of the parties.

§ 111.16 The probable cause to believe recommendation; briefing procedures.

This section describes the briefing procedures prior to a finding by the Commission of probable cause. If the General Counsel intends to recommend that the Commission vote on whether or not there is probable cause, he or she shall so advise the respondent and shall provide the respondent with a brief setting forth the factual and legal issues of the case. The respondent may submit a brief in response within 15 days of receipt of the General Counsel's brief.

Subsection (d) provides that after review of the respondent's brief, the General Counsel shall notify the Commission in writing if he or she intends to proceed with recommendation in the General Counsel's brief. Upon receipt of this notification from the General Counsel, the Commission shall consider both briefs (if respondent files one) before it proceeds to a vote.

§ 111.17 The probable cause to believe finding; notification.

The General Counsel shall notify the respondent of a Commission finding of probable cause. If the Commission finds no probable cause or otherwise terminates its proceedings, the General Counsel shall so notify both the complainant and the respondent.

§ 111.18 Conciliation.

This section sets forth the conciliation procedures.

Subsection (d) makes clear that the Commission is not precluded from conciliating, upon request of a respondent, prior to entering into that mandatory conciliation period. For example, if, in the course of an investigation, and prior to any recommendation on probable cause, a respondent indicates in writing a desire to enter conciliation the Commission may enter into conciliation negotiations. Any such conciliation agreement reached without a finding of probable cause shall carry the same force and effect as an agreement reached after a finding of probable cause.

§ 111.19 Civil proceedings.

This section sets forth the procedure for authorizing the General Counsel to seek judicial relief in the event conciliation has failed. Subsection (c) makes it clear that the Commission may enter into a conciliation agreement even after it has authorized the filing of a civil action if a respondent seeks to conciliate instead of awaiting civil suit by the Commission.

§ 111.20 Public disclosure of Commission action.

This section provides that final Commission action on all compliance matters shall be made public no later than 30 days from notification of the respondent and the complainant of such final action. In addition, the Commission shall make public as soon as possible any signed conciliation agreement.

§ 111.21 Confidentiality.

This section sets forth the confidentiality requirements of the Act. Subsection (a) describes the confidentiality provision which governs the Commission's entire compliance proceeding until such time as a case is closed and the provisions of 11 CFR 111.20 apply. Subsection (b) describes the additional confidentiality requirement which is applicable only to conciliation efforts, and information derived therefrom, which are not finalized.

§ 111.22 Ex parte communications.

This section sets forth the prohibition on *ex parte* communications between Commissioners (and their staffs) and persons outside the Commission on any compliance matter. The section tracks current regulations except that subsection (c) makes it clear that this section does not prohibit staff of the Office of General Counsel from contacting any persons in the course of representing the Commission and conducting its investigation.

§ 111.23 Representation by counsel; Notification.

This section provides that any respondent or witness before the Commission who wishes to be represented by counsel must so notify the Commission in writing. Upon receipt of such a letter, all future communications from the Commission shall be made to the designated representative.

Part 112—Advisory Opinions

§ 112.1 Requests for advisory opinions.

Subsection (a) broadens, to any person, the class of those who have standing to request an advisory opinion, as provided in 2 USC 437f(a)(1).

Subsections (b) and (c) have been amended to follow the language of 2 USC 437f(a)(1) which requires a request to relate to a specific transaction or activity which the person requesting the opinion intends to undertake. Subsection (b) also includes language from House Report 96-422 at page 20, which precludes opinions based on requests which pose a hypothetical situation or which concern the activities of third parties.

Subsection (d) reflects the Commission's current practice of reviewing requests for sufficiency.

Subsections (e) and (f) generally incorporate current regulations 11 CFR 112.1 (d) and (e).

§ 112.2 Public availability of requests.

This section follows the requirements of 2 USC 437f(d).

§ 112.3 Written comments on requests.

This section follows 2 USC 437f(d) and elaborates on the computation of the 10 day period for submitting written comments. It also indicates that the written comment period may be extended, but without affecting the time periods in 11 CFR 112.4.

§ 112.4 Issuance of advisory opinions.

Subsections (a), (b) and (c) incorporate the specific time requirements provided in 2 USC 437f(a) (1) and (2) within which an opinion must be issued by the Commission and include in the definition of response the provision in House Report 96–422 at page 20 that a 3–3 vote by the Commission on a proposed opinion will satisfy the response time requirement.

Subsections (d), (e), (f) and (g) follow the language of 2 USC 437f(b).

§ 112.5 Reliance on advisory opinions.

This section incorporates the provisions of 2 USC 437f(c).

§ 112.6 Reconsideration of advisory opinions.

This section allows for reconsideration of an advisory opinion at the initiative of either the person to whom the opinion is issued or a Commissioner who voted with the majority in the original issuance of the opinion. It also sets forth procedures for reconsideration, and permits the original requestor, in cases where reconsideration is at the initiative of a Commissioner, to rely on the original opinion without being subject to sanction, until the requestor receives notice of the Commission's decision to reconsider its opinion.

Part 113—Excess Campaign Funds and Contributions to Support Federal Officeholder Activities

§ 113.2 Use of funds.

This section has been amended to follow the changes made in 2 USC 439a. In particular, this section includes the new prohibition against using excess campaign funds for any personal use, other congressional officeholders on January 8, 1980. In addition, the prohibition on personal use does not apply to former members of Congress who were retired or no longer officeholders as of January 8, 1980. Those individuals are instead governed by the restrictions in effect at the time they were Members of Congress.

§ 113.3 Deposits of funds donated to a Federal or state officeholder.

This section was expanded to permit funds donated to be deposited in a separate account established for that purpose.

§ 113.4 Contribution and expenditure limitations.

This section was formerly 11 CFR 113.5. Since the 1979 Amendments drop the reporting requirement for office accounts, former regulation 11 CFR 113.4 has been deleted.

Part 9008—Federal Financing of Presidential Nominating Conventions

§ 9008.3 Entitlement to payments from the fund.

Subsection (a) has been amended to reflect the increase in federal financing of presidential nominating conventions from $2 million to $3 million as set forth in 26 USC 9008(b).

Index to Regulations, Parts 100–115

The following subject index to FEC regulations, 11 CFR Parts 100–115, was prepared by the Information Services Division of the Federal Election Commission. The Index covers both the regulations published in this notice, implementing Pub. L. 96–187, and current regulations in Parts 100–115 that were not modified by the regulations being published today.

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11 CFR is amended as follows:

1. Parts 100 through 105 are revised to read as follows.

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

Sec.

100.1 Scope.
100.2 Election (2 U.S.C. 431(1)).
100.3 Candidate (2 U.S.C. 431(2)).
100.4 Federal office (2 U.S.C. 431(3)).
100.5 Political committee (2 U.S.C. 431 (4), (5), (6)).
100.6 Connected organization (2 U.S.C. 431(7)).
100.7 Contribution (2 U.S.C. 431(8)).
100.8 Expenditure (2 U.S.C. 431(9)).
100.9 Commission (2 U.S.C. 431(10)).
100.10 Person (2 U.S.C. 431(11)).
100.11 State (2 U.S.C. 431(12)).
100.12 Identification (2 U.S.C. 431(13)).
100.13 National committee (2 U.S.C. 431(14)).
100.14 State committee, subordinate committee (2 U.S.C. 431(15)).
100.15 Political party (2 U.S.C. 431(16)).
100.16 Independent expenditure (2 U.S.C. 431(17)).
100.17 Clearly identified (2 U.S.C. 431(18)).
100.18 Act (2 U.S.C. 431(19)).
100.19 File, filed or filing.
100.20 Occupation (2 U.S.C. 431(13)).
100.21 Employer (2 U.S.C. 431(13)).

Authority: 2 U.S.C. 431, 438(a)(8).

§ 100.1 Scope.

This subchapter is issued by the Federal Election Commission to implement the Federal Election Campaign Act of 1971 (Public Law 92–225), as amended by Public Law 93–443, Public Law 94–283, Public Law 95–216, and Public Law 96–187.

§ 100.2 Election (2 U.S.C. 431(1)).

(a) "Election" means the process by which individuals, whether opposed or unopposed, seek nomination for election, or election, to Federal office. The specific types of elections, as set forth at 11 CFR 100.2 (b), (c), (d), (e) and (f) are included in this definition.

(b) *General election.* A general election is an election which meets either of the following conditions:

(1) An election held in even numbered years on the Tuesday following the first Monday in November is a general election.

(2) An election which is held to fill a vacancy in a Federal office (i.e., a special election) and which is intended to result in the final selection of a single individual to the office at stake is a general election. see 11 CFR 100.2(f).

(c) *Primary election.* A primary election is an election which meets one of the following conditions:

(1) An election which is held prior to a general election, as a direct result of which candidates are nominated, in accordance with applicable State law, for election to Federal office in a subsequent election is a primary election.

(2) An election which is held for the expression of a preference for the nomination of persons for election to the office of President of the United States is a primary election.

(3) An election which is held to elect delegates to a national nominating convention is a primary election.

(4) With respect to individuals seeking federal office as independent candidates, or without nomination by a major party (as defined in 26 U.S.C. 9002(6)), the primary election is considered to occur on one of the following dates, at the choice of the candidate:

(i) The day prescribed by applicable State law as the last day to qualify for a position on the general election ballot may be designated as the primary election for such candidate.

(ii) The date of the last major party primary election, caucus, or convention in that State may be designated as the primary election for such candidate.

(iii) In the case of non-major parties, the date of the nomination by that party may be designated as the primary election for such candidate.

(5) With respect to any major party candidate (as defined at 26 U.S.C. 9002(6)) who is unopposed for nomination within his or her own party, and who is certified to appear as that party's nominee in the general election for the office sought, the primary election is considered to have occurred on the date on which the primary election was held by the candidate's party in that State.

(d) *Runoff election.* "Runoff election" means the election which meets either of the following conditions:

(1) The election held after a primary election, and prescribed by applicable State law as the means for deciding which candidate(s) should be certified as a nominee for the Federal office sought, is a runoff election.

(2) The election held after a general election and prescribed by applicable State law as the means for deciding which candidate should be certified as an officeholder elect, is a runoff election.

(e) *Caucus or Convention.* A caucus or convention of a political party is an election if the caucus or convention has the authority to select a nominee for federal office on behalf of that party.

(f) *Special election.* "Special election" means an election which is held to fill a vacancy in a Federal office. A special election may be a primary, general, or runoff election, as defined at 11 CFR 100.2 (b), (c) and (d).

§ 100.3 Candidate (2 U.S.C. 431(2)).

(a) *Definition.* "Candidate" means an individual who seeks nomination for election, or election, to federal office. An individual becomes a candidate for Federal office whenever any of the following events occur:

(1) The individual has received contributions aggregating in excess of $5,000 or made expenditures aggregating in excess of $5,000.

(2) The individual has given his or her consent to another person to receive

contributions or make expenditures on behalf of that individual and such person has received contributions aggregating in excess of $5,000 or made expenditures aggregating in excess of $5,000.

(3) After written notification by the Commission that any other person has received contributions aggregating in excess of $5,000 or made expenditures aggregating in excess of $5,000 on the individual's behalf, the individual fails to disavow such activity by letter to the Commission within 30 days of receipt of the notification.

(4) The aggregate of contributions received under 11 CFR 100.3(a) (1), (2), and (3), in any combination thereof, exceeds $5,000, or the aggregate of expenditures made under 11 CFR 100.3(a) (1), (2), and (3), in any combination thereof, exceeds $5,000.

(b) *Election cycle.* For purposes of determining whether an individual is a candidate under this section, contributions or expenditures shall be aggregated on an election cycle basis. An election cycle shall begin on the first day following the date of the previous general election for the office or seat which the candidate seeks, unless contributions or expenditures are designated for another election cycle. For an individual who receives contributions or makes expenditures designated for another election cycle, the election cycle shall begin at the time such individual, or any other person acting on the individual's behalf, first receives contributions or makes expenditures in connection with the designated election. The election cycle shall end on the date on which the general election for the office or seat that the individual seeks is held.

§ 100.4 Federal office (2 U.S.C. 431(3)).

"Federal office" means the office of President or Vice President of the United States, Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

§ 100.5 Political committee (2 U.S.C. 431 (4), (5), (6)).

"Political committee" means any group meeting one of the following conditions:

(a) Except as provided in 11 CFR 100.5(b), (c) and (d), any committee, club, association, or other group of persons which receives contributions aggregating in excess of $1,000 or which makes expenditures aggregating in excess of $1,000 during a calendar year is a political committee.

(b) Any separate segregated fund established under 2 USC 441b(b)(2)(C) is a political committee.

(c) Any local committee of a political party is a political committee if: it receives contributions aggregating in excess of $5,000 during a calendar year; it makes payments exempted from the definition of contribution, under 11 CFR 100.7(b)(9), (15) and (17), and expenditure, under 11 CFR 100.8(b)(10), (16) and (18), which payments aggregate in excess of $5,000 during a calendar year; or it makes contributions aggregating in excess of $1,000 or makes expenditures aggregating in excess of $1,000 during a calendar year.

(d) An individual's principal campaign committee or authorized committee(s) becomes a political committee(s) when that individual becomes a candidate pursuant to 11 CFR 100.3.

(e) The following are examples of political committees:

(1) *Principal campaign committee.* "Principal campaign committee" means a political committee designated and authorized by a candidate pursuant to 11 CFR 101.1 and 102.1.

(2) *Single candidate committee.* "Single candidate committee" means a political committee other than a principal campaign committee which makes or receives contributions or makes expenditures on behalf of only one candidate.

(3) *Multi-candidate committee.* "Multi-candidate committee" means a political committee which (i) has been registered with the Commission, Clerk of the House or Secretary of the Senate for at least 6 months; (ii) has received contributions for Federal elections from more than 50 persons; and (iii) (except for any State political party organization) has made contributions to 5 or more Federal candidates.

(4) *Party committee.* "Party committee" means a political committee which represents a political party and is part of the official party structure at the national, State, or local level.

(f) A political committee is either an authorized committee or an unauthorized committee.

(1) *Authorized committee.* An "authorized committee" means the principal campaign committee or any other political committee authorized by a candidate under 11 CFR 102.13 to receive contributions or make expenditures on behalf of such candidate, or which has not been disavowed pursuant to 11 CFR 100.3(a)(3).

(2) *Unauthorized committee.* An "unauthorized committee" is a political committee which has not been authorized in writing by a candidate to solicit or receive contributions or make expenditures on behalf of such candidate, or which has been disavowed pursuant to 11 CFR 100.3(a)(3).

(g) *Affiliated committee.* (1) All authorized committees of the same candidate are affiliated.

(2) All committees (including a separate segregated fund, see 11 CFR Part 114) established, financed, maintained, or controlled by the same corporation, labor organization, person, or group of persons including any parent, subsidiary, branch, division, department, or local unit thereof, are affiliated.

(i) Application of the rule of this paragraph means that:

(A) All political committees set up by a single corporation and/or its subsidiaries are affiliated;

(B) All political committees set up by a single national or international union and/or its local unions or other subordinate organizations of the national or international union are affiliated;

(C) All of the political committees set up by an organization of national or international unions and all of its State and/or local central bodies are affiliated;

(D) All political committees (other than party committees) established by a member organization, including a trade or professional association (see 11 CFR 114.8(a)), and/or by related State and local entities are affiliated;

(E) All the political committees established by the same person or group of persons are affiliated.

(ii) For ogranizations not covered by paragraph (g)(2)(i) of this section, indicia of establishing, financing, maintaining, or controlling include:

(A) Ownership of a controlling interest in voting shares or securities;

(B) Provisions of bylaws, constitutions, or other documents by which one entity has the authority, power, or ability to direct another entity;

(C) The authority, power, or ability to hire, appoint, discipline, discharge, demote, or remove or otherwise influence the decision of the officers or members of an entity;

(D) Similar patterns of contributions;

(E) The transfer of funds between committees which represent a substantial portion of the funds of either the transferor or transferee committee, other than the transfer of funds between the committees which jointly raised the funds so transferred.

§ 100.6 Connected organization (2 U.S.C. 431(7)).

(a) "Connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee. A connected organization may be a corporation (including a corporation without capital stock), a labor organization, a membership organization, a cooperative or a trade association.

(b) For purposes of 11 CFR 100.6, organizations which are members of the entity (such as corporate members of a trade association) which establishes, administers, or financially supports a political committee are not organizations which directly or indirectly establish, administer or financially support that political committee.

(c) For purposes of 11 CFR 100.6, the term "financially supports" does not include contributions to the political committee, but does include the payment of establishment, administration and solicitation costs of such committee.

§ 100.7 Contribution. (2 U.S.C. 431(8)).

(a) The term "contribution" includes the following payments, services or other things of value:

(1) A gift, subscription, loan (except for a loan made in accordance with 11 CFR 100.7(b)(11)), advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office is a contribution.

(i) For purposes of 11 CFR 100.7(a)(1), the term "loan" includes a guarantee, endorsement, and any other form of security.

(A) A loan which exceeds the contribution limitations of 2 USC 441a and 11 CFR Part 110 shall be unlawful whether or not it is repaid.

(B) A loan is a contribution at the time it is made and is a contribution to the extent that it remains unpaid. The aggregate amount loaned to a candidate or committee by an individual, when added to other contributions from that individual to that candidate or committee, shall not exceed the contribution limitations set forth at 11 CFR Part 110. A loan, to the extent it is repaid, is no longer a contribution.

(C) A loan is a contribution by each endorser or guarantor. Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a loan by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors.

(D) If a political committee makes a loan to any person, such loan shall be subject to the limitations of 11 CFR Part 110. Repayment of the principal amount of such loan to such political committee shall not be a contribution by the debtor to the lender committee. Such repayment shall be made with funds which are subject to the prohibitions of 11 CFR 110.4(a) and Part 114. The payment of interest to such committee by the debtor shall be a contribution only to the extent that the interest paid exceeds a commercially reasonable rate prevailing at the time the loan is made. All payments of interest shall be made from funds subject to the prohibitions of 11 CFR 110.4(a) and Part 114.

(ii) For purposes of 11 CFR 100.7(a)(1), the term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iii) (A) For purposes of 11 CFR 100.7(a)(1), the term "anything of value" includes all in-kind contributions. Unless specifically exempted under 11 CFR 100.7(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for such goods or services is a contribution. Examples of such goods or services include, but are not limited to: securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists. If goods or services are provided at less than the usual and normal charge, the amount of the in-kind contribution is the difference between the usual and normal charge for the goods or servies at the time of the contribution and the amount charged the political committee.

(B) For purposes of 11 CFR 100.7(a)(1)(iii)(A), "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution; and "usual and normal charge" for any services, other than those provided by an unpaid volunteer, means the hourly or piecework charge for the services at a commercially reasonable rate prevailing at the time the services were rendered.

(2) The entire amount paid to attend a fundraiser or other political event and the entire amount paid as the purchase price for a fundraising item sold by a political committee is a contribution.

(3) The payment by any person of compensation for the personal services of another person if those services are rendered without charge to a political committee for any purpose, except for legal and accounting services provided under 11 CFR 100.7(b)(13) or (14), is a contribution. No compensation is considered paid to any employee under any of the following conditions:

(i) If an employee is paid on an hourly or salaried basis and is expected to work a particular number of hours per period, no contribution results if the employee engages in political activity during what would otherwise be a regular work period, provided that the taken or released time is made up or completed by the employee within a reasonable time.

(ii) No contribution results where an employee engages in political activity during what would otherwise be normal working hours if the employee is paid on a commission or piecework basis, or is paid only for work actually performed and the employee's time is considered his or her own to use as he or she sees fit.

(iii) No contribution results where the time used by the employee to engage in political activity is bona fide, although compensable, vacation time or other earned leave time.

(4) The extension of credit by any person for a length of time beyond normal business or trade practice is a contribution, unless the creditor has made a commercially reasonable attempt to collect the debt. (See 11 CFR 114.10). A debt owed by a political committee which is forgiven or settled for less than the amount owed is a contribution unless such debt is settled in accordance with the standards set forth at 11 CFR 114.10.

(b) The term "contribution" does not include the following payments, services or other things of value:

(1) Funds received and payments made solely for the purpose of determining whether an individual should become a candidate are not contributions. Activities permissible under this exemption include, but are not limited to expenses incurred for: conducting a poll, telephone calls and travel, to determine whether an individual should become a candidate. The individual shall keep records of all such funds received and payments made. If the individual subsequently becomes a candidate, the funds received and payments made are contributions

and expenditures subject to the limitations, prohibitions and requirements of the Act. Such contributions and expenditures must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the funds were received or the payments made. This exemption does not include funds received or payments made for general public political advertising; nor does this exemption include funds received or payments made for activities designed to amass campaign funds that would be spent after the individual becomes a candidate.

(2) Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication is not a contribution unless the facility is owned or controlled by any political party, political committee, or candidate, in which case the cost for a news story (i) which represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not a contribution.

(3) The value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution.

(4) No contribution results were an individual, in the course of volunteering personal services on his or her residential premises to any candidate or to any political committee of a political party, provides the use of his or her real or personal property to such candidate for candidate-related activity or to such political committee of a political party for party-related activity. For the purposes of 11 CFR 100.7(b)(4), and individual's residential premises, shall include a recreation room in a residential complex where the individual volunteering services resides, provided that the room is available for use without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not a contribution.

(5) No contribution results where an individual, in the course of volunteering personal services to any candidate or political committee of a political party, obtains the use of a church or community room and provides such room to any candidate for candidate-related activity or to any political committee of a political party for party-related activity, provided that the room is used on a regular basis by members of the community for noncommercial purposes and the room is available for use by members of the community without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not a contribution.

(6) The cost of invitations, food and beverages is not a contribution where such items are voluntarily provided by an individual volunteering personal services on the individual's residential premises or in a church or community room as specified at 11 CFR 100.7(b)(4) and (5) to a candidate for candidate-related activity or to any political committee of a political party for party-related activity, to the extent that: the aggregate value of such invitations, food and beverages provided by the individual on behalf of the candidate does not exceed $1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed $2,000 in any calendar year.

(7) The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign, or for use by a political committee of a political party, at a charge less than the normal or comparable commercial rate, is not a contribution, provided that the charge is at least equal to the cost of such food or beverage to the vendor, to the extent that: the aggregate value of such discount given by the vendor on behalf of any single candidate does not exceed $1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed $2,000 in a calendar year.

(8) Any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate of any political committee of a political party is not a contribution to the extent that: the aggregate value of the payments made by such individual on behalf of a candidate does not exceed $1,000 with respect to a single election; and on behalf of all political committees of each political party does not exceed $2,000 in a calendar year. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal subsistence expenses incidental to volunteer activity is not a contribution.

(9) The payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card, sample ballot, palm card, or other printed listing(s) of three or more candidates for any public office for which an election is held in the State in which the committee is organized is not a contribution. The payment of the portion of such costs allocable to Federal candidates must be made from funds subject to the limitations and prohibitions of the Act. If made by a political committee, such payments shall be reported by that committee as disbursements, but need not be allocated in committee reports to specific candidates. This exemption shall not apply to costs incurred by such a committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising such as billboards.

(10) Any payment made or obligation incurred by a corporation or a labor organization is not a contribution if under the provisions of 11 CFR Part 114 such payment or obligation would not constitute an expenditure by the corporation or labor organization.

(11) A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration is not a contribution by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Any reduction in the upaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that such agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered a contribution by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For purposes of 11 CFR 100.7(b)(11), an overdraft made

on a checking or savings account shall be considered a contribution by the bank or institution unless: the overdraft is made on an account which is subject to automatic overdraft protection; the overdraft is subject to a definite interest rate which is usual and customary; and there is a definite repayment schedule.

(12) A gift, subscription, loan, advance, or deposit of money or anything of value made to a national committee or a State committee of a political party is not a contribution if it is specifically designated to defray any cost incurred for construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office. If such gift, subscription, loan, advance, or deposit of money or anything of value is made to a committee which is not a political committee under 11 CFR 100.5, the amount need not be reported. However, if such gift, subscription, loan, advance, or deposit of money or anything of value is made to a political committee, it shall be reported in accordance with 11 CFR 104.3(g).

(13) Legal or accounting services rendered to or on behalf of any political committee of a political party are not contributions if the person paying for such services is the regular employer of the individual rendering the services and such services are not attributable to activities which directly further the election of any designated candidate for Federal office. For purposes of 11 CFR 100.7(b)(13), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for such services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h).

(14) Legal or accounting services rendered to or on behalf of an authorized committee of a candidate or any other political committee are not contributions if the person paying for such services is the regular employer of the individual rendering the services and if such services are solely to ensure compliance with the Act or 26 USC 9001 *et seq.* and 9031 *et seq.* For purposes of 11 CFR 100.7(b)(14), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for these services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h).

(15) The payment by a state or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or newsletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not a contribution, provided that the following conditions are met:

(i) Such payment is not for cost incurred in connection with any broadcasting, newspaper, magazine, bill board, direct mail, or similar type of general public communication or political advertising. For purposes of 11 CFR 100.7(b)(15)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the cost of such materials allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated by the donor to be spent on behalf of a particular candidate or candidates for Federal office. For purposes of 11 CFR 100.7(b)(15)(iii), a contribution shall not be considered a "designated contribution" if the party committee disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) Such materials are distributed by volunteers and not by commercial or for-profit operations. For the purposes of 11 CFR 100.7(b)(15)(iv), payments by the party organization for travel and subsistence or customary token payments to volunteers do not remove such individuals from the volunteer category.

(v) If made by a political committee such payments shall be reported by the political committee as disbursements in accordance with 11 CFR 104.3 but need not be allocated to specific candidates in committee reports.

(vi) Payments by a State candidate or his or her campaign committee to a State or local political party committee for the State candidate's share of expenses for such campaign materials are not contributions, provided the amount paid by the State candidate or his or her committee does not exceed his or her proportionate share of the expenses.

(vii) Campaign materials purchased by the national committee of a political party and delivered to a State or local party committee, or materials purchased with funds donated by the national committee to such State or local committee for the purchase of such materials, shall not qualify under this exemption. Rather, the cost of such materials shall be subject to the limitations of 2 USC 441a(d) and 11 CFR 110.7.

(16) The payment by a candidate for any public office (including State or local office), or by such candidate's authorized committee, of the costs of that candidate's campaign materials which include information on or any reference to a candidate for Federal office and which are used in connection with volunteer activities (such as pins, bumper stickers, handbills, brochures, posters, and yard signs) is not a contribution to such candidate for Federal office, provided that the payment is not for the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising. The payment of the portion of the cost of such materials allocable to Federal candidates shall be made from contributions subject to the limitations and prohibitions of the Act. For purposes of 11 CFR 100.7(b)(16), the term "direct mail" means any mailing(s) by commercial vendors or mailing(s) made from lists which were not developed by the candidate.

(17) The payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of the Presidential and Vice Presidential nominee(s) of that party, is not a contribution to such candidate(s) provided that the following conditions are met:

(i) Such payment is not for the costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising. For purposes of 11 CFR 100.7(b)(17)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the costs of such activities allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated to be spent on behalf of a particular candidate or candidates for Federal office. For purposes of 11 CFR 100.7(b)(17)(iii), a contribution shall not be considered a "designated contribution" if the party committee disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) For purposes of 11 CFR 100.7(b)(17), if such activities include references to any candidate(s) for the House or Senate, the costs of such activities which are allocable to that

candidate(s) shall be a contribution to such candidate(s) unless the mention of such candidate(s) is merely incidential to the overall activity.

(v) For purposes of 11 CFR 100.7(b)(17), payment of the costs incurred in the use of phone banks in connection with voter registration and get-out-the-vote activities is not a contribution when such phone banks are operated by volunteer workers. The use of paid professionals to design the phone bank system, develop calling instructions and train supervisors is permissible. The payment of the costs of such professional services is not an expenditure but shall be reported as a disbursement in accordance with 11 CFR 104.3 if made by a political committee.

(vi) If made by a political committee, such payments for voter registration and get-out-the-vote activities shall be reported by that committee as disbursements in accordance with 11 CFR 104.3, but such payments need not be allocated to specific candidates in committee reports except as provided in 11 CFR 100.7(b)(17)(iv).

(vii) Payments made from funds donated by a national committee of a political party to a State or local party committee for voter registration and get-out-the-vote activities shall not qualify under this exemption. Rather, such funds shall be subject to the limitations of 2 USC 441a(d) and 11 CFR 110.7.

(18) Payments made to any party committee by a candidate or the authorized committee of a candidate as a condition of ballot access are not contributions.

(19) The payment of any honorarium and related expenses within the meaning of 11 CFR 110.12 is not a contribution.

(20) A gift, subscription, loan, advance, or deposit of money or anything of value made with respect to a recount of the results of a Federal election, or an election contest concerning a Federal election, is not a contribution except that the prohibitions of 11 CFR 110.4(a) and Part 114 apply.

(c) For purposes of 11 CFR 100.7 (a) and (b), any contributions or payments made by a married individual shall not be attributed to that individual's spouse, unless otherwise specified by that individual or by the individual's spouse.

§ 100.8 Expenditure (2 U.S.C. 431(9)).

(a) The term "expenditure" incudes the following payments, gifts or other things of value:

(1) A purchase, payment, distribution, loan (except for a loan made in accordance with 11 CFR 100.8(b)(12)), advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office is an expenditure.

(i) For purposes of 11 CFR 100.8(a)(1), the term "payment" includes payment of any interest on an obligation and any guarantee or endorsement of a loan by a candidate or a political committee.

(ii) For purposes of 11 CFR 100.8(a)(1), the term "payment" does not include the repayment by a political committee of the principal of an outstanding obligation which is owed by such committee, except that the repayment shall be reported as disbursements in accordance with 11 CFR 104.3(b).

(iii) For purposes of 11 CFR 100.8(a)(1), the term "money" includes currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instrument payable on demand.

(iv)(A) For purposes of 11 CFR 100.8(a)(1), the term "anything of value" includes all in-kind contributions. Unless specifically exempted under 11 CFR 100.8(b), the provision of any goods or services without charge or at a charge which is less than the usual and normal charge for the goods or services is an expenditure. Examples of such goods or services include, but are not limited to: securities, facilities, equipment, supplies, personnel, advertising services, membership lists, and mailing lists. If goods or services are provided at less than the usual and normal charge, the amount of the expenditure is the difference between the usual and normal charge for the goods or services at the time of the expenditure and the amount charged the candidate or political committee.

(B) For the purposes of 11 CFR 100.8(a)(1)(iv)(A), "usual and normal charge" for goods means the price of those goods in the market from which they ordinarily would have been purchased at the time of the expenditure; and "usual and normal charge" for services, other than those provided by an unpaid volunteer, means the hourly or piecework charge for the services at a commerically reasonable rate prevailing at the time the services were rendered.

(2) A written contract, including a media contract, promise, or agreement to make an expenditure is an expenditure as of the date such contract, promise or obligation is made.

(3) An independent expenditure which meets the requirements of 11 CFR 104.4 or Part 109 is an expenditure, and such independent expenditure is to be reported by the person making the expenditure in accordance with 11 CFR 104.4 and Part 109.

(b) The term "expenditure" does not include the following payments, gifts, or other things of value:

(1) Funds received and payments made solely for the purpose of determining whether an individual should become a candidate are not expenditures. Activities permissible under this exemption include, but are not limited to, expenses incurred for: conducting a poll, telephone calls and travel, to determine whether an individual should become a candidate. The individual shall keep records of all such funds received and payments made. If the individual subsequently becomes a candidate, the funds received and payments made are contributions and expenditures subject to the limitations, prohibitions and requirements of the Act. Such contributions and expenditures must be reported with the first report filed by the principal campaign committee of the candidate, regardless of the date the funds were received or the payments made. This exemption does not include funds received or payments made for general public political advertising; nor does this exemption include funds received or payments made for activities designed to amass campaign funds that would be spent after the individual becomes a candidate.

(2) Any cost incurred in covering or carrying a news story, commentary, or editorial by any broadcasting station, newspaper, magazine, or other periodical publication is not an expenditure, unless the facility is owned or controlled by any political party, political committee or candidate, in which case the cost for a news story (i) which represents a bona fide news account communicated in a publication of general circulation or on a licensed broadcasting facility, and (ii) which is part of a general pattern of campaign-related news accounts which give reasonably equal coverage to all opposing candidates in the circulation or listening area, is not an expenditure.

(3) Any cost incurred for nonpartisan activity designed to encourage individuals to register to vote or to vote is not an expenditure, except that corporations and labor organizations shall engage in such activity in accordance with 11 CFR 114.4(c) and (d). For purposes of 11 CFR 100.8(b)(3), "nonpartisan activity" means that no effort is or has been made to determine the party or candidate preference of individuals before encouraging them to register to vote or to vote.

(4) Any cost incurred for any communication by a membership organization to its members, or by a corporation to its stockholders or

executive or administrative personnel, is not an expenditure, so long as the membership organization or corporation is not organized primarily for the purpose of influencing the nomination for election, or election, of any individual to Federal office, except that the costs incurred by a membership organization, including a labor organization, or by a corporation, directly attributable to a communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the express advocacy of the election or defeat of a clearly identified candidate) shall, if those costs exceed $2,000 per election, be reported to the Commission on FEC Form 7 in accordance with 11 CFR 104.6

(i) For purposes of 11 CFR 100.8(b)(4), "labor organization" means an organization of any kind (any local, national, or international union, or any local or State central body of a federation of unions is each considered a separate labor organization for purposes of this section) or any agency or employee representative committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(ii) For purposes of 11 CFR 100.8(b)(4), "stockholder" means a person who has a vested beneficial interest in stock, has the power to direct how that stock shall be voted, if it is voting stock, and has the right to receive dividends.

(iii) For purposes of 11 CFR 100.8(b)(4), "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary rather than hourly basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(A) This definition includes——

(*1*) Individuals who run the corporation's business, such as officers, other executives, and plant, division, and section managers; and

(*2*) Individuals following the recognized professions, such as lawyers and engineers.

(B) This definition does not include——

(*1*) Professionals who are represented by a labor organization;

(*2*) Salaried foremen and other salaried lower level supervisors having direct supervision over hourly employees;

(*3*) Former or retired personnel who are not stockholders; or

(*4*) Individuals who may be paid by the corporation, such as consultants, but who are not employees, within the meaning of 26 CFR 31.3401(c)–(1), of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)–(1).

(C) Individuals on commission may be considered executive or administrative personnel if they have policymaking, managerial, professional, or supervisory responsibility and if the individuals are employees, within the meaning of 26 CFR 31.3401(c)–(1), of the corporation for the purpose of the collection of, and liability for, employee tax under 26 CFR 31.3402(a)–(1).

(D) The Fair Labor Standards Act, 29 USC § 201, *et seq.* and the regulations issued pursuant to such Act, 29 CFR 541, *et seq.*, may serve as a guideline in determining whether individuals have policymaking, managerial, professional, or supervisory responsibilities.

(iv) For purposes of 11 CFR 100.8(b)(4), "members" means all persons who are currently satisfying the requirements for membership in a membership organization, trade association, cooperative, or corporation without capital stock and in the case of a labor organization, persons who are currently satisfying the requirements for membership in a local, national, or international labor organization. Members of a local union are considered to be members of any national or international union of which the local union is a part and of any federation with which the local, national, or international union is affiliated. A person is not considered a member under this definition if the only requirement for membership is a contribution to a separate segregated fund.

(v) For purposes of 11 CFR 100.8(b)(4), "election" means two separate processes in a calendar year, to each of which the $2,000 threshold described above applies separately. The first process is comprised of all primary elections for Federal office, whenever and wherever held; the second process is comprised of all general elections for Federal office, whenever and wherever held. The term "election" shall also include each special election held to fill a vacancy in a Federal office (11 CFR 100.2(f)) or each runoff election (11 CFR 100.2(d)).

(vi) For purposes of 11 CFR 100.8(b)(4), "corporation" means any separately incorporated entity, whether or not affiliated.

(vii) When the aggregate costs under 11 CFR 100.8(b)(4) exceed $2,000 per election, all costs of the communication(s) shall be reported on the filing dates specified in 11 CFR 104.6, and shall include the total amount expended for each candidate supported.

(5) No expenditure results where an individual, in the course of volunteering personal services on his or her residential premises to any candidate or political committee of a political party, provides the use of his or her real or personal property to such candidate for candidate-related activity or to such political committee of a political party for party-related activity. For the purposes of 11 CFR 100.8(b)(5), an individual's residential premises shall include a recreation room in a residential complex where the individual volunteering services resides, provided that the room is available for use without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not an expenditure.

(6) No expenditure results where an individual, in the course of volunteering personal services to any candidate or political committee of a political party, obtains the use of a church or community room and provides such room to any candidate for candidate-related activity or to any political committee of a political party for party-related activity, provided that the room is used on a regular basis by members of the community for noncommercial purposes and the room is available for use by members of the community without regard to political affiliation. A nominal fee paid by such individual for the use of such room is not an expenditure.

(7) The cost of invitations, food, and beverages is not an expenditure where such items are voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises or in a church or community room as specified at 11 CFR 100.8(b)(5) and (6) to a candidate for candidate-related activity or to a political committee of a political party for party-related activity, to the extent that: the aggregate value of such invitations, food and beverages provided by the individual on behalf of the candidate does not exceed $1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed $2,000 in any calendar year.

(8) The sale of any food or beverage by a vendor (whether incorporated or not) for use in a candidate's campaign, or for use by a political committee of a political party, at a charge less than the normal or comparable commercial charge, is not an expenditure, provided that the charge is at least equal to the cost of such food or beverage to the

vendor, to the extent that: the aggregate value of such discount given by the vendor on behalf of any single candidate does not exceed $1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed $2,000 in a calendar year.

(9) Any unreimbursed payment for transportation expenses incurred by any individual on behalf of any candidate or political committee of a political party is not an expenditure to the extent that: the aggregate value of the payments made by such individual on behalf of a candidate does not exceed $1,000 with respect to a single election; and on behalf of all political committees of each political party does not exceed $2,000 in a calendar year. Additionally, any unreimbursed payment from a volunteer's personal funds for usual and normal subsistence expenses incident to volunteer activity is not an expenditure.

(10) The payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed slate card, sample ballot, palm card, or other printed listing(s) of three or more candidates for any public office for which an election is held in the State in which the committee is organized is not an expenditure. The payment of the portion of such costs allocable to Federal candidates must be made from funds subject to the limitations and prohibitions of the Act. If made by a political party committee, such payments shall be reported by that committee as disbursements, but need not be allocated in committee reports to specific candidates. This exemption shall not apply to costs incurred by such a committee with respect to the preparation and display of listings made on broadcasting stations, or in newspapers, magazines, and similar types of general public political advertising such as billboards.

(11) Any payment made or obligation incurred by a corporation or labor organization is not an expenditure if under the provisions of 11 CFR Part 114 such payment or obligation would not constitute an expenditure by the corporation or labor organization.

(12) A loan of money by a State bank, a federally chartered depository institution (including a national bank) or a depository institution whose deposits and accounts are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration is not an expenditure by the lending institution if such loan is made in accordance with applicable banking laws and regulations and is made in the ordinary course of business. A loan will be deemed to be made in the ordinary course of business if it: bears the usual and customary interest rate of the lending institution for the category of loan involved; is made on a basis which assures repayment; is evidenced by a written instrument; and is subject to a due date or amortization schedule. Such loans shall be reported by the political committee in accordance with 11 CFR 104.3(a). Each endorser or guarantor shall be deemed to have contributed that portion of the total amount of the loan for which he or she agreed to be liable in a written agreement. Any reduction in the unpaid balance of the loan shall reduce proportionately the amount endorsed or guaranteed by each endorser or guarantor in such written agreement. In the event that the loan agreement does not stipulate the portion of the loan for which each endorser or guarantor is liable, the loan shall be considered an expenditure by each endorser or guarantor in the same proportion to the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. For the purposes of 11 C\R 100.8(b)(12), an overdraft made on a checking or savings account shall be considered an expenditure unless: the overdraft is made on an account which is subject to automatic overdraft protection; and the overdraft is subject to a definite interest rate and a definite repayment schedule.

(13) A purchase, payment, distribution, loan, advance, or deposit of money or anything of value made to a national committee or a state committee of a political party is not an expenditure if it is specifically designated to defray any cost incurred for construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office. If such purchase, payment, distribution, loan, advance, or deposit of money or anything of value is made to a committee which is not a political committee under 11 CFR 100.5, the amount need not be reported. However, if such purchase, payment, distribution, loan, advance, or deposit of money or anything of value is made to a political committee, it shall be reported in accordance with 11 CFR 104.3(g).

(14) Legal or accounting services rendered to or on behalf of any political committee of a political party are not expenditures if the person paying for such services is the regular employer of the individual rendering the services and such services are not attributable to activities which directly further the election of any designated candidate for Federal office. For purposes of 11 CFR 100.8(b)(14), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for such services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h).

(15) Legal or accounting services rendered to or on behalf of an authorized committee of a candidate or any other political committee are not expenditures if the person paying for such services is the regular employer of the individual rendering such services and if the services are solely to ensure compliance with the Act or 26 USC 9001 *et seq.* and 9032 *et seq.* For purposes of 11 CFR 100.8(b)(15), a partnership shall be deemed to be the regular employer of a partner. Amounts paid by the regular employer for these services shall be reported by the committee receiving such services in accordance with 11 CFR 104.3(h). Expenditures for these services by a candidate certified to receive Primary Matching Funds under 11 CFR Part 9034 or certified to receive payments from the Presidential Election Campaign Fund under 11 CFR Part 143 do not count against such candidate's expenditure limitations under 11 CFR Part 9035 or 11 CFR 110.8.

(16) The payment by a state or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabloids or newsletters, and yard signs) used by such committee in connection with volunteer activities on behalf of any nominee(s) of such party is not an expenditure, provided that the following conditions are met.

(i) Such payment is not for costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising. For the purposes of 11 CFR 100.8(b)(16)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the cost of such materials allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated by the donor to be spent on behalf of a particular candidate or candidates for Federal office. For purposes of 11 CFR 100.8(b)(16)(iii), a contribution shall not be considered a "designated contribution" if the party committee

disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) Such materials are distributed by volunteers and not by commercial or for-profit operations. For the purposes of 11 CFR 100.8(b)(16)(iv), payments by the party organization for travel and subsistence or customary token payments to volunteers do not remove such individuals from the volunteer category.

(v) If made by a political party committee, such payments shall be reported by that committee as disbursements, in accordance with 11 CFR 104.3, but need not be allocated to specific candidates in committee reports.

(vi) Payments by a State candidate or his or her campaign committee to a State or local political party committee for the State candidate's share of expenses for such campaign materials are not expenditures, provided the amount paid by the State candidate or his or her committee does not exceed his or her proportionate share of the expenses.

(vii) Campaign materials purchased by the national committee of a political party and delivered to a State or local party committee, or materials purchased with funds donated by the national committee to such State or local committee for the purchase of such materials, shall not qualify under this exemption. Rather, the cost of such materials shall be subject to the limitations of 2 USC 441a(d) and 11 CFR 110.7.

(17) The payment by a candidate for any public office (including State or local office), or by such candidate's authorized committee, of the costs of that candidate's campaign materials which include information on or any reference to a candidate for Federal office and which are used in connection with volunteer activities (such as pins, bumper stickers, handbills, brochures, posters, and yard signs) is not an expenditure on behalf of such candidate for Federal office, provided that the payment is not for the use of broadcasting, newspapers, magazines, billboards, direct mail or similar types of general public communication or political advertising. The payment of the portion of the cost of such materials allocable to Federal candidates shall be made from contributions subject to the limitations and prohibitions of the Act. For purposes of 11 CFR 100.8(b)(17), the term "direct mail" means mailings by commercial vendors or mailings made from lists which were not developed by the candidate.

(18) The payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of the Presidential and Vice Presidential nominee(s) of that party is not an expenditure for the purpose of influencing the election of such candidates provided that the following conditions are met:

(i) Such payment is not for the costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising. For purposes of 11 CFR 100.8(b)(18)(i), the term "direct mail" means any mailing(s) by a commercial vendor or any mailing(s) made from commercial lists.

(ii) The portion of the costs of such activities allocable to Federal candidates is paid from contributions subject to the limitations and prohibitions of the Act.

(iii) Such payment is not made from contributions designated to be spent on behalf of a particular candidate or candidates for Federal office. For the purposes of 11 CFR 100.8(b)(18)(iii), a contribution shall not be considerd a "designated contribution" if the party committee disbursing the funds makes the final decision regarding which candidate(s) shall receive the benefit of such disbursement.

(iv) For purposes of 11 CFR 100.8(b)(18), if such activities include references to any candidate(s) for the House or Senate, the costs of such activities which are allocable to that candidate(s) shall be an expenditure on behalf of such candidate(s) unless the mention of such candidate(s) is merely incidental to the overall activity.

(v) For purposes of 11 CFR 100.8(b)(18), payment of the costs incurred in the use of phone banks in connection with voter registration and get-out-the-vote activities is not an expenditure when such phone banks are operated by volunteer workers. The use of paid professionals to design the phone bank system, develop calling instructions and train supervisors is permissible. The payment of the costs of such professional services is not an expenditure but shall be reported as a disbursement in accordance with 11 CFR 104.3 if made by a political committee.

(vi) If made by a political committee, such payments for voter registration and get-out-the-vote activities shall be reported by that committee as disbursements, in accordance with 11 CFR 104.3 but such payments need not be allocated to specific candidates in committee reports except as provided in 11 CFR 100.8(b)(18)(iv).

(vii) Payments made from funds donated by a national committee of a political party to a State or local party committee for voter registration and get-out-the-vote activities shall not qualify under this exemption. Rather, such funds shall be subject to the limitations of 2 USC 441a(d) and 11 CFR 110.7.

(19) Amounts transferred by a party committee to another party committee or payments made to the appropriate State official of fees collected from candidates or their authorized committees as a condition of ballot access are not expenditures.

(20) A purchase, payment, distribution, loan, advance, or deposit of money or anything of value made with respect to a recount of the results of a Federal election, or an election contest concerning a Federal election, is not an expenditure except that the prohibitions of 11 CFR 110.4(a) and Part 114 apply.

(21) (i) Any costs incurred by a candidate or his or her authorized committees in connection with the solicitation of contributions by a candidate who has been certified to receive Presidential Primary Matching Fund Payments (or a minor or new party candidate receiving general election public financing under 26 USC 9004), the aggregate of which do not exceed 20 percent of the expenditure limitation applicable to that candidate, are not expenditures, but these costs shall be reported as disbursements under 11 CFR Part 104.

(ii) For purposes of 11 CFR 100.8(b)(21), "in connection with the solicitation of contributions" means any cost reasonably related to fundraising activity, including the costs of printing and postage, the production of and space or air time for, advertisements used for fundraising, and the costs of meals, beverages, and other costs associated with a fundraising reception or dinner.

(iii) The fundraising expenditures need not be allocated on a State by State basis, except where the fundraising activity is aimed at a particular State and takes place within 28 days prior to a primary election, convention, or caucus. See 11 CFR 110.8(c).

(22) Payments by a candidate from his or her personal funds, as defined at 11 CFR 110.10(b), for the candidate's routine living expenses which would have been incurred without candidacy, including the costs of food and residence, are not expenditures.

(c) For purposes of 11 CFR 100.8 (a) and (b), any payments made by a married individual shall not be

attributed to that individual's spouse, unless otherwise specificed by that individual or by the individuals' spouse.

§ 100.9 Commission (2 U.S.C. 431(10)).

"Commission" means the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

§ 100.10 Person (2 U.S.C. 431(11)).

"Person" means an individual, partnership, committee, association, corporation, labor organization, and any other organization, or group of persons, but does not include the Federal government or any authority of the Federal government.

§ 100.11 State (2 U.S.C. 431(12)).

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

§ 100.12 Identification (2 U.S.C. 431(13)).

"Identification" means, in the case of an individual, his or her full name, including: first name, middle name or initial, if available, and last name; mailing address; occupation; and the name of his or her employer; and, in the case of any other person, the person's full name and address.

§ 100.13 National committee (2 U.S.C. 431(14)).

"National committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the national level, as determined by the Commission.

§ 100.14 State committee, Subordinate committee (2 U.S.C. 431(15)).

(a) "State committee" means the organization which by virtue of the bylaws of a political party, is responsible for the day-to-day operation of the political party at the State level, as determined by the Commission.

(b) "Subordinate committee of a State committee" means any organization which is responsible for the day-to-day operation of the political party at the level of city, county, neighborhood, ward, district, precinct, or any other subdivision of a State or any organization under the control or direction of the State committee.

§ 100.15 Political party (2 U.S.C. 431(16)).

"Political party" means an association, committee, or organization which nominates or selects a candidate for election to any Federal office, whose name appears on an election ballot as the candidate of the association, committee, or organization.

§ 100.16 Independent expenditure (2 U.S.C. 431(17)).

The term "independent expenditure" means an expenditure for a communication by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

§ 100.17 Clearly identified (2 U.S.C. 431(18)).

The term "clearly identified" means that the name of the candidate involved appears; a photograph or drawing of the candidate appears; or the identity of the candidate is apparent by unambiguous reference.

§ 100.18 Act (2 U.S.C. 431(19)).

"Act" means the Federal Election Campaign Act of 1971 (Public Law 92-225), as amended in 1974 (Public Law 93-443), 1976 (Public Law 94-283), 1977 (Public Law 95-216) and 1980 (Public Law 96-187).

§ 100.19 File, filed or filing (2 U.S.C. 434(a)).

With respect to reports, statements, notices, and designations required to be filed under 11 CFR Parts 101, 102, 104, 105, 107, 108 and 109, and any modifications or amendments thereto, the terms "file", "filed" and "filing" mean either of the following actions:

(a) A document is timely filed upon delivery to the Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463; the Secretary of the United States Senate, Office of Public Records, 119 D Street NE., Washington, D.C. 20510; or the Clerk of the United States House of Representatives, House Records and Registration, 1036 Longworth House Office Building, Washington, D.C. 20515 as required by 11 CFR Part 105, by the close of the prescribed filing date.

(b) A document is timely filed upon deposit as registered or certified mail in an established U.S. Post Office and postmarked no later than midnight of the day of the filing date, except that pre-election reports so mailed must be postmarked no later than midnight of the fifteenth day before the date of the election. Reports and statements sent by first class mail must be received by the close of business of the prescribed filing date to be timely filed.

§ 100.20 Occupation (2 U.S.C. 431(13)).

"Occupation" means the principal job title or position of an individual and whether or not self-employed.

§ 100.21 Employer (2 U.S.C. 431(13)).

"Employer" means the organization or person by whom an individual is employed, and not the name of his or her supervisor.

PART 101—CANDIDATE STATUS AND DESIGNATIONS (2 U.S.C. 432(e))

Sec.

101.1 Candidate designations (2 U.S.C. 432(e)(1)).
101.2 Candidate as agent of authorized committee (2 U.S.C. 432(e)(2)).
101.3 Funds received or expended prior to becoming a candidate (2 U.S.C. 432(e)(2)).

Authority: 2 U.S.C. 432(e), 438(a) (f).

§ 101.1 Candidate designations (2 U.S.C. 432(e)(1)).

(a) *Principal Campaign Committee.* Within 15 days after becoming a candidate under 11 CFR 100.3, each candidate, other than a nominee for the office of Vice President, shall designate in writing a principal campaign committee in accordance with 11 CFR 102.12. A candidate shall designate his or her principal campaign committee by filing a Statement of Candidacy on FEC Form ——, or by filing a letter containing the same information (that is, the individual's name and address, party affiliation and office sought, the District and State in which Federal office is sought, and the name and address of his or her principal campaign committee) at the place of filing specified at 11 CFR Part 105. Each principal campaign committee shall register, designate a depository and report in accordance with 11 CFR Parts 102, 103 and 104.

(b) *Authorized Committees.* A candidate may designate additional political committees in accordance with 11 CFR 102.13 to serve as committees which will be authorized to accept contributions or make expenditures on behalf of the candidate. For each such authorized committee, other than a principal campaign committee, the candidate shall file a written designation with his or her principal campaign committee. The principal campaign committee shall file such designations at the place of filing specified at 11 CFR Part 105.

§ 101.2 Candidate as agent of authorized committee (2 U.S.C. 432(e)(2)).

(a) Any candidate who receives a contribution as defined at 11 CFR 100.7, obtains any loan, or makes any disbursement, in connection with his or her campaign shall be considered as

having received such contribution, obtained such loan or made such disbursement as an agent of his or her authorized committee(s).

(b) When an individual becomes a candidate, any funds received, loans obtained, or disbursements made prior to becoming a candidate in connection with his or her campaign shall be deemed to have been received, obtained or made as an agent of his or her authorized committee(s).

§ 101.3 Funds received or expended prior to becoming a candidate (2 U.S.C. 432(e)(2)).

When an individual becomes a candidate, all funds received or payments made in connection with his or her campaign prior to becoming a candidate shall be considered contributions or expenditures under the Act and shall be reported in accordance with 11 CFR 104.3 in the first report filed by such candidate's principal campaign committee. The individual shall keep records of the name of each contributor, the date of receipt and amount of all contributions received (see 11 CFR 102.9(a)) and all expenditures made (see 11 CFR 102.9(b)) in connection with the individual's campaign prior to becoming a candidate. Contributions received by an individual prior to becoming a candidate, which contributions are not in compliance with the Act, shall be returned to the contributor within ten (10) days after the individual becomes a candidate. The individual shall keep records of all refunds made.

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

Sec.

102.1 Registration of political committees (2 U.S.C. 433(a)).
102.2 Statement of organization: Forms and committee identification number (2 U.S.C. 433(b), (c)).
102.3 Termination of registration (2 U.S.C. 433(d)(1)).
102.4 Administrative termination (2 U.S.C. 433(d)(2)).
102.5 Organizations financing political activity in connection with Federal and non-Federal elections, other than through transfers and joint fundraisers.
102.6 Transfers and joint fundraisers.
102.7 Organization of political committees (2 U.S.C. 433(a)).
102.8 Receipt of contributions (2 U.S.C. 432(b)).
102.9 Accounting for contributions and expenditures (2 U.S.C. 432(c)).
102.10 Disbursement by check (2 U.S.C. 432(h)(1)).
102.11 Petty cash fund (2 U.S.C. 432(h)(2)).
102.12 Designation of principal campaign committee (2 U.S.C. 432(e) (1) and (3)).
102.13 Authorization of political committees (2 U.S.C. 432(e) (1) and (3)).
102.14 Names of political committees (2 U.S.C. 432(e) (4) and (5)).
102.15 Commingled funds (2 U.S.C. 432(a)(3)).
102.16 Notice: Solicitation of contributions (2 U.S.C. 441d).

Authority: 2 U.S.C. 432, 433, 438(a)(8), 441d.

§ 102.1 Registration of Political Committees (2 U.S.C. 433(a)).

(a) *Principal Campaign Committees.* Each principal campaign committee shall file a Statement of Organization in accordance with 11 CFR 102.2 no later than 10 days after designation pursuant to 11 CFR 101.1. In addition, each principal campaign committee shall file all designations, statements and reports which are filed with such committee at the place of filing specified at 11 CFR Part 105.

(b) *Authorized Committees.* Each authorized committee(s) shall file only one Statement of Organization in accordance with 11 CFR 102.2 no later than 10 days after designation pursuant to 11 CFR 101.1. Such Statement(s) shall be filed with the principal campaign committee of the authorizing candidate.

(c) *Separate Segregated Funds.* Each separate segregated fund established under 2 USC 441b(b)(2)(C) shall file a Statement of Organization with the Federal Election Commission no later than 10 days after establishment. This requirement shall not apply to a fund established solely for the purpose of financing political activity in connection with State or local elections. Examples of establishment events after which a fund would be required to register include, but are not limited to: a vote by the board of directors or comparable governing body of an organization to create a separate segregated fund to be used wholly or in part for federal elections; selection of initial officers to administer such a fund; or payment of the initial operating expenses of such a fund.

(d) *Other Political Committees.* All other committees shall file a Statement of Organization no later than 10 days after becoming a political committee within the meaning of 11 CFR 100.5. Such statement(s) shall be filed at the place of filing specified at 11 CFR Part 105.

§ 102.2 Statement of Organization: Forms and Committee Identification Number (2 U.S.C. 433(b), (c)).

(a) *Forms.*

(1) The Statement of Organization shall be filed in accordance with 11 CFR Part 105 on Federal Election Commission Form 1, which may be obtained from the Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. The Statement shall be signed by the treasurer and shall include the following information:

(i) The name, address, and type of committee;

(ii) The name, address, relationship, and type of any connected organization or affiliated committee in accordance with 11 CFR 102.2(b);

(iii) The name, address, and committee position of the custodian of books and accounts of the committee;

(iv) The name and address of the treasurer of the committee;

(v) If the committee is authorized by a candidate, the name, office sought (including State and Congressional district, when applicable) and party affiliation of the candidate; and the address to which communications should be sent;

(vi) A listing of all banks, safe deposit boxes, or other depositories used by the committee.

(2) Any change or correction in the information previously filed in the Statement of Organization shall be reported no later than 10 days following the date of the change or correction by filing an amended Statement of Organization or by filing a letter noting the change(s). The amendment need list only the name of such committee and the change or correction.

(b) For purposes of 11 CFR 102.2(a)(1)(ii), political committees shall disclose the names of any connected organization(s) or affiliated committee(s) in accordance with 11 CFR 102.2(b) (1) and (2).

(1) "Affiliated committee" includes any committee defined in 11 CFR 100.5(g).

(i) A principal campaign committee is required to disclose the names and addresses of all other authorized committees which have been authorized by its candidate. Authorized committees need only disclose the name of their principal campaign committee.

(ii)(A) Political committees established by a single parent corporation, a single national or international union, a single organization or federation of national or international unions, a single national membership organization or trade association, or any other similar group of persons (other than political party organizations) are required to disclose the names and addresses of all political committees established by any subsidiary, or by any State, local, or other subordinate unit of a national or international union or federation thereof, or by any subordinate units of a national membership organization, trade association, or other group of persons

(other than political party organizations).

(B) Political committees established by subsidiaries, or by State, local, or other subordinate units are only required to disclose the name and address of each political committee established by their parent or superior body, e.g., parent corporation, national or international union or organization or federation of such unions, or national organization or trade association.

(2) "Connected organization" includes any organization defined at 11 CFR 100.6.

(c) *Committee identification number.* Upon receipt of a Statement of Organization under 11 CFR Part 102 by the Commission, an identification number shall be assigned to the committee, receipt shall be acknowledged, and the political committee shall be notified of the number assigned. This identification number shall be entered by the political committee on all subsequent reports or statements filed under the Act, as well as on all communications concerning reports and statements.

§ 102.3 Termination of registration (2 U.S.C. 433(d)(1)).

(a) A political committee (other than a principal campaign committee) may terminate only upon filing a termination report on FEC Form or upon filing a written statement containing the same information at the place of filing specified at 11 CFR Part 105. Except as provided in 11 CFR 102.4(c), only a committee which will no longer receive any contributions or make any disbursements that would otherwise qualify it as a political committee may terminate, provided that such committee has no outstanding debts and obligations. In addition to the Notice, the committee shall also provide a final report of receipts and disbursements, which report shall include a statement as to the purpose for which such residual funds will be used, including a statement as to whether such residual funds will be used to defray expenses incurred in connection with an individual's duties as a holder of federal office.

(b) Except as provided at 11 CFR 102.4, a principal campaign committee may not terminate until it has met the requirements of 11 CFR 102.3(a) and until all debts of any other authorized committee(s) of the candidate have been extinguished.

§ 102.4 Administrative termination (2 U.S.C. 443(d)(2)).

(a) The Commission, on its own initiative or upon the request of the political committee itself, may administratively terminate a political committee's reporting obligation on the basis of the following factors:

(1) The committee's aggregate reported financial activity in one year is less than $5000;

(2) The committee's reports disclose no receipt of contributions for the previous year;

(3) The committee's last report disclosed minimal expenditures;

(4) The committee's primary purpose for filing its reports has been to disclose outstanding debts and obligations;

(5) The committee has failed to file reports for the previous year;

(6) The committee's last report disclosed that the committee's outstanding debts and obligations do not appear to present a possible violation of the prohibitions and limitations of 11 CFR Parts 110 and 114;

(7) The committee's last report disclosed that the Committee does not have substantial outstanding accounts receivable;

(8) The committee's outstanding debts and obligations exceed the total of the committee's reported cash on hand balance.

(b) The Commission shall send a notification to the committee treasurer of its intent to administratively terminate that committee and may request the treasurer to submit information with regard to the factors set forth at 11 CFR 102.4(a). The treasurer shall respond, in writing, within 30 days of receipt of the Commission's notice or request and if the committee objects to such termination, the committee's response shall so state.

(c) The Commission shall administratively terminate a committee if such committee fails to object to the Commission's action under 11 CFR 102.4(b) and the Commission determines that either:

(1) The committee has complied with the debt settlement procedures set forth at 11 CFR 114.10;

(2) The Commission has approved the forgiveness of any loan(s) owed the committee which would have otherwise been considered a contribution under the Act in violation of 11 CFR Part 110;

(3) It does not appear from evidence available that a contribution in violation of 11 CFR Parts 110 and 114 will result.

§ 102.5 Organizations financing political activity in connection with federal and non-federal elections, other than through transfers and joint fundraisers.

(a) Organizations that are political committees under the Act

(1) Each organization, including a party committee, which finances political activity in connection with both federal and non-federal elections and which qualifies as a political committee under 11 CFR 100.5 shall either:

(i) Establish a separate federal account in a depository in accordance with 11 CFR Part 103. Such account shall be treated as a separate federal political committee which shall comply with the requirements of the Act including the registration and reporting requirements of 11 CFR Parts 102 and 104. Only funds subject to the prohibitions and limitations of the Act shall be deposited in such separate federal account. All disbursements, contributions, expenditures and transfers by the committee in connection with any federal election shall be made from its federal account. No transfers may be made to such federal account from any other account(s) maintained by such organization for the purpose of financing activity in connection with non-federal elections. Administrative expenses shall be allocated pursuant to 11 CFR Part 106 between such federal account and any other account maintained by such committee for the purpose of financing activity in connection with non-federal elections; or

(ii) Establish a political committee which shall receive only contributions subject to the prohibitions and limitations of the Act, regardless of whether such contributions are for use in connection with federal or non-federal elections. Such organization shall register as a political committee and comply with the requirements of the Act.

(2) Only contributions meeting the conditions set forth at subsections (i), (ii), and (iii) of this section may be deposited in a federal account established under 11 CFR 102.5(a)(1) or may be received by a political committee established under 11 CFR 102.5(a)(2).

(i) Contributions designated for the federal account;

(ii) Contributions that result from a solicitation which expressly states that the contribution will be used in connection with a federal election; and

(iii) Contributions from contributors who are informed that all contributions are subject to the prohibitions and limitations of the Act.

(b) Organizations that are not political committees under the Act

(1) Any organization that makes contributions or expenditures but does not qualify as a political committee under 11 CFR 100.5 and any State or local party organization that makes contributions, expenditures and

exempted payments under 11 CFR 100.7(b)(9), (15) and (17) and 100.8(b)(10), (16) and (18) shall either:

(i) Establish a separate account to which only funds subject to the prohibitions and limitations of the Act shall be deposited and from which contributions, expenditures and exempted payments shall be made. Such organization shall keep records of deposits to and disbursements from such account and, upon request, shall make such records available for examination by the Commission.

(ii) Demonstrate through a reasonable accounting method that whenever such organization makes a contribution, expenditure or exempted payment, that organization has received sufficient funds subject to the limitations and prohibitions of the Act to make such contribution, expenditure or payment. Such organization shall keep records of amounts received or expended under this subsection and, upon request, shall make such records available for examination by the Commission.

§ 102.6 Transfers and joint fundraisers.

(a) Transfers of funds may be made without limit between affiliated committees, whether or not they are political committees under 11 CFR 100.5; and between or among a national party committee, any State party committee and/or any subordinate party committee whether or not they are political committees under 11 CFR 100.5 and whether or not such committees are affiliated. Transfers will apply toward the thresholds for determining whether a committee is a political committee as defined at 11 CFR 100.5.

(b) For a committee or organization engaging in a joint fundraising with, or acting as a fundraising agent for, any political committee, said committee or organization shall comply with the provisions of 11 CFR 102.8 and in transferring such contributions shall either:

(1) Establish a transmittal account to be used solely for the deposit of funds from a joint fundraiser or collected as a fundraising agent and for forwarding funds to its affiliate. Only funds subject to the prohibitions and limitations of the Act shall be deposited into such account. If any disbursement is made from the account, other than a transfer of funds to an affiliated committee, the account shall be considered a depository of the recipient affiliated political committee and all activity of that account shall be reported; or

(2) Transmit contributions which it has collected as a fundraising agent or in joint fundraising either by money order, cashier's check or similar instrument without depositing such contributions in any account prior to the transfers; or

(3) Deposit contributions which it has collected in joint fundraising or through a check-off plan in an account established solely for State or local election activity. The committee shall forward such contributions to its affiliate in accordance with 11 CFR 102.8. The committee shall make separate deposits of funds received through joint fundraising activity or through a check-off plan, where any portion of such funds represents contributions to the affiliated political committee. Such record shall include those records required to the kept under 11 CFR 102.8. If contributions of $50 or less are received at a mass collection, a record shall be kept of the date, the total amount collected, and the name of the function at which the collection was made. For each contribution of $50 or less which was not received at a mass collection, a record shall be kept of the date and amount of the contribution. Upon request, the organization shall make all records kept under this section available for examination by the Commission.

§ 102.7 Organization of political committees. (2 U.S.C. 432(a)).

(a) Every political committee shall have a treasurer and may designate, on the committee's Statement of Organization, an assistant treasurer who shall assume the duties and responsibilities of the treasurer in the event of a temporary or permanent vacancy in the office or in the event the treasurer is unavailable.

(b) Except as provided in subsection (a), no contribution or expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of the treasurer.

(c) No expenditure shall be made for or on behalf of a political committee without the authorization of its treasurer or of an agent authorized orally or in writing by the treasurer.

(d) Any candidate who receives a contribution, as defined at 11 CFR 100.7, obtains any loan or makes any disbursement in connection with his or her campaign, shall be considered as having received the contribution, obtained the loan or made the disbursement as an agent of such authorized committee(s).

§ 102.8 Receipt of contributions. (2 U.S.C. 432(b)).

(a) Every person who receives a contribution for an authorized political committee shall, no later than 10 days after receipt, forward such contribution to the treasurer. If the amount of the contribution is in excess of $50, such person shall also forward to the treasurer the name and address of the contributor and the date of receipt of the contribution. If the amount of the contribution is in excess of $200, such person shall forward the contribution, the identification of the contributor in accordance with 11 CFR 100.12, and the date of receipt of the contribution. Date of receipt shall be the date such person obtains possession of the contribution.

(b) (1) Every person who receives a contribution of $50 or less for a political committee which is not an authorized committee shall forward such contribution to the treasurer of the political committee no later than 30 days after receipt.

(2) Every person who receives a contribution in excess of $50 for a political committee which is not an authorized committee shall, no later than 10 days after receipt of the contribution, forward to the treasurer of the political committee: the contribution; the name and address of the contributor; and the date of receipt of the contribution. If the amount of the contribution is in excess of $200, such person shall forward the contribution, the identification of the contributor in accordance with 11 CFR 100.12, and the date of receipt of the contribution. Date of receipt shall be the date such person obtains possession of the contribution.

(c) The provisions of 11 CFR 102.8 concerning receipt of contributions for political committees shall also apply to earmarked contributions transmitted by an intermediary or conduit.

§ 102.9 Accounting for contributions and expenditures. (2 U.S.C. 432(c)).

The treasurer of a political committee or an agent authorized by the treasurer to receive contributions and make expenditures shall fulfill all recordkeeping duties as set forth at 11 CFR 102.9(a) through (e):

(a) An account shall be kept by any reasonable accounting procedure of all contributions received by or on behalf of the political committee.

(1) For contributions in excess of $50, such account shall include the name and address of the contributor and the date of receipt and amount of such contribution.

(2) For contributions from any person whose contributions aggregate more than $200 during a calendar year, such account shall include the identification of the person, and the date of receipt and amount of such contribution.

(3) For contributions from a political committee, such account shall include

the identification of the political committee and the date of receipt and amount of such contribution.

(b)(1) An account shall be kept of all disbursements made by or on behalf of the political committee. Such account shall consist of a record of:

(i) the name and address of every person to whom any disbursement is made;

(ii) the date, amount, and purpose of the disbursement; and

(iii) if the disbursement is made for a candidate, the name and office (including State and congressional district, if any) sought by that candidate.

(iv) For purposes of 11 CFR 102.9(b)(1), "purpose" has the same meaning given the term at 11 CFR 104.3(b)(3)(i)(A).

(2) In addition to the account to be kept under 11 CFR 102.9(b)(1), a receipt or invoice from the payee or a cancelled check to the payee shall be obtained and kept for each disbursement in excess of $200 by or on behalf of, the committee, except that credit card transactions, shall be documented in accordance with 11 CFR 102.9(b)(2)(ii) and disbursements by share draft or check drawn on a credit union account shall be documented in accordance with 11 CFR 102.9(b)(2)(iii).

(i)(A) For purposes of 11 CFR 102.9(b)(2), "payee" means the person who provides the goods or services to the committee or agent thereof in return for payment, except for an advance of $500 or less for travel and subsistence to an individual who will be the recipient of the goods or services.

(B) For any advance of $500 or less to an individual for travel and subsistence, the expense voucher or other expense account documentation and a cancelled check to the recipient of the advance shall be obtained and kept.

(ii) For any credit card transaction, documentation shall include a monthly billing statement or customer receipt for each transaction and the cancelled check used to pay the credit card account.

(iii) For purposes of 11 CFR 102.9(b)(2), a carbon copy of a share draft or check drawn on a credit union account may be used as a duplicate record of such draft or check provided that the monthly account statement showing that the share draft or check was paid by the credit union is also retained.

(c) The treasurer shall preserve all records and accounts required to be kept under 11 CFR 102.9 for 3 years after the report to which such records and accounts relate is filed.

(d) In performing recordkeeping duties, the treasurer or his or her authorized agent shall use his or her best efforts to obtain, maintain and submit the required information and shall keep a complete record of such efforts. If there is a showing that best efforts have been made, any records of a committee shall be deemed to be in compliance with this Act. With regard to the requirements of 11 CFR 102.9(b)(2) concerning receipts, invoices and cancelled checks, the treasurer will not be deemed to have exercised best efforts to obtain, maintain and submit the records unless he or she has made at least one written effort per transaction to obtain a duplicate copy of the invoice, receipt, or cancelled check.

(e) If the candidate, or his or her authorized committee(s), receives contributions prior to the date of the primary election, which contributions are designated by the candidate or his or her authorized committee(s) for use in connection with the general election, such candidate or such committees shall use an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. Acceptable methods include, but are not limited to: (1) the designation of separate accounts for each election, caucus, or convention and (2) the establishment of separate books and records for each election.

§ 102.10 Disbursement by check (2 U.S.C. 432(h)(1)).

All disbursements by a political committee, except for disbursements from the petty cash fund under 11 CFR 102.11, shall be made by check or similar draft drawn on account(s) established at the committee's campaign depository or depositories under 11 CFR Part 103.

§ 102.11 Petty cash fund (2 U.S.C. 432(h)(2)).

A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of $100 to any person per purchase or transaction. If a petty cash fund is maintained, it shall be the duty of the treasurer of the political committee to keep and maintain a written journal of all disbursements. This written journal shall include the name and address of every person to whom any disbursement is made, as well as the date, amount, and purpose of such disbursement. In addition, if any disbursement is made for a candidate, the journal shall include the name of that candidate and the office (including State and Congressional district) sought by such candidate.

§ 102.12 Designation of principal campaign committee (2 U.S.C. 432(e)(1) and (3)).

(a) Each candidate for Federal office (other than a nominee of a political party to the Office of Vice President) shall designate in writing a political committee to serve as his or her principal campaign committee in accordance with 11 CFR 101.1(a) no later than 15 days after becoming a candidate. Each principal campaign committee shall register, designate a depository and report in accordance with 11 CFR Parts 102, 103 and 104.

(b) No political committee may be designated as the principal campaign committee of more that one candidate.

(c)(1) No political committee which supports or has supported more than one candidate may be designated as a principal campaign committee, except that, after nomination, a candidate for the office of President of the United States nominated by a political party may designate the national committee of such political party as his or her principal campaign committee. A national committee which is so designated shall maintain separate books of account with respect to its function as a principal campaign committee.

(2) For purposes of 11 CFR 102.12(c), the term "support" does not include contributions by an authorized committee in amounts aggregating $1,000 or less per election to an authorized committee of any other candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's Presidential candidate may contribute to another candidate in accordance with 11 CFR Part 110.

§ 102.13 Authorization of political committees (2 U.S.C. 432(e)(1) and (3)).

(a)(1) Any political committee authorized by a candidate to receive contributions or make expenditures shall be authorized in writing by the candidate. Such authorization must be filed with the principal campaign committee in accordance with 11 CFR 102.1(b).

(2) If an individual fails to disavow activity pursuant to 11 CFR 100.3(a)(3) and is therefore a candidate upon notice by the Commission, he or she shall authorize the committee in writing.

(b) A candidate is not required to authorize a national, State or subordinate State party committee which solicits funds to be expended on the candidate's behalf pursuant to 11 CFR 110.7.

(c)(1) No political committee which supports or has supported more than one candidate may be designated as an authorized committee, except that two or more candidates may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee.

(2) For purposes of 11 CFR 102.13(c), the term "support" does not include contributions by an authorized committee in amounts aggregating $1,000 or less per election to an authorized committee of any other candidate, except that the national committee of a political party which has been designated as the principal campaign committee of that party's Presidential candidate may contribute to another candidate in accordance with 11 CFR Part 110.

§ 102.14 Names of political committees (2 U.S.C. 432(e)(4) and (5)).

(a) The name of each authorized committee shall include the name of the candidate who authorized such committee. Except as provided in subsection (b) of this section, any political committee which is not an authorized committee shall not include the name of any candidate in its name.

(b)(1) A delegate committee, as defined at 11 CFR 100.5(a)(5), shall include the word "delegate(s)" in its name and may also include in its name the name of the presidential candidate which the delegate committee supports.

(2) A political committee established solely to draft an individual or to encourage him or her to become a candidate may include the name of such individual in the name of the committee provided the committee's name clearly indicates that it is a draft committee.

(c) The name of a separate segregated fund established pursuant to 11 CFR 102.1(c) shall include the full name of its connected organization. Such fund may also use a clearly recognized abbreviation or acronym by which the connected organization is commonly known. Both the full name and such abbreviation or acronym shall be included on the fund's Statement of Organization, on all reports filed by the fund, and in all notices required by 11 CFR 109.4 and 110.11. The fund may make contributions using its acronym or abbreviated name. A fund established by a corporation which has a number of subsidiaries need not include the name of each subsidiary in its name. Similarly, a separate segregated fund established by a subsidiary need not include in its name the name of its parent or another subsidiary of its parent.

§ 102.15 Commingled funds (2 U.S.C. 432(a)(3)).

All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members or associates of that committee, or with the personal funds of any other individual. See also 11 CFR 103.3 and Part 114 and 2 USC 441b.

§ 102.16 Notice: Solicitation of contributions (2 U.S.C. 441d).

Each political committee shall comply with the notice requirements for solicitation of contributions set forth at 11 CFR 110.11.

PART 103—CAMPAIGN DEPOSITORIES (2 U.S.C. 432(h))

Sec.

103.1 Notification of the commission.
103.2 Depositories (2 USC 432(h)(1)).
103.3 Deposit of receipts and disbursements (2 USC 432(h)(1)).
103.4 Vice Presidential candidate campaign depositories.

Authority: 2 USC 432(h), 438(a)(8).

§ 103.1 Notification of the commission.

Each committee shall notify the Commission of the campaign depository(ies) it has designated, pursuant to 11 CFR 101.1 and 103.2.

§ 103.2 Depositories (2 U.S.C. 432(h)(1)).

Each political committee shall designate one or more State banks, federally chartered depository institutions (including a national bank), or depository institutions the depositor accounts of which are insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration, as its campaign depository or depositories. One or more depositories may be established in one or more States. Each political committee shall maintain at least one checking account or transaction account at one of its depositories. Additional accounts may be established at each depository.

§ 103.3 Deposit of receipts and disbursements (2 U.S.C. 432(h)(1)).

(a) All receipts by a political committee shall be deposited in account(s) established pursuant to 11 CFR 103.2. The treasurer of the committee shall be responsible for making such deposits. All deposits shall be made within 10 days of the treasurer's receipt. A committee shall make all disbursements by check or similar drafts drawn on an account at its designated campaign depository, except for expenditures of $100 or less made from a petty cash fund maintained pursuant to 11 CFR 102.11. Funds may be transferred from the depository for investment purposes, but shall be returned to the depository before such funds are used to make expenditures.

(b)(1) Contributions which appear to be illegal shall be, within 10 days, either returned to the contributor or deposited into the campaign depository, and reported. If deposited, the treasurer shall make and retain a written record noting the basis for the appearance of illegality. A statement noting that the legality of the contribution is in question should be included in the report. The treasurer shall make his or her best efforts to determine the legality of the contribution.

(2) When a contribution cannot be determined to be legal, refunds shall be made within a reasonable time, and the treasurer shall note the refund by amending the current report or noting the change on the committee's next required report.

§ 103.4 Vice Presidential candidate campaign depositories.

Any campaign depository designated by the principal campaign committee of a political party's candidate for President shall be the campaign depository for that political party's candidate for the office of Vice President.

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

Sec.

104.1 Scope (2 USC 434(a))
104.2 Forms
104.3 Contents of Reports (2 USC 434(b))
104.4 Independent Expenditures by Political Committees (2 USC 434(c))
104.5 Filing Dates (2 USC 434(a)(2))
104.6 Form and Content of Internal Communications Reports (2 USC 431(9)(B)(iii))
104.7 Best Efforts (2 USC 432(i))
104.8 Uniform Reporting of Contributions
104.9 Uniform Reporting of Expenditures
104.10 Allocation of Expenditures Among Candidates
104.11 Continuous Reporting of Debts and Obligations
104.12 Beginning Cash on Hand for Political Committees
104.13 Disclosure of Receipt and Consumption of In-Kind Contributions
104.14 Formal Requirements Regarding Reports and Statements
104.15 Sale or Use Restriction (2 USC 438(a)(4))
104.16 Audits (2 USC 438(b))
104.17 Content of Reports; Presidential and Vice-Presidential Committees (2 USC 431 note)

Authority: 2 USC 431 note, 431(9)(B)(iii), 432(i), 434, 438(a)(4)(8), 438(b).

§ 104.1 Scope (2 U.S.C. 434(a)).

(a) *Who must report.* Each treasurer of a political committee required to register under 11 CFR Part 102 shall report in accordance with 11 CFR Part 104.

(b) *Who may report.* An individual seeking federal office who has not attained candidate status under 11 CFR 100.3, the committee of such an individual or any other committee may voluntarily register and report in accordance with 11 CFR Parts 102 and 104. An individual shall not become a candidate solely by voluntarily filing a report, nor shall such individual the individual's committee nor any other committee be required to file all reports under 11 CFR 104.5, unless the individual becomes a candidate under 11 CFR 100.3 or unless the committee becomes a political committee under 11 CFR 100.5.

§ 104.2 Forms.

(a) Each report filed by a political committee under 11 CFR Part 104 shall be filed on the appropriate FEC form as set forth below at 11 CFR 104.2(e).

(b) Forms may be obtained from the Federal Election Commission, 1325 K Street, NW., Washington, D.C. 20463.

(c) A committee may reproduce FEC forms for its own use provided they are not reduced in size.

(d) With prior approval of the Commission a committee may use, for reporting purposes, computer produced schedules of itemized receipts and disbursements provided they are reduced to the size of FEC forms. The committee shall submit a sample of the proposed format with its request for approval.

(e) The following forms shall be used by the indicated type of reporting committee:

(1) *Presidential committees.* The authorized committees of a candidate for President or Vice President shall file on FEC Form 3–P.

(2) *Congressional candidate committees.* The authorized committees of a candidate for the Senate or the House of Representatives shall file on FEC Form 3.

(3) *Political Committees Other than Authorized Committees.* Political committees other than authorized committees shall file reports on FEC Form 3–——.

§ 104.3 Contents of reports (2 U.S.C. 434(b)).

(a) *Reporting of Receipts.* Except for reports filed in accordance with 11 CFR 104.17, each report filed under 11 CFR 104.1 shall disclose the total amount of receipts for the reporting period and for the calendar year and shall disclose the information set forth at 11 CFR 104.3(a)(1) through (4). The first report filed by a committee shall also include all amounts received prior to becoming a political committee under 11 CFR 100.5, even if such amounts were not received during the current reporting period.

(1) *Cash on hand.* The amount of cash on hand at the beginning of the reporting period, including: currency; balance on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks owned by the committee; certificates of deposit, treasury bills and any other committee investments valued at cost.

(2) *Categories of receipts for all political committees other than authorized committees.* All committees other than authorized committees shall report the total amount of receipts received during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year for each of the following categories:

(i) Contributions from persons other than any committees;

(A) itemized contributions from persons, other than any committees, including contributions from individuals;

(B) unitemized contributions from persons, other than any committees, including contributions from individuals;

(C) total contributions from persons other than any committees, including contributions from individuals;

(ii) contributions from political party committees, including contributions from party committees which are not political committees under the Act;

(iii) contributions from political committees, including contributions from committees which are not political committees under the Act but excluding contributions from any party committees;

(iv) total contributions;

(v) transfers from affiliated committees or organizations and, where the reporting committee is a political party committee, transfers from other party committees of the same party, regardless of whether such committees are affiliated;

(vi) all loans;

(vii) offsets to operating expenditures;

(A) itemized offsets to operating expenditures (such as rebates and refunds);

(B) unitemized offsets to operating expenditures (such as rebates and refunds);

(C) total offsets to operating expenditures;

(viii) other receipts:

(A) itemized other receipts (such as dividends and interest);

(B) unitemized other receipts (such as dividends and interest);

(C) the total sum of all other receipts.

(ix) the total sum of all receipts.

(3) *Categories of receipts for authorized committees.* An authorized committee of a candidate for Federal office shall report the total amount of receipts received during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year in each of the following categories:

(i) contributions from persons other than any committees;

(A) itemized contributions from persons, other than any committees, including contributions from individuals, but excluding contributions from a candidate to his or her authorized committees;

(B) unitemized contributions from persons, other than any committees, including contributions from individuals, but excluding contributions from a candidate to his or her authorized committees;

(C) total contributions from persons other than any committees, including contributions from individuals, but excluding contributions from a candidate to his or her authorized committees;

(ii) contributions from the candidate, excluding loans which are reported under 11 CFR 104.3(a)(3)(vii));

(iii) contributions from political party committees, including party committees which are not political committees under the Act, except that expenditures made under 11 CFR 110.7 (2 U.S.C. 441a(d)), by a party committee shall not be reported as contributions by the authorized committee on whose behalf they are made;

(iv) contributions from committees, including contributions from committees which are not political committees under the Act, but excluding contributions from any party committees;

(v) total contributions;

(vi) transfers from other authorized committee(s) of the same candidate, regardless of amount;

(vii) loans;

(A) all loans to the committee, except loans made, guaranteed, or endorsed by a candidate to his or her authorized committee;

(B) loans made, guaranteed, or endorsed by a candidate to his or her authorized committee;

(C) total loans;

(viii) for authorized committee(s) of Presidential candidates, federal funds received under Chapters 95 and 96 of the Internal Revenue Code of 1954 (Title 26, United States Code);

(ix) offsets to operating expenditures;

(A) itemized offsets to operating expenditures (such as refunds and rebates);

(B) unitemized offsets to operating expenditures (such as refunds and rebates);

(C) total offsets to operating expenditures;

(x) other receipts;

(A) itemized other receipts (such as dividends and interest);

(B) unitemized other receipts (such as dividends and interest);

(C) total other receipts;

(xi) total receipts.

(4) *Itemization of receipts for all committees including authorized and unauthorized committees.* The identification (as defined at 11 CFR 100.12) of each contributor and the aggregate year-to-date total for such contributor in each of the following categories shall be reported.

(i) Each person, other than any committee, who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions aggregate in excess of $200 per calendar year, together with the date of receipt and amount of any such contributions, except that the reporting committee may elect to report such information for contributors of lesser amount(s) on a separate schedule;

(ii) All committees (including political committees and committees which do not qualify as political committees under the Act) which make contributions to the reporting committee during the reporting period, together with the date of receipt and amount of any such contribution;

(iii) Transfers;

(A) For authorized committees of a candidate for Federal office, each authorized committee which makes a transfer to the reporting committee, together with the date and amount of such transfer;

(B) For committees which are not authorized by a candidate for Federal office, each affiliated committee or organization which makes a transfer to the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds to the reporting committee from another party committee regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(iv) Each person who makes a loan to the reporting committee or to the candidate acting as an agent of the committee, during the reporting period, together with the identification of any endorser or guarantor of such loan, the date such loan was made and the amount or value of such loan;

(v) Each person who provides a rebate, refund or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of any such receipt; and

(vi) Each person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, together with the date and amount of any such receipt.

(b) *Reporting of Disbursements.* Except for reports filed in accordance with 11 CFR 104.17, each report filed under 11 CFR 104.1 shall disclose the total amount of all disbursements for the reporting period and for the calendar year and shall disclose the information set forth at 11 CFR 104.3(b) (1) through (4). The first report filed by a committee shall also include all amounts disbursed prior to becoming a political committee under 11 CFR 100.5, even if such amounts were not disbursed during the current reporting period.

(1) *Categories of disbursements for political committees other than authorized committees.* All political committees other than authorized committees shall report the total amount of disbursements made during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year in each of the following categories:

(i) Operating expenditures;

(A) itemized operating expenditures;

(B) unitemized operating expenditures;

(C) total operating expenditures;

(ii) transfers to affiliated committees or organizations and, where the reporting committee is a political party committee, transfers to other political party committees regardless of whether they are affiliated;

(iii) repayment of all loans;

(iv) offsets;

(A) itemized offsets to contributions (including contribution refunds);

(B) unitemized offsets to contributions (including contribution refunds);

(C) total offsets to contributions;

(v) contributions made to other political committees;

(vi) loans made by the reporting committee;

(vii) independent expenditures made by the reporting committee;

(viii) expenditures made under 11 CFR 110.7 (2 U.S.C. 441a(d)), See 11 CFR 104.3(a)(3)(iii);

(ix) other disbursements;

(A) itemized other disbursements;

(B) unitemized other disbursements;

(C) total other disbursements;

(x) total disbursements.

(2) *Categories of disbursements for authorized committees.* An authorized committee of a candidate for Federal office shall report the total amount of disbursements made during the reporting period and, except for itemized and unitemized breakdowns, during the calendar year in each of the following categories:

(i) operating expenditures;

(A) itemized operating expenditures;

(B) unitemized operating expenditures;

(C) total operating expenditures;

(ii) transfers to other committees authorized by the same candidate;

(iii) repayment of loans;

(A) repayment of loans made by or guaranteed by the candidate;

(B) repayment of all other loans;

(C) total loan repayments;

(iv) for an authorized committee of a candidate for the office of President, disbursements not subject to the limitations of 11 CFR 110.8 (2 U.S.C. 441a(b));

(v) offsets;

(A) itemized offsets to contributions (including contribution refunds);

(B) unitemized offsets to contributions (including contribution refunds);

(C) total offsets to contributions;

(vi) other disbursements;

(A) itemized other disbursements;

(B) unitemized other disbursements;

(C) total other disbursements;

(vii) total disbursements.

(3) *Itemization of disbursements by political committees other than authorized committees.* Each political committee, other than an authorized committee, shall report the full name and address of each person in each of the following categories, as well as the information required by each category;

(i) Each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet the committee's operating expenses, together with the date, amount, and purpose of such operating expenditure;

(A) As used in 11 CFR 104.3(b)(3), "purpose" means a brief statement or decription of why the disbursement was made.

(B) Examples of statements or descriptions which meet the requirements of 11 CFR 104.3(b)(3) include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs. However, statements or descriptions such as "advance", "election day expenses" "other expenses", "expenses", "expense reimbursement", "miscellaneous",

"outside services", "get-out-the-vote" and "voter registration" would not meet the requirements of 11 CFR 104.3(b)(3) for reporting the purpose of an expenditure.

(ii) Each affiliated committee to which a transfer is made by the reporting committee during the reporting period and, where the reporting committee is a political party committee, each transfer of funds by the reporting committee to another political party committee, regardless of whether such committees are affiliated, together with the date and amount of such transfer;

(iii) Each person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment;

(iv) Each person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution refund was reported under 11 CFR 104.3(b)(1)(iv), together with the date and amount of such refund or offset;

(v) Each political committee which has received a contribution from the reporting committee during the reporting period, together with the date and amount of any such contribution, and, in the case of a contribution to an authorized committee, the candidate's name and office sought (including State and Congressional district, if applicable);

(vi) Each person who has received a loan from the reporting committee during the reporting period, together with the date and amount or value of such loan;

(vii) (A) Each person who receives any disbursement during the reporting period in an aggregate amount or value in excess of $200 within the calendar year in connection with an independent expenditure by the reporting committee, together with the date, amount, and purpose of any such independent expenditure(s);

(B) For each independent expenditure reported, the committee must also provide a statement which indicates whether such independent expenditure is in support of, or in opposition to a particular candidate, as well as the name of the candidate and office sought by such candidate (including State and Congressional district, when applicable), and a certification, under penalty of perjury, as to whether such independent expenditure is made in cooperation, consultation or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee;

(C) The information required by 11 CFR 104.3(b)(3)(vii)(A) and (B) shall be reported on Schedule E as part of a report covering the reporting period in which the aggregate disbursements for any independent expenditure to any person exceed $200 per calendar year. Schedule E shall also include the total of all such expenditures of $200 or less made during the reporting period.

(viii) Each person who receives any expenditure from the reporting committee during the reporting period in connection with an expenditure under 11 CFR 110.7 (2 USC 441a(d)), together with the date, amount, and purpose of any such expenditure as well as the name of, and office sought by (including State and Congressional district, when applicable), the candidate on whose behalf the expenditure is made; and

(ix) Each person who has received any disbursement within the reporting period not otherwise disclosed in accordance with 11 CFR 104.3(b)(3) to whom the aggregate amount or value of disbursements made by the reporting committee exceeds $200 within the calendar year, together with the date, amount and purpose of any such disbursement.

(4) *Itemization of disbursements by authorized committees.* Each authorized committee shall report the full name and address of each person in each of the following categories, as well as the information required by each category.

(i) Each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet the committee's operating expenses, together with the date, amount and purpose of each expenditure.

(A) As used in 11 CFR 104.3(b)(4), "purpose" means a brief statement or description of why the disbursement was made. Examples of statements or descriptions which meet the requirements of 11 CFR 104.3(b)(4) include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, and catering costs. However, statements or descriptions such as "advance", "election day expenses", "other expenses", "expenses", "expense reimbursement", "miscellaneous", "outside services" "get-out-the-vote" and "voter registration" would not meet the requirements of 11 CFR 104.3(b)(4) for reporting the purpose of an expenditure.

(ii) Each authorized committee of the same candidate to which a transfer is made by the reporting committee during the reporting period, together with the date and amount of such transfer;

(iii) Each person who receives a loan repayment from the reporting committee during the reporting period, together with the date and amount of such loan repayment;

(iv) Each person who receives a loan repayment from the candidate, if the proceeds of such loan were used in connection with the candidate's campaign;

(v) Each person who receives a contribution refund or other offset to contributions from the reporting committee where such contribution refund was reported under 11 CFR 104.3(b)(2)(v), together with the date and amount of such refund or offset.

(vi) Each person who has received any disbursement(s) not otherwise disclosed under 11 CFR 104.3(b)(4) to whom the aggregate amount or value of such disbursements exceeds $200 within the calendar year, together with the date, amount, and purpose of any such disbursement.

(c) *Summary of contributions and operating expenditures.* Each report filed pursuant to 11 CFR 104.1 shall disclose for both the reporting period and the calendar year:

(1) (i) the total contributions to the reporting committee;

(ii) the total offsets to contributions;

(iii) the net contributions (subtract total offsets from total contributions);

(2) (i) the reporting committee's total operating expenditures;

(ii) the total offsets to operating expenditures;

(iii) the net operating expenditures (subtract total offsets from total operating expenditures).

(d) *Reporting debts and obligations.* Each report filed under 11 CFR 104.1 shall, on Schedule—, disclose the amount and nature of outstanding debts and obligations owed by or to the reporting committee. Loans obtained by an individual prior to becoming a candidate for use in connection with that individual's campaign shall be reported as an outstanding loan owed to the lender by the candidate's principal campaign committee, if such loans are outstanding at the time the individual becomes a candidate. Where such debts and obligations are settled for less than their reported amount or value, each report filed under 11 CFR 104.1 shall contain a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the amount paid. See 11 CFR 114.10.

(e) *Use of Pseudonyms.* (1) To determine whether the names and addresses of its contributors are being used in violation of 11 CFR 104.15 to solicit contributions or for commercial

purposes, a political committee may submit up to ten (10) pseudonyms on each report filed.

(2) For purposes of this section, a pseudonym is a wholly fictitious name which does not represent the name of an actual contributor to a committee.

(3) If a committee uses pseudonyms it shall subtract the total dollar amount of the fictitious contributions from the total amount listed on line— of the Detailed Summary page, "Unitemized contributions from individual persons other than political committees." Thus, the committee will, for this purpose only, be overstating the amount of itemized contributions received and understating the amount of unitemized contributions received.

(4) No authorized committee of a candidate shall attribute more than $1,000 in contributions to the same pseudonym for each election and no other political committee shall attribute more than $5,000 in contributions to the same pseudonym in any calendar year.

(5) A committee using pseudonyms shall send a list of such pseudonyms under separate cover directly to the Reports Analysis Division, Federal Election Commission, 1325 K Street N.W., Washington, D.C. 20463, on or before the date on which any report containing such pseudonyms is filed with the Clerk of the House of Representatives, the Secretary of the Senate, or the Commission. The Commission shall maintain the list, but shall exclude it from the public record. A committee shall not send any list of pseudonyms to the Clerk of the House of Representatives, the Secretary of the Senate, or to any Secretary of State or equivalent state officer.

(6) A political committee shall not use pseudonyms for the purpose of circumventing the reporting requirements or the limitations and prohibitions of the Act.

(f) *Consolidated Reports.* Each principal campaign committee shall consolidate in each report those reports required to be filed with it. Such consolidated reports shall include: (1) reports submitted to it by any authorized committees and (2) the principal campaign committee's own report. Such consolidation shall be made on FEC Form— and shall be submitted with the reports of the principal campaign committee and with the reports, or applicable portions thereof, of the committees shown on the consolidation.

(g) Building Funds. Gifts, subscriptions, loans, advances, deposits of money or anything of value made to defray costs of construction or purchase of office facilities received by a political committee in accordance with 11 CFR 100.7(b)(12) shall be reported on Schedule —.

(h) Legal and Accounting Services. A committee which receives legal or accounting services pursuant to 11 CFR 100.7(b) (13) and (14) shall report, on Schedule—, the amounts paid for these services by the regular employer of the person(s) providing such services; the date(s) such services were performed; and the name of each person performing such services.

(i) Cumulative Reports. The reports required to be filed under 11 CFR 104.5 shall be cumulative for the calendar year to which they relate, but if there has been no change in a category reported in a previous report during that year, only the amount thereof need be carried forward.

§ 104.4 Independent expenditures by political committees (2 U.S.C. 434(c)).

(a) Every political committee which makes independent expenditures shall report all such expenditures on Schedule E in accordance with 11 CFR 104.3(b)(3)(vii). Every person (other than a political committee) shall report independent expenditures in accordance with 11 CFR Part 109.

(b) *24 Hour Reports.* Any independent expenditures aggregating $1,000 or more made after the 20th day, but more than 24 hours, before 12:01 A.M. of the day of the election, shall be reported within 24 hours after such independent expenditure is made. Such report shall be filed with the appropriate officers listed in 11 CFR 104.4(c) and shall contain the information required by 11 CFR 104.3(b)(3)(vii) indicating whether the independent expenditure is made in support of, or in opposition to, the candidate involved.

(c) *Where to File.* Reports of independent expenditures under 11 CFR 104.4 and Part 109 shall be filed as set forth at 11 CFR 104.4(c)(1) through (3).

(1) For independent expenditures in support of or in opposition to, a candidate for President or Vice-President: with the Commission and the Secretary of State for the State in which the expenditure is made.

(2) For independent expenditures in support of, or in opposition to, a candidate for the Senate: with the Secretary of the Senate and the Secretary of State for the State in which the candidate is seeking election.

(3) For independent expenditures in support of, or in opposition to, a candidate for the House of Representatives: with the Clerk of the House and the Secretary of State for the State in which the candidate is seeking election.

§ 104.5 Filing dates (2 U.S.C. 434(a)(2)).

(a) *Principal Campaign Committee of House or Senate Candidate.* Each treasurer of a principal campaign committee supporting a candidate for the House of Representatives or to the Senate shall file reports on the dates specified at 11 CFR 104.5(a)(1) and (2).

(1) Election Year Reports. (i) Pre-Election Reports. (A) Pre-election reports for the primary and general election shall be filed no later than 12 days before any primary or general election in which the candidate seeks election. If sent by registered or certified mail, the report shall be mailed no later than the 15th day before any election.

(B) The report shall disclose all receipts and disbursements as of the 20th day before a primary or general election.

(ii) Post-General Election Report. (A) The post-general election report shall be filed no later than 30 days after any general election in which the candidate seeks election.

(B) The report shall be complete as of the 20th day after the general election.

(iii) Quarterly Reports. (A) Quarterly reports shall be filed no later than the 15th day following the close of the immediately preceding calendar quarter (on April 15, July 15, and October 15), except that the report for the final calendar quarter of the year shall be filed on January 31 of the following calendar year.

(B) The report shall be complete as of the last day of each calendar quarter.

(C) The requirement for a quarterly report shall be waived if, under 11 CFR 104.5(a)(1)(i), a pre-election report is required to be filed during the period beginning on the fifth day after the close of the calendar quarter and ending on the fifteenth day after the close of the calendar quarter.

(2) Non-Election Year Reports. (i) Semi-annual reports. (A) The first report shall cover January 1 through June 30, and shall be filed no later than July 31.

(B) The second report shall cover July 1 through December 31, and shall be filed no later than January 31 of the following year.

(b) *Principal Campaign Committee of Presidential Candidate.* Each treasurer of a principal campaign committee of a candidate for President shall file reports on the dates specified at 11 CFR 104.5(b)(1) and (2).

(1) Election Year Reports. (i) If on January 1 of the election year, the committee has received or anticipates receiving contributions aggregating $100,000 or more, or has made or anticipates making expenditures aggregating $100,000 or more, it shall file monthly reports.

(A) Each report shall be filed no later than the 20th day after the last day of each month.

(B) The report shall be complete as of the last day of each month.

(C) In lieu of the monthly reports due in November and December, a pre-election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(i), a post-general election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(ii), and a year-end report shall be filed no later than January 31 of the following calendar year.

(ii) If on January 1 of the election year, the committee does not anticipate receiving or has not received contributions aggregating $100,000 or does not anticipate making or has not made expenditures aggregating $100,000, the committee shall file a preelection report or reports, a post general election report and, quarterly reports, as prescribed in 11 CFR 104.5(a)(1).

(iii) If during the election year, a committee filing under 11 CFR 104.5(b)(1)(ii) receives contributions aggregating $100,000 or makes expenditures aggregating $100,000, the treasurer shall begin filing monthly reports at the next reporting period.

(2) Non-Election Year Reports. During a non-election year, the treasurer shall file either (i) monthly reports as prescribed at 11 CFR 104.5(b)(1)(i); or (ii) quarterly reports as prescribed at 11 CFR 104.5(a)(1).

(c) *Committees Other Than Authorized Committees of Candidates.* Each political committee which is not the authorized committee of a candidate shall file either: election year and non-election year reports as prescribed at 11 CFR 104.5(c)(1) and (2); or monthly reports as prescribed at 11 CFR 104.5(c)(3). A political committee reporting under 11 CFR 104.5(c) may elect to change the frequency of its reporting from monthly to quarterly and semi-annually or vice versa. A committee may change its filing frequency only after notifying the Commission in writing of its intention at the time it files a required report under its current filing frequency. Such committee will then be required to file the next required report under its new filing frequency. A committee may change its filing frequency no more than once per calendar year.

(1) Election Year Reports. (i) Quarterly reports. (A) Quarterly reports shall be filed no later than the 15th day following the close of the immediately preceding calendar quarter, (on April 15, July 15, and October 15), except that the report for the final calendar quarter of the year shall be filed on January 31 of the following calendar year.

(B) The reports shall be complete as of the last day of the calendar quarter for which the report is filed.

(C) The requirement for a quarterly report shall be waived if under 11 CFR 104.5(c)(1)(ii) a pre-election report is required to be filed during the period beginning on the fifth day after the close of the calendar quarter and ending on the fifteenth day after the close of the calendar quarter.

(ii) Pre-Election Reports

(A) Pre-election reports for the primary and general election shall be filed by a political committee which makes contributions or expenditures in connection with any such election if such disbursements have not been previously disclosed. Pre-election reports shall be filed no later than 12 days before any primary or general election. If sent by registered or certified mail, the report shall be mailed no later than the 15th day before any election.

(B) The report shall disclose all receipts and disbursements as of the 20th day before a primary or general election.

(iii) Post-General Election Reports

(A) A post-general election report shall be filed no later than 30 days after any general election.

(B) The report shall be complete as of the 20th day after the general election.

(2) Non-Election year

(i) Semi-annual reports

(A) The first report shall cover January 1 through June 30, and shall be filed no later than July 31.

(B) The second report shall cover July 1 through December 31, and shall be filed no later than January 31 of the following year.

(3) Monthly Reports

(i) Except as provided at 11 CFR 104.5(c)(3)(B), monthly reports shall be filed no later than 20 days after the last day of the month.

(ii) In lieu of the monthly reports due in November and December, in any year in which a regularly scheduled general election is held, a pre-election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(i), a post general election report shall be filed as prescribed at 11 CFR 104.5(a)(1)(ii), and a year-end report shall be filed no later than January 31 of the following calendar year.

(d) *Committees supporting Vice Presidential Candidates:*

The treasurer of a committee supporting a candidate for the office of Vice President (other than a nominee of a political party) shall file reports on the same basis that the principal campaign committee of a Presidential candidate must file reports under 11 CFR 104.5(b).

(e) U.S. Post Mark:

A designation, report or statement sent by registered or certified mail shall be considered filed on the date of the U.S. post mark except that a twelve day pre-election report sent by certified or registered mail shall be mailed no later than the 15th day before any election. Designations, reports or statements sent by first class mail must be received by the close of business of the prescribed filing date to be timely filed.

(f) 48 Hour Notification of Contributions

If any contribution of $1,000 or more is received by any authorized committee of a candidate after the 20th day, but more than 48 hours, before 12:01 A.M. of the day of the election, the principal campaign committee of that candidate shall notify the Commission, the Clerk of the House, the Secretary of the Senate and the Secretary of State, as appropriate, within 48 hours of receipt of the contribution. The notification shall be in writing and shall include the name of the candidate and office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. The notification shall be in addition to the reporting of these contributions on the post-election report.

(g) 24 hour Report of Independent Expenditures:

Any independent expenditures aggregating $1,000 or more made after the 20th day, but more than 24 hours, before 12:01 A.M. of the day of the election, shall be reported within 24 hours after such independent expenditure is made. Such report shall be filed with the appropriate officers listed in 11 CFR 104.4(c) and shall contain the information required by 11 CFR 104.3(b)(3)(vii) indicating whether the independent expenditure is made in support of, or in opposition to, the candidate involved.

(h) Special Election Reports:

(1) Within 5 days of the setting of a special election, the Commission shall set filing dates for reports to be filed by principal campaign committees of candidates seeking election, or nomination for election, in special elections and for political committees, other than authorized committees, which make contributions to or expenditures on behalf of a candidate or candidates in special elections. The Commission shall publish such reporting dates in the Federal Register and shall notify the principal campaign committees of all candidates in such election of the reporting dates. The Commission shall not require such committees to file more than one pre-election report for each election and one post-election report for the election which fills the vacancy.

(2) Reports required to be filed under 11 CFR 104.5(a) or (c) may be waived by the Commission for committees filing special election reports if a report under 11 CFR 104.5(a) or (c) is due within 10 days of the date a special election report is due. The Commission shall notify all appropriate committees of reports so waived.

§ 104.6 Form and content of internal communications reports. (2 U.S.C. 431(a)(B)(iii)).

(a) *Form.* Every membership organization or corporation which makes disbursements for communications pursuant to 11 CFR 100.8(b)(4) and 114.3 shall report to the Commission on FEC Form 7 such costs which are directly attributable to any communication expressly advocating the election or defeat of a clearly identified candidate (other than a communication primarily devoted to subjects other than the election or defeat of a clearly identified candidate), if such costs exceed $2,000 for any election.

(1) For the purposes of 11 CFR 104.6(a), "election" means two separate processes in a calendar year, to each of which the $2,000 threshold described above applies separately. The first process is comprised of all primary elections for federal office, wherever and whenever held; the second process is comprised of all general elections for federal office, wherever and whenever held.

(2) The term election shall also include each special election held to fill a vacancy in a Federal office (11 CFR 100.2(f)) or each runoff election (11 CFR 100.2(d)).

(b) *Filing Dates.* Organizations required to report under 11 CFR 104.6(a) shall file such reports during a calendar year in which a regularly scheduled general election is held. Such reports shall be filed quarterly in accordance with 11 CFR 104.5(a)(1)(iii) and, with respect to any general election, in accordance with 11 CFR 104.5(a)(1)(i). The organization shall be required to file reports beginning with the first reporting period during which the aggregate cost for such communications exceeds $2,000 per election as defined in 11 CFR 104.6(a)(1), and for each quarter thereafter in which the organization makes additional disbursements in connection with the same election.

(c) Each report filed under 11 CFR 104.6 shall include, for each communication:

(1) The type of communication (such as direct mail; telephone or telegram);

(2) The date(s) of the communication;

(3) The name of the candidate, the office sought (and the district and state of the office, if applicable), and whether the communication was for the primary or general election;

(4) Whether the communication was in support of or in opposition to, a particular candidate; and

(5) The cost of the communication.

104.7 Best efforts. (2 U.S.C. 432(i)).

(a) When the treasurer of a political committee shows that best efforts have been used to obtain, maintain and submit the information required by the Act for the political committee, any report of such committee shall be considered in compliance with the Act.

(b) With regard to reporting the identification as defined at 11 CFR 100.12 of each person whose contribution(s) to the committee and its affiliated committees aggregate in excess of $200 in a calendar year (pursuant to 11 CFR 104.3(a)(4)), the treasurer will not be deemed to have exercised best efforts to obtain the required information unless he or she has made at least one effort per solicitation either by a written request or by an oral request documented in writing to obtain such information from the contributor. For purposes of 11 CFR 104.7(b), such effort shall consist of a clear request for the information (i.e., name, mailing address, occupation, and name of employer) which request informs the contributor that the reporting of such information is required by law

§ 104.8 Uniform reporting of contributions.

(a) A reporting committee shall disclose the identification of each individual who contributes an amount in excess of $200. This identification shall include the individual's name, mailing address, occupation, the name of his or her employer, if any, and the date of receipt and amount of any such contribution. If an individual contributor's name is known to have changed since an earlier contribution reported during the calendar year, the exact name or address previously used shall be noted with the first reported contribution from that contributor subsequent to the name change.

(b) In each case where a contribution received from an individual in a reporting period is added to previously unitemized contributions from the same individual and the aggregate exceeds $200 in a calendar year the reporting committee shall disclose the identification of such individual along with the date of receipt and amount of any such contribution. Except for contributions by payroll deduction, each additional contribution from the individual shall be separately itemized. In the case of a political committee other than an authorized committee which receives contributions through a payroll deduction plan, such committee is not required to separately itemize each additional contribution received from the contributor during the reporting period. In lieu of separate itemization, such committee may report: the aggregate amount of contributions received from the contributor through the payroll deduction plan during the reporting period; the identification of the individual; and a statement of the amount deducted per pay period.

(c) Absent evidence to the contrary, any contribution made by check, money order, or other written instrument shall be reported as a contribution by the last person signing the instrument prior to delivery to the candidate or committee.

(d) A contribution which represents contributions by more than one person shall indicate on the written instrument, or on an accompanying written statement signed by all contributors, the amount to be attributed to each contributor.

§ 104.9 Uniform reporting of expenditures.

(a) The authorized committees of a candidate shall report the full name and mailing address of each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet the committee's operating expenses together with the date, amount and purpose of such expenditure. As used in 11 CFR 104.9, "purpose" means a brief statement or description as to the reasons for the disbursement. See 11 CFR 104.3 (b)(3)(i)(A).

(b) In each case when an expenditure made to a recipient in a reporting period is added to previously unitemized expenditures to the same recipient and the total exceeds $200 for the calendar year, the reporting committee shall disclose the recipient's full name and mailing address on the prescribed reporting forms, together with the date, amount and purpose of such expenditure. As used in 11 CFR 104.9, "purpose means a brief statement or description as to the reason for the disbursement as defined at 11 CFR 104.3(b)(3)(i)(A).

§ 104.10 Allocation of expenditures among candidates.

A political committee making an expenditure on behalf of more than one candidate for Federal office or on behalf

of candidates for both Federal and non-Federal office shall allocate the expenditure(s) among the candidates on a reasonable basis pursuant to 11 CFR Part 106, and report the allocation for each Federal candidate. The treasurer shall retain all documents supporting the allocation in accordance with 11 CFR 104.14.

§ 104.11 Continuous reporting of debts and obligations.

(a) Debts and obligations owed by or to a political committee which remain outstanding shall be continuously reported until extinguished. See 11 CFR 104.3(d). These debts and obligations shall be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. Where such debts and obligations are settled for less than their reported amount or value, the reporting committee shall include a statement as to the circumstances and conditions under which the debt or obligation was extinguished and the amount paid.

(b) A debt, obligation, or other promise to make an expenditure, the amount of which is $500 or less, shall be reported as of the time payment is made or no later than 60 days after such obligation is incurred, whichever comes first. Any loan, debt or obligation, the amount of which is over $500 shall be reported as of the time of the transaction.

§ 104.12 Beginning cash on hand for political committees.

Political committees which have cash on hand at the time of registration shall disclose on their first report the source(s) of such funds, including the information required by 11 CFR 104.3(a)(1). The cash on hand balance is assumed to be composed of those contributions most recently received by the committee. The committee shall exclude from funds to be used for Federal elections any contributions not permissible under the Act. See 11 CFR Parts 110, 114, and 115.

§ 104.13 Disclosure of receipt and consumption of in-kind contributions.

(a) (1) The amount of an in-kind contribution shall be equal to the usual and normal value on the date received. Each in-kind contribution shall be reported as a contribution in accordance with 11 CFR 104.3(a).

(2) Except for items noted in 11 CFR 104.13(b), each in-kind contribution shall also be reported as an expenditure at the same usual and normal value and reported on the appropriate expenditure schedule, in accordance with 11 CFR 104.3(b).

(b) Contributions of stocks, bonds, art objects, and other similar items to be liquidated shall be reported as follows:

(1) If the item has not been liquidated at the close of a reporting period, the committee shall record as a memo entry (not as cash) the item's fair market value on the date received, including the name and mailing address (and, where in excess of $200, the occupation and name of employer) of the contributor.

(2) When the item is sold, the committee shall record the proceeds. It shall also report the (i) name and mailing address (and, where in excess of $200, the occupation and name of employer) of the purchaser, if purchased directly from the candidate or committee (as the purchaser shall be considered to have made a contribution to the committee), and (ii) the identification of the original contributor.

§ 104.14 Formal requirements regarding reports and statements.

(a) Each individual having the responsibility to file a designation, report or statement required under this subchapter shall sign the original designation, report or statement.

(b) Each political committee or other person required to file any report or statement under this subchapter shall maintain all records relevant to such reports or statements as follows:

(1) Maintain records, including bank records, with respect to the matters required to be reported, including vouchers, worksheets, receipts, bills and accounts, which shall provide in sufficient detail the necessary information and data from which the filed reports and statements may be verified, explained, clarified, and checked for accuracy and completeness;

(2) Preserve a copy of each report or statement required to be filed under 11 CFR Parts 102 and 104;

(3) Keep all reports required to be preserved under 11 CFR 104.14 available for audit, inspection, or examination by the Commission or its authorized representative(s) for a period of not less than 3 years after the report or statement is filed. (See 11 CFR 102.9(c) for requirements relating to preservation of records and accounts.)

(c) Acknowledgements by the Commission, the Clerk of the House, or the Secretary of the Senate, of the receipt of Statements of Organization, reports or other statements filed under 11 CFR Parts 101, 102 and 104 are intended solely to inform the person filing the report of its receipt and neither the acknowledgement nor the acceptance of a report or statement shall constitute express or implied approval, or in any manner indicate that the contents of any report or statement fulfill the filing or other requirements of the Act or of these regulations.

(d) Each treasurer of a political committee, and any other person required to file any report or statement under these regulations and under the Act, shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it.

§ 104.15 Sale or use restriction (2 U.S.C. 438(a)(4)).

(a) Any information copied, or otherwise obtained, from any report or statement, or any copy, reproduction, or publication thereof, filed with the Commission Clerk of the House, Secretary of the Senate, or any Secretary of State or other equivalent State officer, shall not be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose, except that the name and address of any political committee may be used to solicit contributions from such committee.

(b) For purposes of 11 CFR 104.15, "soliciting contributions" includes soliciting any type of contribution or donation, such as political or charitable contributions.

(c) The use of information, which is copied or otherwise obtained from reports filed under 11 CFR Part 104, in newspapers, magazines, books or other similar communications is permissible as long as the principal purpose of such communications is not to communicate any contributor information listed on such reports for the purpose of soliciting contributions or for other commercial purposes.

§ 104.16 Audits (2 U.S.C. 438(b)).

(a) The Commission may conduct audits of any political committee required to register under 11 CFR Part 102 and to report under 11 CFR Part 104. Prior to conducting any such audit or investigation, the Commission shall conduct an internal review of reports filed by selected committees to determine whether reports filed by a particular committee meet thresholds established by the Commission for substantial compliance with the Act. Such thresholds may vary according to the type of political committee being reviewed.

(b) The Commission may, upon affirmative vote of four members, conduct an audit and field investigation of any committee which meets the thresholds established pursuant to 11

CFR 104.16(a). All such audits and investigations shall commence within 30 days of such vote except that any audit or investigation of an authorized committee of a candidate shall be commenced within 6 months of the election for which such committee was authorized.

(c) The Commission may, upon affirmative vote of four members, conduct an audit and field investigation of any committee pursuant to 11 CFR 111.10.

(d) All audits and field investigations concerning the verification for and the receipt and use of payments under Chapters 95 and 96 of Title 26 shall be given priority over any audit or investigation of committees not receiving such payments.

§ 104.17 Content of reports; Presidential and Vice Presidential Committees (2 U.S.C. 431 note).

(a) For all elections occurring prior to January 1, 1981, authorized committees of candidates for President and Vice President may comply with the requirements of 11 CFR 104.17 in lieu of 11 CFR 104.3 (a) and (b).

(b) Each report filed under 11 CFR 104.17 shall include all receipts and disbursements from the close of the last period reported to the close of the current reporting period, and shall disclose—

(1) The amount of cash on hand at the beginning of the calendar year and at the beginning of the reporting period, including currency, balance on deposit in banks and savings and loan institutions, checks, negotiable money orders, and other paper commonly accepted by a bank in a deposit;

(2) The identification, occupation, and principal place of business, if any, of each person who has made a contribution to or for the committee or candidate during the reporting period in an amount or value in excess of $100, or in an amount of less than $100 if the person's contributions within a calendar year total more than $100, together with the amount and date of such contributions;

(3)(i) The total of contributions made to or for a committee or candidate during the reporting period and not reported under (b)(2) above;

(ii) Candidates and committees, which, in addition to the required totals, choose to itemize contributions not in excess of $100, shall itemize these by attaching a separate schedule. Contributions of $100 or less shall not be reported on the same schedule with the required itemized contributions in excess of $100;

(4) The identification of each political committee or other political organization from which the reporting committee or the candidate received, or to which the reporting committee or the candidate made, any transfer of funds in any amount during the reporting period, together with the amounts and dates of all transfers, including aggregate year to date transfers, received from non-affiliated committees, and complete disclosure, pursuant to 11 CFR 110.6 of each transaction involving earmarked funds;

(5) Each loan—

(i)(A) To or from any political committee; or

(B) To a candidate or his or her authorized committees which is—

(ii)(A) Over $100 in value and made during the reporting period; or

(B) Less than $100 in value and the total of the loans from one person is over $100 shall be reported together with the identification, occupation, and principal place of business, if any, of each lender, endorser, or guarantor, as the case may be. The report shall include the date and amount of the loan;

(6) The total amount of proceeds from—

(i) The sale of tickets of each dinner, luncheon, rally, and other fundraising event;

(ii) Mass collections made at these events; and

(iii) Sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, jewelry, and similar materials, as long as the items are sold by the candidate or an authorized committee;

(7) Each receipt in excess of $100 received during the reporting period, not otherwise listed under (b) (2) through (6) above, together with the identification, date and amount received, occupation, and principal place of business of each such person from whom such receipts have been received during the reporting period; including—

(i) The interest or other proceeds from the investment, in an interest-bearing account, note, bill, stock, bond, or other similar device, of funds transferred out of a checking account in a campaign depository; and

(ii) Rebates and refunds received by the candidate or committee;

(8)(i) The total of all receipts by or for the committee or candidate during the reporting period and the calendar year; and

(ii) Total receipts less transfers between affiliated political committees (as defined in 11 CFR 100.5(g));

(9) The identification of each person to whom expenditures have been made by or on behalf of the committee or candidate within the reporting period which total more than $100, or in an amount less than $100 if the total exceeds $100 within a calendar year, together with the amount, date and particulars of each such expenditure and the name, address of, and office sought by, each candidate on whose behalf such expenditures were made;

(10) The total of expenditures made by or on behalf of the committee or candidate during the reporting period and the calendar year together with total expenditures less transfers between affiliated political committees (as defined in 11 CFR 100.5) of the candidate;

(11) The amount and nature of outstanding debts and obligations owed by or to the committee including any written contracts, agreements, or promises to make expenditures, see 11 CFR 104.9;

(12) Independent expenditures; see 11 CFR Part 104.4.

PART 105—DOCUMENT FILING (2 U.S.C. 432(g))

105.1 Place of filing; House candidates, their principal campaign committees, and committees supporting only House candidates (2 U.S.C. 432(g)(1)).

105.2 Place of filing; Senate candidates, their principal campaign committees, and committees supporting only Senate candidates (2 U.S.C. 432(g)(2)).

105.3 Place of filing; Presidential candidates and their principal campaign committees (2 U.S.C. 432(g)(4)).

105.4 Place of filing; political committees and other persons (2 U.S.C. 432(g)(4)).

105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission (2 U.S.C. 432(g)(3)).

Authority: 2 U.S.C. 432(g), 438(a)(8).

§ 105.1 Place of filing; House candidates, their principal campaign committees, and committees supporting only House candidates (2 U.S.C. 432(g)(1)).

All designations, statements, reports, and notices, as well as any modification(s) or amendment(s) thereto, required to be filed under 11 CFR Parts 101, 102, and 104 by a candidate for nomination or election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, by his or her principal campaign committee or by any other political committee(s) which supports only candidates for nomination for election or election to the House of Representatives, shall be filed in original form with, and received by, the Clerk of the House of Representatives as custodian for the Federal Election Commission.

§ 105.2 Place of filing; Senate candidates, their principal campaign committees, and committees supporting only Senate candidates (2 U.S.C. 432(g)(2)).

All designations, statements, reports, and notices as well as any modification(s) or amendment(s) thereto, required to be filed under 11 CFR Parts 101, 102, and 104 by a candidate for nomination or election to the office of United States Senator, by his or her principal campaign committee or by any other political committee(s) which supports only candidates for nomination for election or election to the Senate of the United States shall be filed in original form with, and received by, the Secretary of the Senate, as custodian for the Federal Election Commission.

§ 105.3 Place of filing; Presidential candidates and their principal campaign committees (2 U.S.C. 432(g)(4)).

All designations, statements, reports, and notices, as well as any modification(s) or amendment(s) thereto, required to be filed under 11 CFR Parts 101, 102 and 104 by a candidate for nomination for election or election to the office of President or Vice President of the United States or by his or her principal campaign committee shall be filed in original form with the Federal Election Commission.

§ 105.4 Place of filing; political committees and other persons (2 U.S.C. 432(g)(4)).

All designations, statements, reports, and notices, as well as any modifications or amendments thereto, required to be filed under 11 CFR Parts 101, 102, and 104 by a political committee other than any principal campaign committee or any committee referred to in 11 CFR 105.1, 105.2, or 105.3, by persons other than political committees making independent expenditures under 11 CFR Part 109, and by persons required to report the cost of communications under 11 CFR 104.6, shall be filed in original form with the Federal Election Commission.

§ 105.5 Transmittal of microfilm copies and photocopies of original reports filed with the Clerk of the House and the Secretary of the Senate to the Commission (2 U.S.C. 432(g)(3)).

(a) Either a microfilmed copy or photocopy of all original designations, statements, reports, modifications or amendments required to be filed pursuant to 11 CFR 105.1 and 105.2 shall be transmitted by the Clerk of the House or the Secretary of the Senate to the Commission as soon as possible, but in any case no later than two (2) working days after receiving such designations, statements, reports, modifications, or amendments.

(b) The Clerk of the House and the Secretary of the Senate shall then forward to the Commission a microfilm copy and a photocopy of each designation, statement, and report, or any modification or amendment thereto, filed with them pursuant to 11 CFR 105.1 and 105.2.

(c) The Clerk of the House and the Secretary of the Senate shall place a time and date stamp on each original designation, statement, report, modification or amendment received.

PART 106—ALLOCATION OF CANDIDATE AND COMMITTEE ACTIVITIES

2. In Part 106, § 106.1(c)(3) is added; §§ 106.2(a), and 106.3(d) are revised to read as follows:.

§ 106.1 Allocation of expenditures among (or between) candidates and activities.

* * * * *

(c) * * *

(3) Payments made for the cost of certain voter registration and get-out-the-vote activities conducted by State or local party organizations on behalf of any Presidential or Vice-Presidential candidate(s) are exempt from the definition of a contribution or an expenditure under 11 CFR 100.7(b)(17) and 100.8(b)(18). If the State or local party organization includes references to any candidate(s) seeking nomination or election to the House of Representatives or Senate of the United States the portion of the cost of such activities allocable to such candidate(s) shall be considered a contribution to or an expenditure on behalf of such candidate(s), unless such reference is incidental to the overall activity. If such reference is incidental to the overall activity, such costs shall not be considered a contribution to or expenditure on behalf of any candidate(s).

* * * * *

§ 106.2 Allocation of expenditures among States by candidates for Presidential nomination.

(a) Expenditures made by a candidate's authorized committee(s) which seek to influence the nomination of that candidate for the office of President of the United States with respect to a particular State shall be allocated to that State. This allocation of expenditures shall be reported on FEC Form 3c.

* * * * *

§ 106.3 Allocation of expenses between campaign and non-campaign related travel.

* * * * *

(d) Costs incurred by a candidate for the United States Senate or House of Representatives for travel between Washington, D.C. and the State or district in which he or she is a candidate need not be reported herein unless the costs are paid by the candidate's authorized committee(s), or by any other political committee(s).

* * * * *

(2 U.S.C. 438(a)(8))

3. Parts 108 and 109 are revised to read as follows:

PART 108—FILING COPIES OF REPORTS AND STATEMENTS WITH STATE OFFICERS (2 USC 439)

Sec.

108.1 Filing requirements (2 U.S.C. 439(a)(1)).
§ 108.2 Filing copies of reports and statements in connection with the campaign of any candidate seeking nomination for election to the Office of President or Vice-President (2 U.S.C. 439(a)(2)).
§ 108.3 Filing copies of reports and statements in connection with the campaign of any Congressional Candidate (2 U.S.C. 439(a)(2)).
108.4 Filing copies of reports by committees other than principal campaign committees (2 U.S.C. 439(a)(2)).
108.5 Time and Manner of filing copies (2 U.S.C. 434(a)(2)).
108.6 Duties of State officers (2 U.S.C. 439(b)).
108.7 Effect on State law (2 U.S.C. 453).
108.8 Exemption for the District of Columbia.

Authority: 2 U.S.C. 434(a)(2) 438(a)(8). 439. 453.

§ 108.1 Filing requirements (2 U.S.C. 439(a)(1)).

A copy of each report and statement required to be filed by any person under the Act shall be filed either with the Secretary of State of the appropriate State or with the State officer who is charge by State law with maintaining state election campaign reports. In States where reports are to be filed with a designated officer other than the Secretary of State, the chief executive officer of that State shall notify the Commission of such designation.

§ 108.2 Filing copies of reports and statements in connection with the campaign of any candidate seeking nomination for election to the Office of President or Vice-President (2 U.S.C. 439(a)(2)).

A copy of each report and statement required to be filed by a Presidential or Vice Presidential candidate's principal campaign committee under the Act,

including 11 CFR Part 104, or by any other person making independent expenditures in connection with a candidate seeking nomination for election to the office of President or Vice-President under 11 CFR 104.4 or Part 109, shall be filed with the State officer of each State in which an expenditure is made in connection with the campaign of a candidate seeking nomination for election to the office of President or Vice-President. The report and statement shall contain all transactions pertaining to that State during the reporting period. Any committee, other than a Presidential or Vice Presidential candidate's principal campaign committee and the candidate's authorized committee(s) shall also file a copy of each report and statement with the appropriate State officer of the State in which such committee has its headquarters pursuant to 11 CFR 108.4.

§ 108.3 Filing copies of reports and statements in connection with the campaign of any congressional candidate (2 U.S.C. 439(a)(2)).

A copy of each report and statement required to be filed by a committee under 11 CFR Part 104, or by any other person under 11 CFR Part 109 shall be filed with the appropriate State officer of that State in which an expenditure is made in connection with the campaign of a candidate for nomination for election or election, to the office of Senator, Representative in, Delegate or Resident Commissioner to the Congress except that political committees other than authorized committees are required to file, and the Secretary of State is required to retain only that portion of the report applicable to candidates seeking election in that State.

§ 108.4 Filing copies of reports by committees other than principal campaign committees (2 U.S.C. 439(a)(2)).

Any authorized committee, which makes contributions in connection with a Presidential election and which is required to file a report(s) and statement(s) under the Act shall file a copy of such report(s) and statement(s) with the State officer of the State in which both the recipient and contributing committees have their headquarters.

§ 108.5 Time and manner of filing copies (2 U.S.C. 434(a)(2)).

A copy of any report or statement required to be filed with a State officer under 11 CFR Part 108 shall be filed at the same time as the original report is filed. Each copy of such report or statement shall be a complete, true, and legible copy of the original report or statement filed.

§ 108.6 Duties of State officers (2 U.S.C. 439(b)).

The Secretary of State, or the equivalent State officer shall carry out the duties set forth in 11 CFR 108.5(a) through (d):

(a) Receive and maintain in an orderly manner all reports and statements required to be filed;

(b) Preserve such reports and statements (either in original form or in facsimile copy by microfilm or otherwise) filed under the Act for a period of 2 years from the date of receipt;

(c) Make the reports and statements filed available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during office hours and permit copying of any such reports or statements by hand or by duplicating machine, at the request of any person except that such copying shall be at the expense of the person making the request and at a reasonable fee;

(d) Compile and maintain a current list of all reports and statements or parts of such reports and statements pertaining to each candidate.

§ 108.7 Effect on State law (2 U.S.C. 453).

(a) The provisions of the Federal Election Campaign Act of 1971, as amended, and rules and regulations issued thereunder, supersede and preempt any provision of State law with respect to election to Federal office.

(b) Federal law supersedes State law concerning the—

(1) Organization and registration of political committees supporting Federal candidates;

(2) Disclosure of receipts and expenditures by Federal candidates and political committees; and

(3) Limitation on contributions and expenditures regarding Federal candidates and political committees.

(c) The Act does not supersede State laws which provide for the—

(1) Manner of qualifying as a candidate or political party organization;

(2) Dates and places of elections;

(3) Voter registration;

(4) Prohibition of false registration, voting fraud, theft of ballots, and similar offenses; or

(5) Candidate's personal financial disclosure.

§ 108.8 Exemption for the District of Columbia

Any copy of a report required to be filed with the equivalent officer in the District of Columbia shall be deemed to be filed if the original has been filed with the Clerk, Secretary, or the Commission, as appropriate.

PART 109—INDEPENDENT EXPENDITURES (2 U.S.C. 431(17), 434(c))

Sec.

109.1 Definitions (2 U.S.C. 431(17)).
109.2 Reporting of independent expenditures by persons other than a political committee (2 U.S.C. 434(c)).
109.3 Non-authorization notice (2 U.S.C. 441d).

Authority: 2 U.S.C. 431(17), 434(c), 438(a)(8), 441d.

§ 109.1 Definitions (2 U.S.C. 431(17)).

(a) "Independent expenditure" means an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate which is not made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of such candidate.

(b) For purposes of this definition—

(1) "Person" means an individual, partnership, committee, association, or any organization or group of persons, including a separate segregated fund established by a labor organization, corporation, or national bank (see Part 114) but does not mean a labor organization, corporation, or national bank.

(2) "Expressly advocating" means any communication containing a message advocating election or defeat, including but not limited to the name of the candidate, or expressions such as "vote for," "elect," "support," "cast your ballot for," and "Smith for Congress," or "vote against," "defeat," or "reject."

(3) "Clearly identified candidate" means that the name of the candidate appears, a photograph or drawing of the candidate appears, or the identity of the candidate is otherwise apparent by unambiguous reference.

(4) "Made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any agent or authorized committee of the candidate" means—

(i) Any arrangement, coordination, or direction by the candidate or his or her agent prior to the publication, distribution, display, or broadcast of the communication. An expenditure will be presumed to be so made when it is—

(A) Based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or by the candidate's agents,

with a view toward having an expenditure made;

(B) Made by or through any person who is, or has been, authorized to raise or expend funds, who is, or has been, an officer of an authorized committee, or who is, or has been, receiving any form of compensation or reimbursement from the candidate, the candidate's committee or agent;

(ii) But does not include providing to the expending person upon request Commission guidelines on independent expenditures.

(5) "Agent" means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities he or she may authorize expenditures.

(c) An expenditure not qualifying under this section as an independent expenditure shall be a contribution in-kind to the candidate and an expenditure by the candidate, unless otherwise exempted.

(d)(1) The financing of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, his campaign committees, or their authorized agents shall be considered a contribution for the purpose of contribution limitations and reporting responsibilities by the person making the expenditure but shall not be considered an expenditure by the candidate or his authorized committees unless made with the cooperation or with the prior consent of, or in consultation with, or at the request or suggestion of, a candidate or any authorized agent or committee thereof.

(2) This paragraph does not affect the right of a State or subordinate party committee to engage in such dissemination, distribution, or republication as agents designated by the national committee pursuant to § 110.7(a)(4).

(e) No expenditure by an authorized committee of a candidate on behalf of that candidate shall qualify as an independent expenditure.

§ 109.2 Reporting of independent expenditures by persons other than a political committee. (2 U.S.C. 434(c)).

(a) Every person other than a political committee, who makes independent expenditures aggregating in excess of $250 during a calendar year shall file a signed statement or report on FEC Form with the Commission, the Clerk of the House or Secretary of the Senate in accordance with 11 CFR 104.4(c).

(1) If a signed statement is submitted, the statement shall include: (i) the reporting person's name mailing address, occupation and the name of his or her employer, if any; (ii) the identification (name and mailing address) of the person to whom the expenditure was made; (iii) the amount, date and purpose of each expenditure; (iv) a statement which indicates whether such expenditure was in support of, or in opposition to a candidate, together with the candidate's name and office sought; (v) a notarized certification under penalty of perjury as to whether such expenditure was made in cooperation, consultation or concert with, or at the request or suggestion of any candidate or any authorized committee or agent thereof; and (vi) the identification of each person who made a contribution in excess of $200 to the person filing such report, which contribution was made for the purpose of furthering the reported independent expenditure.

(2) Reports or statements filed under this section shall be filed at the end of the reporting period (quarterly pre-election post-election semi-annual annual) (See 11 CFR 104.5)) during which any independent expenditure which aggregrates in excess of $250 is made and in any reporting period thereafter in which additional independent expenditures are made.

(b) Independent expenditures aggregating $1,000 or more made by any person after the twentieth day, but more than 24 hours before 12:01 A.M of the day of an election shall be reported within 24 hours after such independent expenditure is made. Such report or statement shall contain the information required by 11 CFR 109.2(a) indicating whether the independent expenditure is made in support of, or in opposition to, a particular candidate and shall be filed with the appropriate officers in accordance with 11 CFR 104.4(c).

§ 109.3 Non-authorization notice. (2 U.S.C. 441d).

Whenever any person makes an independent expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, such person shall comply with the requirements of 11 CFR 110.11.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS (2 U.S.C. 441a)

4. In Part 110, § 110.2(b), 110.6(c)(4), (c)(4)(i), and 110.7(c)(2) are revised; 110.7(c)(3) is deleted; 110.11(a)(1) and (2) are revised and 110.11(c) is deleted; 110.12(a) and 110.12(b)(5) are revised, 110.12(b)(6) is added. The amended provisions read as follows:

§ 110.2 Contributions by multi-candidate committees. (2 U.S.C. 441a(a)(2)).

* * * * *

(b) "Multi-candidate political committee" means a committee as defined in 11 CFR 100.5(e)(3).

* * * * *

§ 110.6 Earmarked contributions. (2 U.S.C. 441a(a)(7)(A)).

* * * * *

(c) * * *

(4) The reports in (1) and (2) above shall contain the information required in 11 CFR 110.6(c)(4) (i) through (iii).

(i) The name and mailing address of the contributor and if the contribution exceeds $200, the contributor's occupation and the name of his or her employer.

* * * * *

§ 110.7 Party committee expenditure limitations. (2 U.S.C. 441a(d)).

* * * * *

(c) * * *

(2) Any other method, submitted in advance and approved by the Commission which permits control over expenditures.

§ 110.11 Communications; advertising. (2 U.S.C. 441d).

(a)(1) Except as provided at 11 CFR 110.11(a)(2) whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing or any other type of general public-political advertising, a disclaimer meeting the requirements of 11 CFR 110.11(a)(1) (i), (ii), (iii), or (iv) shall appear or be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of persons who paid for or who authorized the communication; but such person is not required to place a disclaimer on the front face or page of any such material:

(i) Such communication is paid for and authorized by a candidate, an authorized committee of a candidate, or its agent(s), shall clearly state that the

communication has been paid for by such authorized political committee; or

(ii) Such communication, if authorized by a candidate, an authorized committee of a candidate or an agent thereof, but is paid for by any other person(s), shall clearly state that the communication is authorized by such candidate, authorized committee or agent and is paid for by such other persons; or

(iii) For solicitations on behalf of a candidate, such communication if not authorized by a candidate, an authorized political committee of a candidate, or its agents shall clearly state the full name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee.

(iv) Such communication, if paid for and authorized by a political committee, other than an authorized committee of a candidate(s) shall clearly state that the communication has been paid for by such political committee.

(2) The requirements of 11 CFR 110.11(a)(1) do not apply to bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed.

* * * * *

§ 110.12 Honoraria. (2 U.S.C. 441i).

(a) No individual while an elected or appointed officer or employee of any branch of the federal government shall accept any honorarium which exceeds the limitations of 11 CFR 110.12(a) (1) and (2).

(1) Any honoraria which exceeds $2,000 shall not be accepted.

(2) The aggregate amount of all honorarium accepted by any individual in any calendar year, which honoraria are not otherwise prohibited by 11 CFR 110.12(a)(1), shall not exceed $25,000.

(3) For purposes of 11 CFR 110.12(a), amounts which are returned to the person who paid for the honorarium before the end of the calendar year in which it was received shall not be added to the aggregate amount of honoraria received by an individual during any calendar year.

(4) For purposes of 11 CFR 110.12(a), an honorarium shall be treated as accepted only in the year in which that honorarium is received.

(b) * * *

(5) *Accepted.* "Accepted" means that there has been actual or constructive receipt of the honorarium and that the federal officeholder or employee exercises dominion or control over it and determines its subsequent use. However, an honorarium is not accepted if the federal officeholder or employee makes a suggestion that the honorarium be given instead to a charitable organization which is selected by the person paying the honorarium from a list of 5 or more charitable organizations provided by the officeholder or employee. Nothing in this paragraph shall be construed as an interpretation of relevant provisions of the Internal Revenue Service Code (Title 26, United State Code).

(6) *Charitable Organization.* "Charitable organization" means any organization described in 26 U.S.C. § 170(c).

* * * * *

(2 U.S.C. 438(a)(8), 441a, 441d, 441e, 441f, 441g, 441h, 441i).

5. Parts 111, 112, and 113 are revised to read as follows:

PART 111—COMPLIANCE PROCEDURE (2 U.S.C. 437g, 2 U.S.C. 437d(a))

Sec.

111.1 Scope
111.2 Computation of Time
111.3 Initiation of Compliance Matters (2 U.S.C. 437g(a)(1), (2))
111.4 Complaints (2 U.S.C. 437g(a)(1))
111.5 Initial Complaint Processing; Notification (2 U.S.C. 437g(a)(1))
111.6 Opportunity to Demonstrate That No Action Should Be Taken on Complaint-Generated Matters (2 U.S.C. 437g(a)(1))
111.7 General Counsel's Recommendation on Complaint-Generated Matters (2 U.S.C. 437g(a)(1))
111.8 Internally Generated Matters; Referrals (2 U.S.C. 437g(a)(2))
111.9 The Reason to Believe Finding; Notification (2 U.S.C. 437g(a)(2))
111.10 Investigation (2 U.S.C. 437g(a)(2))
111.11 Written Questions Under Order (2 U.S.C. 437d(a)(1))
111.12 Subpoenas and Subpoenas Duces Tecum; Depositions (2 U.S.C. 437d(a)(3), (4))
111.13 Service of Subpoenas, Orders and Notifications (2 U.S.C. 437d(a)(3), (4))
111.14 Witness Fees and Mileage (2 U.S.C. 437d(a)(5))
111.15 Motions to Quash or Modify a Subpoena (2 U.S.C. 437d(a)(3), (4))
111.16 The Probable Cause to Believe Recommendation; Briefing Procedures (2 U.S.C. 437d(a)(3))
111.17 The Probable Cause to Believe Finding; Notification (2 U.S.C. 437d(a)(4))
111.18 Conciliation (2 U.S.C. 437g(a)(4))
111.19 Civil Proceedings (2 U.S.C. 437g(a)(6))
111.20 Public Disclosure of Commission Action (2 U.S.C. 437g(a)(4))
111.21 Confidentiality (2 U.S.C. 437g(a)(12))
111.22 Ex parte Communications
111.23 Representation by Counsel; Notification

Authority: 2 U.S.C. 437g, 437d(a), 438(a)(8).

§ 111.1 Scope. (2 U.S.C. 437g).

These regulations provide procedures for processing possible violations of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. 431, *et seq.*) and chapters 95 and 96 of the Internal Revenue Code of 1954 (26 U.S.C. 9001, *et seq.* and 9031 *et seq.*).

§ 111.2 Computation of time.

(a) *General rule:* In computing any period of time prescribed or allowed by this part, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday. As used in this section, the term "legal holiday" includes New Year's Day, President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday for employees of the United States by the President or the Congress of the United States.

(b) *Special Rule for Periods Less Than Seven Days:* When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

(c) *Special Rule for Service By Mail:* Whenever the Commission of any person has the right or is required to do some act within a prescribed period after the service of any paper by or upon the Commission or such person and the paper is served by or upon the Commission or such person by mail, three (3) days shall be added to the prescribed period.

§ 111.3 Initiation of compliance matters. (2 U.S.C. 437g(a)(1), (2)).

(a) Compliance matters may be initiated by a complaint or on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities.

(b) Matters initiated by complaint are subject to the provisions of 11 CFR 111.4 through 111.7. Matters initiated on the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities are subject to the provisions of 11 CFR 111.8. All compliance matters are subject to the provisions of 11 CFR 111.2 and 111.9 through 111.23.

§ 111.4 Complaints. (2 U.S.C. 437g(a)(1)).

(a) Any person who believes that a violation of any statute or regulation over which the Commission has jurisdiction has occurred or is about to occur may file a complaint in writing to the General Counsel, Federal Election Commission, 1325 K Street, N.W.,

Washington, D.C. 20463. If possible, three (3) copies should be submitted.

(b) A complaint shall comply with the following:

(1) It shall provide the full name and address of the complainant; and

(2) The contents of the complaint shall be sworn to and signed in the presence of a notary public and shall be notarized.

(c) All statements made in a complaint are subject to the statutes governing perjury and to 18 U.S.C. 1001. The complaint should differentiate between statements based upon personal knowledge and statements based upon information and belief.

(d) The complaint should conform to the following provisions:

(1) It should clearly identify as a respondent each person or entity who is alleged to have committed a violation;

(2) Statements which are not based upon personal knowledge should be accompanied by an identification of the source of information which gives rise to the complainants belief in the truth of such statements;

(3) It should contain a clear and concise recitation of the facts which describe a violation of a statute or regulation over which the Commission has jurisdiction; and

(4) It should be accompanied by any documentation supporting the facts alleged if such documentation is known of, or available to, the complainant.

§ 111.5 Initial complaint processing; Notification. (2 U.S.C. 437g(a)(1)).

(a) Upon receipt of a complaint, the General Counsel shall review the complaint for substantial compliance with the technical requirements of 11 CFR 111.4, and, if it complies with those requirements shall within five (5) days after receipt notify each respondent that the complaint has been filed, advise them of Commission compliance procedures, and enclose a copy of the complaint.

(b) If a complaint does not comply with the requirements of 11 CFR 111.4, the General Counsel shall so notify the complainant and any person(s) or entity(ies) identified therein as respondent(s), within the five (5) day period specified in 11 CFR 111.5(a), that no action shall be taken on the basis of that complaint. A copy of the complaint shall be enclosed with the notification to each respondent.

§ 111.6 Opportunity to demonstrate that no action should be taken on complaint-generated matters. (2 U.S.C. 437g(a)(1)).

(a) A respondent shall be afforded an opportunity to demonstrate that no action should be taken on the basis of a complaint by submitting, within fifteen (15) days from receipt of a copy of the complaint, a letter or memorandum setting forth reasons why the Commission should take no action.

(b) The Commission shall not take any action, or make any finding, against a respondent other than action dismissing the complaint, unless it has considered such response or unless no such response has been served upon the Commission within the fifteen (15) day period specified in 11 CFR 111.6(a).

§ 111.7 General Counsel's recommendation on complaint-generated matters. (2 U.S.C. 437g(a)(1)).

(a) Following either the expiration of the fifteen (15) day period specified by 11 CFR 111.6(a) or the receipt of a response as specified by 11 CFR 111.6(a), whichever occurs first, the General Counsel may recommend to the Commission whether or not it should find reason to believe that a respondent has committed or is about to commit a violation of statutes or regulations over which the Commission has jurisdiction.

(b) The General Counsel may recommend that the Commission find that there is no reason to believe that a violation has been committed or is about to be committed, or that the Commission otherwise dismiss a complaint without regard to the provisions of 11 CFR 111.6(a).

§ 111.8 Internally generated matters; Referrals. (2 U.S.C. 437g(a)(2)).

(a) On the basis of information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities, or on the basis of a referral from an agency of the United States or of any state, the General Counsel may recommend in writing that the Commission find reason to believe that a person or entity has committed or is about to commit a violation of statutes or regulations over which the Commission has jurisdiction.

(b) If the Commission finds reason to believe that a violation has occurred or is about to occur the notification to respondent required by 11 CFR 111.9(a) shall include a copy of a staff report setting forth the legal basis and the alleged facts which support the Commission's action.

(c) Prior to taking any action pursuant to this section against any person who has failed to file a disclosure report required by 11 CFR 104.5(a)(1)(i) for the calendar quarter immediately preceeding the election involved or 104.5(a)(1)(iii), the Commission shall notify such person of failure to file the required reports. If a satisfactory response is not received within four (4) business days, the Commission shall publish before the election the name of the person and the report or reports such person has failed to file.

§ 111.9 The reason to believe finding; Notification. (2 U.S.C. 437g(a)(2)).

(a) If the Commission, either after reviewing a complaint-generated recommendation as described in 11 CFR 111.7 and any response of a respondent submitted pursuant to 11 CFR 111.6, or after reviewing an internally-generated recommendation as described in 11 CFR 111.8, determines by an affirmative vote of four (4) of its members that it has reason to believe that a respondent has violated a statute or regulation over which the Commission has jurisdiction, its Chairman or Vice Chairman shall notify such respondent of the Commission's finding by letter, setting forth the sections of the statute or regulations alleged to have been violated and the alleged factual basis supporting the finding.

(b) If the Commission finds no reason to believe, or otherwise terminates its proceedings, the General Counsel shall so advise both complainant and respondent by letter.

§ 111.10 Investigation. (2 U.S.C. 437g(a)(2)).

(a) An investigation shall be conducted in any case in which the Commission finds reason to believe that a violation of a statute or regulation over which the Commission has jurisdiction has occurred or is about to occur.

(b) In its investigation, the Commission may utilize the provisions of 11 CFR 111.11 through 111.15. The investigation may include, but is not limited to, field investigations, audits, and other methods of information-gathering.

§ 111.11 Written questions under order. (2 U.S.C. 437d(a)(1)).

The Commission may authorize its Chairman or Vice Chairman to issue an order requiring any person to submit sworn written answers to written questions and may specify a date by which such answers must be submitted.

§ 111.12 Subpoenas and subpoenas duces tecum; Depositions. (2 U.S.C. 437d(a)(3), (4)).

(a) The Commission may authorize its Chairman or Vice Chairman to issue subpoenas requiring the attendance and testimony of any person by deposition and to issue subpoenas duces tecum for the production of documentary or other tangible evidence in connection with a deposition or otherwise.

(b) If oral testimony is ordered to be taken by deposition or documents are ordered to be produced, the subpoena shall so state and shall advise the deponent or person subpoenaed that all testimony will be under oath. A deposition may be taken before any person having the power to administer oaths.

(c) The Federal Rules of Civil Procedure, Rule 30(e), shall govern the opportunity to review and sign depositions taken pursuant to this section.

§ 111.13 Service of subpoenas, orders and notifications. (2 U.S.C. 437d(a) (3), (4)).

(a) Service of a subpoena, order or notification upon a person named therein shall be made by delivering a copy to that person in the manner described by 11 CFR 111.13 (b), (c), and (d). In the case of subpoenas, fees for one day's attendance and mileage shall be tendered as specified in 11 CFR 111.14.

(b) Whenever service is to be made upon a person who has advised the Commission of representation by an attorney pursuant to 11 CFR 111.23, the service shall be made upon the attorney by any of the methods specified in 11 CFR 111.13(c).

(c) Delivery of subpoenas, orders and notifications to a natural person may be made by handing a copy to the person, or leaving a copy at his or her office with the person in charge thereof, by leaving a copy at his or her dwelling place or usual place of abode with some person of suitable age and discretion residing therein, or by mailing a copy by registered or certified mail to his or her last known address, or by any other method whereby actual notice is given.

(d) When the person to be served is not a natural person delivery of subpoenas, orders and notifications may be made by mailing a copy by registered or certified mail to the person at its place of business or by handing a copy to a registered agent for service, or to any officer, director, or agent in charge of any office of such person, or by mailing a copy by registered or certified mail to such representative at his or her last known address, or by any other method whereby actual notice is given.

§ 111.14 Witness fees and mileage (2 U.S.C. 437d(a)(5)).

Witnesses subpoenaed to appear for depositions shall be paid the same fees and mileage as witnesses in the courts of the United States. Such fees may be tendered at the time the witness appears for such deposition, or within a reasonable time thereafter.

§ 111.15 Motions to quash or modify a subpoena (2 U.S.C. 437d(a) (3), (4)).

(a) Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of receipt of such subpoena, apply to the Commission to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. Motions to quash shall be filed with the General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463. If possible, three (3) copies should be submitted.

(b) The Commission may deny the application or quash the subpoena or modify the subpoena.

(c) The person subpoenaed and the General Counsel may agree to change the date, time, or place of a deposition or for the production of documents without affecting the force and effect of the subpoena, but such agreements shall be confirmed in writing.

§ 111.16 The probable cause to believe recommendation; briefing procedures (2 U.S.C. 437g(a)(3)).

(a) Upon completion of the investigation, the General Counsel shall prepare a brief setting forth his or her position on the factual and legal issues of the case and containing a recommendation on whether or not the Commission should find probable cause to believe that a violation has occurred or is about to occur.

(b) The General Counsel shall notify each respondent of the recommendation and enclose a copy of his or her brief.

(c) Within fifteen (15) days from receipt of the General Counsel's brief, respondent may file a brief with the Commission Secretary, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463, setting forth respondent's position on the factual and legal issues of the case. If possible, ten (10) copies of such brief should be filed with the Commission Secretary and three (3) copies should be submitted to the General Counsel, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.

(d) After reviewing the respondent's brief, the General Counsel shall advise the Commission in writing whether he or she intends to proceed with the recommendation or to withdraw the recommendation from Commission consideration.

§ 111.17 The probable cause to believe finding; notification (2 U.S.C. 437g(a)(4)).

(a) If the Commission, after having found reason to believe and after following the procedures set forth in 11 CFR 111.16, determines by an affirmative vote of four (4) of its members that there is probable cause to believe that a respondent has violated a statute or regulation over which the Commission has jurisdiction, the Commission shall authorize the General Counsel to so notify the respondent by letter.

(b) If the Commission finds no probable cause to believe or otherwise orders a termination of Commission proceedings, it shall authorize the General Counsel to so notify both respondent and complainant by letter.

§ 111.18 Conciliation (2 U.S.C. 437g(a)(4)).

(a) Upon a Commission finding of probable cause to believe, the Office of General Counsel shall attempt to correct or prevent the violation by informal methods of conference conciliation and persuasion, and shall attempt to reach a tentative conciliation agreement with the respondent.

(b) A conciliation agreement is not binding upon either party unless and until it is signed by the respondent and by the General Counsel upon approval by the affirmative vote of four (4) members of the Commission.

(c) If the probable cause to believe finding is made within forty-five days prior to any election, such conciliation attempt shall continue for at least fifteen (15) days from the date of such finding. In all other cases such attempts by the Commission shall continue for at least thirty (30) days, not to exceed ninety (90) days.

(d) Nothing in these regulations shall be construed to prevent the Commission from entering into a conciliation agreement with a respondent prior to a Commission finding of probable cause if a respondent indicates by letter to the General Counsel a desire to enter into negotiations directed towards reaching such a conciliation agreement. However, the Commission is not required to enter into any negotiations directed towards reaching a conciliation agreement unless and until it makes a finding of probable cause to believe. Any conciliation agreement reached under this subsection is subject to the provisions of subsection (b) of this section and shall have the same force and effect as a conciliation agreement reached after a Commission finding of probable cause to believe.

(e) If a conciliation agreement is reached between the Commission and the respondent, the General Counsel shall send a copy of the signed agreement to both complainant and respondent.

§ 111.19 Civil proceedings (2 U.S.C. 437g(a)(6)).

(a) If no conciliation agreement is finalized within the applicable minimum period specified by 11 CFR 111.18(c) the General Counsel may recommend to the Commission that the Commission authorize a civil action for relief in an appropriate court of the United States.

(b) Upon recommendation of the General Counsel, the Commission may, by an affirmative vote of four (4) of its members, authorize the General Counsel to commence a civil action for relief in an appropriate court of the United States.

(c) The provisions of 11 CFR 111.18(c) shall not preclude the Commission upon request of a respondent, from entering into a conciliation agreement even after a recommendation to file a civil action has been made pursuant to this section. Any conciliation agreement reached under this subsection is subject to the provisions of 11 CFR 111.18(b) and shall have the same force and effect as a conciliation agreement reached under 11 CFR 111.18(c).

§ 111.20 Public disclosure of Commission action (2 U.S.C. 437g(a)(4)).

(a) If the Commission makes a finding of no reason to believe or no probable cause to believe or otherwise terminates its proceedings, it shall make public such action and the basis therefor no later than thirty (30) days from the date on which the required notifications are sent to complainant and respondent.

(b) If a conciliation agreement is finalized, the Commission shall make public such conciliation agreement forthwith.

§ 111.21 Confidentiality (2 U.S.C. 437g(a)(12)).

(a) Except as provided in 11 CFR 111.20, no complaint filed with the Commission, nor any notification sent by the Commission, nor any investigation conducted by the Commission, nor any findings made by the Commission shall be made public by the Commission or by any person or entity without the written consent of the respondent with respect to whom the complaint was filed, the notification sent, the investigation conducted, or the finding made.

(b) Except as provided in 11 CFR 111.20(b), no action by the Commission or by any person, and no information derived in connection with conciliation efforts pursuant to 11 CFR 111.18, may be made public by the Commission except upon a written request by respondent and approval thereof by the Commission.

(c) Nothing in these regulations shall be construed to prevent the introduction of evidence in the courts of the United States which could properly be introduced pursuant to the Federal Rules of Evidence or Federal Rules of Civil Procedure.

§ 111.22 Ex parte communications.

(a) In order to avoid the possibility of prejudice, real or apparent, to the public interest in enforcement actions pending before the Commission pursuant to 11 CFR Part 111, except to the extent required for the disposition of ex parte matters as required by law (for example, during the normal course of an investigation or a conciliation effort), no interested person outside the agency shall make or cause to be made to any Commissioner or any member of any Commissioner's staff any ex parte communication relative to the factual or legal merits of any enforcement action, nor shall any Commissioner or member of any Commissioner's staff make or entertain any such ex parte communications.

(b) The prohibition of this regulation shall apply from the time a complaint is filed with the Commission pursuant to 11 CFR Part 111 or from the time that the Commission determines on the basis of information ascertained in the normal course of its supervisory responsibilities that it has reason to believe that a violation has occurred or may occur pursuant to 11 CFR Part 111, and remains in force until the Commission has finally concluded all action with respect to the enforcement matter in question.

(c) Nothing in this section shall be construed to prohibit contact between a respondent or respondent's attorney and any attorney or staff member of the Office of General Counsel in the course of representing the Commission or the respondent with respect to an enforcement proceeding or civil action. No statement made by such a Commission attorney or staff member during any such communication shall bind or estop the Commission in any way.

§ 111.23 Representation by counsel; notification.

(a) If a respondent wishes to be represented by counsel with regard to any matter pending before the Commission, respondent shall so advise the Commission by sending a letter of representation signed by the respondent, which letter shall state the following:

(1) The name, address, and telephone number of the counsel;

(2) A statement authorizing such counsel to receive any and all notifications and other communications from the Commission on behalf of respondent.

(b) Upon receipt of a letter of representation, the Commission shall have no contact with respondent except through the designated counsel unless authorized in writing by respondent.

PART 112—ADVISORY OPINIONS (2 U.S.C. 437f)

Sec.

112.1 Requests for Advisory Opinions (2 U.S.C. 437f(a)(1))
112.2 Public Availability of Requests (2 U.S.C. 437f(d))
112.3 Written Comments on Requests (2 U.S.C. 437f(d))
112.4 Issuance of Advisory Opinions (2 U.S.C. 437f (a) and (b))
112.5 Reliance on Advisory Opinions (2 U.S.C. 437f(c))
112.6 Reconsideration of Advisory Opinions

Authority: 2 U.S.C. 437f, 438(a)(8).

§ 112.1 Requests for advisory opinions (2 U.S.C. 437f(a)(1)).

(a) Any person may request in writing an advisory opinion concerning the application of the Act, chapters 95 or 96 of the Internal Revenue Code of 1954, or any regulation prescribed by the Commission. An authorized agent of the requesting person may submit the advisory opinion request, but the agent shall disclose the identity of his or her principal.

(b) The written advisory opinion request shall set forth a specific transaction or activity that the requesting person plans to undertake or is presently undertaking and intends to undertake in the future. Requests presenting a general question of interpretation, or posing a hypothetical situation, or regarding the activities of third parties, do not qualify as advisory opinion requests.

(c) Advisory opinion requests shall include a complete description of all facts relevant to the specific transaction or activity with respect to which the request is made.

(d) The Office of General Counsel shall review all requests for advisory opinions submitted under 11 CFR 112.1. If the Office of General Counsel determines that a request for an advisory opinion is incomplete or otherwise not qualified under 11 CFR 112.1, it shall, within 10 calendar days of receipt of such request, notify the requesting person and specify the deficiencies in the request.

(e) Advisory opinion requests should be sent to the Federal Election Commission, Office of General Counsel, 1325 K Street, N.W., Washington, D.C. 20463.

(f) Upon receipt by the Commission, each request which qualifies as an advisory opinion request (AOR) under 11 CFR 112.1 shall be assigned an AOR number for reference purposes.

§ 112.2 Public availability of requests (2 U.S.C. 437f(d)).

(a) Advisory opinion requests which qualify under 11 CFR 112.1 shall be made public at the Commission promptly upon their receipt.

(b) A copy of the original request and any supplements thereto, shall be available for public inspection and purchase at the Public Disclosure Division of the Commission.

§ 112.3 Written comments on requests (2 U.S.C. 437f(d)).

(a) Any interested person may submit written comments concerning advisory opinion requests made public at the Commission.

(b) The written comments shall be submitted within 10 calendar days following the date the request is made public at the Commission. However, if the 10th calendar day falls on a Saturday, Sunday, or Federal holiday, the 10 day period ends at the close of the business day next following the weekend or holiday. Additional time for submission of written comments may be granted upon written request for an extension by the person who wishes to submit comments or may be granted by the Commission without an extension request.

(c) Comments on advisory opinion requests should refer to the AOR number of the request, and statutory references should be to the United States Code citations, rather than to Public Law citations.

(d) Written comments and requests for additional time to comment shall be sent to the Federal Election Commission, Office of General Counsel, 1325 K Street, N.W., Washington, D.C. 20463.

(e) Before it issues an advisory opinion the Commission shall accept and consider all written comments submitted within the 10 day comment period or any extension thereof.

§ 112.4 Issuance of advisory opinions (2 U.S.C. 437f(a) and (b)).

(a) Within 60 calendar days after receiving an advisory opinion request that qualifies under 11 CFR 112.1, the Commission shall issue to the requesting person a written advisory opinion or shall issue a written response stating that the Commission was unable to approve an advisory opinion by the required affirmative vote of 4 members.

(b) The 60 calendar day period of 11 CFR 112.4(a) is reduced to 20 calendar days for an advisory opinion request qualified under 11 CFR 112.1 provided the request:

(1) is submitted by any candidate, including any authorized committee of the candidate (or agent of either), within the 60 calendar days preceding the date of any election for Federal office in which the candidate is seeking nomination or election; and

(2) presents a specific transaction or activity related to the election that may invoke the 20 day period if the connection is explained in the request.

(c) The 60 day and 20 day periods referred to in 11 CFR 112.4(a) and (b) only apply when the Commission has received a qualified and complete advisory opinion request under 11 CFR 112.1, and when the 60th or 20th day occurs on a Saturday, Sunday or Federal holiday, the respective period ends at the close of the business day next following the weekend or holiday.

(d) The Commission may issue advisory opinions pertaining only to the Federal Election Campaign Act of 1971, as amended, chapters 95 or 96 of the Internal Revenue Code of 1954, or rules or regulations duly prescribed under those statutes.

(e) Any rule of law which is not stated in the Act or in chapters 95 or 96 of the Internal Revenue Code of 1954, or in a regulation duly prescribed by the Commission, may be initially proposed only as a rule or regulation pursuant to procedures established in 2 USC 438(d) or 26 USC 9009(c) and 9039(c) as applicable.

(f) No opinion of an advisory nature may be issued by the Commission or any of its employees except in accordance with 11 CFR Part 112; however, this limitation does not preclude distribution by the Commission of information consistent with the Act and chapters 95 or 96 of the Internal Revenue Code of 1954.

(g) When issued by the Commission, each advisory opinion or other response under 11 CFR 112.4(a) shall be made public and sent by mail, or personally delivered to the person who requested the opinion.

§ 112.5 Reliance on advisory opinions (2 U.S.C. 437f(c)).

(a) An advisory opinion rendered by the Commission under 11 CFR Part 112 may be relied upon by:

(1) any person involved in the specific transaction or activity with respect to which such advisory opinion is rendered, and

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which such advisory opinion is rendered.

(b) Notwithstanding any other provision of law, any person who relies upon an advisory opinion in accordance with 11 CFR 112.5(a) and who acts in good faith in accordance with that advisory opinion shall not, as a result of any such act, be subject to any sanction provided by the Federal Election Campaign Act of 1971, as amended, or by chapters 95 or 96 of the Internal Revenue Code of 1954.

§ 112.6 Reconsideration of advisory opinions.

(a) The Commission may reconsider an advisory opinion previously issued if the person to whom the opinion was issued submits a written request for reconsideration within 30 calendar days of receipt of the opinion and if, upon the motion of a Commissioner who voted with the majority that originally approved the opinion, the Commission adopts the motion to reconsider by the affirmative vote of 4 members.

(b) The Commission may reconsider an advisory opinion previously issued if, upon the motion of a Commissioner who voted with the majority that originally approved the opinion and within 30 calendar days after the date the Commission approved the opinion, the Commission adopts the motion to reconsider by the affirmative vote of 4 members.

(c) In the event an advisory opinion is reconsidered pursuant to 11 CFR 112.6(b), the action taken in good faith reliance on that advisory opinion by the person to whom the opinion was issued shall not result in any sanction provided by the Act or chapters 95 or 96 of the Internal Revenue Code of 1954. 11 CFR 112.6(c) shall not be effective after the date when the person to whom the advisory opinion was issued has received actual notice of the Commission's decision to reconsider that advisory opinion.

(d) Adoption of a motion to reconsider vacates the advisory opinion to which it relates.

PART 113—EXCESS CAMPAIGN FUNDS AND FUNDS DONATED TO SUPPORT FEDERAL OFFICEHOLDER ACTIVITIES (2 U.S.C. 439a)

Sec.

113.1 Definitions (2 USC 439a).
113.2 Use of funds (2 USC 439a).
113.3 Deposits of funds donated to a Federal or State officeholder.
113.4 Contribution and expenditure limitations (2 USC 441a).

Authority: 2 U.S.C. 432(h), 438(a)(8), 439a, 441a.

§ 113.1 Definitions (2 U.S.C. 439a).

When used in this Part—

(a) *Funds donated.* "Funds donated" means all funds, including, but not limited to, gifts, loans, advances, credits or deposits of money which are donated for the purpose of supporting the activities of a Federal or State officeholder; but does not mean funds appropriated by Congress, a State legislature, or another similar public appropriating body, or personal funds of the officeholder donated to an account containing only those personal funds.

(b) *Office account.* "Office account" means an account established for the purposes of supporting the activities of a Federal or State officeholder which contains excess campaign funds and funds donated, but does not include an account used exclusively for funds appropriated by Congress, a State legislature, or another similar public appropriating body, or an account of the officeholder which contains only the personal funds of the officeholder, or an account containing only appropriated funds and only personal funds of the officeholder.

(c) *Federal officeholder.* "Federal officeholder" means an individual elected to or serving in the office of President or Vice President of the United States; or a Senator or a Representative in, or Delegate or Resident Commissioner to, the Congress of the United States.

(d) *State officeholder.* "State officeholder" means an individual elected to or serving in any elected public office within a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any subdivision thereof.

(e) *Excess campaign funds.* "Excess campaign funds" means amounts received by a candidate as contributions which he or she determines are in excess of any amount necessary to defray his or her campaign expenditures.

§ 113.2 Use of funds (2 U.S.C. 439a).

Excess campaign funds and funds donated:

(a) May be used to defray any ordinary and necessary expenses incurred in connection with the recipient's duties as a holder of Federal office, if applicable; or

(b) May be contributed to any organization described in section 170(c) of Title 26, of the United States Code; or

(c) May be transferred without limitation to any national, State, or local committee or any political party; or

(d) May be used for any other lawful purpose, except that, with respect to any individual who is not a Senator or Representative in, or Delegate or Resident Commissioner to, the Congress on the date of the enactment of the Federal Election Campaign Act Amendments of 1979 (January 8, 1980), no such amounts may be converted by any person to any personal use, other than: to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office, or to repay to a candidate any loan the proceeds of which were used in connection with his or her campaign.

§ 113.3 Deposits of funds donated to a Federal or state officeholder (2 U.S.C. 432(h)).

All funds donated to a federal officeholder, or State officeholder who is a candidate for federal office, shall be deposited into one of the following accounts:

(a) An account of the officeholder's principal campaign committee or other authorized committee pursuant to 11 CFR Part 103;

(b) An account to which only funds donated to an individual to support his or her activities as a holder of federal office are deposited (including an office account).

§ 113.4 Contribution and expenditure limitations (2 U.S.C. 441a).

(a) Any contributions to, or expenditures from an office account which are made for the purpose of influencing a federal election shall be subject to 2 U.S.C. 441a and 11 CFR Part 110 of these regulations.

(b) If any treasury funds of a corporation or labor organization are donated to an office account, no funds from that office account may be transferred to a political committee account or otherwise used in connection with a federal election.

7. In Part 114, § 114.1(a)(2)(v), § 114.6(c) (3), (d), (d)(2)(ii), (d)(3) (i) and (ii) are revised to read as follows:

PART 114—CORPORATE AND LABOR ORGANIZATION ACTIVITY

§ 114.1 Definitions.

(a) * * *

(2) * * *

(v) The sale of any food or beverage by a corporate vendor for use in a candidate's campaign or for use by a political committee of a political party at a charge less than the normal of comparable commercial rate, if the charge is at least equal to the costs of such food or beverage to the vendor, to the extent that: the aggregate value of such discount by the vendor on behalf of a single candidate does not exceed $1,000 with respect to any single election; and on behalf of all political committees of each political party does not exceed $2,000 in a calendar year.

* * * * *

§ 114.6 Twice yearly solicitations.

* * * * *

(c) * * *

(3) That persons who, in a calendar year make a single contribution of $50 or less, or multiple contributions aggregating $200 or less may maintain their anonymity by returning their contributions to the custodian.

(d) *The custodial arrangement.* In order to maintain the anonymity of persons who do not wish to contribute and of persons who wish to respond with a single contribution of $50 or less, or multiple contributions aggregating $200 or less in a calendar year, and to satisfy the recordkeeping provisions, the corporation, labor organization, or separate segregated fund of either shall establish a custodial arrangement for collecting the contributions under this section.

* * * * *

(2) * * *

(ii) Provide the fund with the identification of any person who makes a single contribution of more than $50 and the identification of any person who makes multiple contributions aggregating more than $200. The custodian must provide this information within a reasonable time prior to the reporting date of the fund under Part 104;

* * * * *

(3) * * *

(i) Make the records of persons making a single contribution of $50 or less, or multiple contributions aggregating $200 or less, in a calendar year, available to any person other than representatives of the Federal Election Commission, the Clerk of the House or the Secretary of the Senate, as appropriate, and law enforcement officials or judicial bodies.

(ii) Provide the corporation or labor organization or the separate segregated fund of either with any information pertaining to persons who, in a calendar year, make a single contribution of $50 or less or multiple contributions aggregating $200 or less except that the custodian may forward to the corporation, labor organization or separate segregated fund of either the total number of contributions received; or

* * * * *

(2 U.S.C. 431(8)(B)(iii), 432(c)(3), 438(a)(8))

§ 9008.3 [Amended]

8. In Part 9008, § 9008.3(a) is amended by deleting "2 million" and inserting "3 million".

Dated: February 28, 1980.

Robert O. Tiernan,

Chairman, Federal Election Commission.

[FR Doc. 80-7109 Filed 3-6-80; 8:45 am]

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Friday
March 7, 1980

Federal Register

Part V

Department of the Interior

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Final Rule and Proposed Rulemaking

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule establishes a regulatory program to implement Section 5(a)(8) of the Outer Continental Shelf (OCS) Lands Act Amendments of 1978, Pub. L. 95-372 (herein referred to as the "Act"), concerning the regulation of air emissions from oil and gas operations on the OCS. The regulations revise 30 CFR 250.2 and 250.34 and create a new section 30 CFR 250.57.

DATE: This rule shall become effective on June 2, 1980.

ADDRESSES: A copy of this final rule may be obtained from the following offices of the Geological Survey:

Chief Conservation Division, U.S. Geological Survey, National Center Mail Stop 600, Reston, Virginia 22092.

Conservation Manager—Eastern Region, U.S. Geological Survey, 1725 K Street, NW., Suite 204, Washington, D.C. 20006.

Conservation Manager—Gulf of Mexico OCS Region, U.S. Geological Survey, 336 Imperial Office Building, P.O. Box 7944, Metairie, Louisiana 70010.

Conservation Manager—Pacific OCS Region, U.S. Geological Survey, 1340 West Sixth Street, Room 160, Los Angeles, California 90017.

Conservation Manager—Alaska Region, U.S. Geological Survey, 800 "A" Street, Suite 109, Anchorage, Alaska 99501.

FOR FURTHER INFORMATION CONTACT: John Goll, U.S. Geological Survey, National Center Mail Stop 600, Reston, Virginia 22092 (703) 860-7136.

AUTHORS: Thomas McCloskey, Office of the Assistant Secretary—Energy and Minerals, Department of the Interior; Theresa Hooks, Office of the Solicitor, Department of the Interior; R. A. Karam, Office of OCS Program Coordination, Office of Assistant Secretary—Policy, Budget and Administration, Department of the Interior; John Goll, U.S. Geological Survey, Department of the Interior.

SUPPLEMENTARY INFORMATION:

Background

The Act requires that the Secretary of the Interior prescribe regulations with provisions for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.), to the extent that activities authorized under the Act significantly affect the air quality of any State (Section 5(a)(8), 43 U.S.C. 1334). By Notice of December 28, 1978, (43 FR 60612) public comments were requested to assist the Department of the Interior in the identification and selection of a regulatory program to control air emissions from activities authorized under the Act which significantly affect onshore air quality. On May 10, 1979, proposed regulations on this subject were published in the Federal Register (44 FR 27449).

Comments

Fifty-five sets of comments and recommendations were submitted in response to the invitation contained in the notice of proposed rule. The comments and recommendations varied widely in nature, scope, and content. Several of the commenters included studies and analyses as part of their submission. The comments represented the views of 6 public interest and environmental groups, 20 Federal, State, and local government agencies, and 29 industry and trade organizations.

Public Hearings

Oral testimony relating to the proposed regulations was taken at public hearings held in Los Angeles, California on June 7, 1979, New Orleans, Louisiana on June 12, 1979, and Washington, D.C. on June 14, 1979.

Discussion of Major Issues

1. *Need for Regulations.* Several commenters asserted that the promulgation of the air quality regulations is premature. They argued that no regulatory action should be taken until the Department makes a formal determination that OCS operations are having or could have significant effects on the air quality of an onshore area of a State.

The Department has rejected this argument. The procedures outlined in the final regulations are to be used to determine whether emissions from an OCS facility significantly affect an onshore area. The regulations are necessary to insure that all concerned are aware of these procedures and are advised as to how the Secretary intends to fulfill the statutory responsibilities related to the protection of onshore air quality. This approach is similar to that followed under other regulatory programs and is fully consistent with the Department's statutory mandate.

A number of commenters asserted that the regulations are excessively stringent and unnecessarily broad and complex. They argued that the regulations would delay and add unnecessary expense to the exploration for and development of OCS oil and gas resources and characterized the program as a clear case of overregulation that ignores Congressional intent and exceeds the statutory mandate. One commenter remarked that a decision to publish such complex regulations should be coupled with a commitment to establish a training program for industry. The Department believes that the regulations are reasonable, practical, and consistent with the statutory mandate. This preamble contains a detailed discussion of the regulations which explains the necessity and rationale for each regulatory requirement. Air quality considerations are complicated, particularly as they relate to the unique circumstances encountered on the OCS. However, every effort has been made to make the Department's OCS air quality regulations as clear and straightforward as possible.

Although a number of commenters expressed support for the overall regulatory framework and the adoption of significance levels and prevention of significant deterioration (PSD) increments from the Environmental Protection Agency (EPA), others argued that EPA standards and practices were inappropriate in the regulations. The Department has developed a regulatory framework which is similar, in many respects, to the one employed by EPA. The Department decided to follow EPA's program, to the maximum extent possible, because of that agency's air quality expertise. The Department's program differs in some respects, however, because the Department's mandate under the Act is different than EPA's mandate under the Clean Air Act and because offshore conditions differ from those encountered onshore. The Clean Air Act gives EPA the authority to regulate air pollution sources onshore. The Act, on the other hand, authorizes the Department to regulate OCS activities only if the emissions from the activities have significant effects on onshore air quality. Also, all OCS sources are external to the areas whose air quality they may affect, a situation not commonly encountered in EPA's regulatory program. Thus, the Department has used only those aspects of EPA's program that are adaptable to the offshore situation. In doing so, we have fulfilled the Congressional intent that the Department be "guided by the Clean Air Act, in consultation with the Environmental Protection Agency" in devising this air quality program.

One commenter requested that the final regulations explain the relationship of section 25(a)(1) of the Act to the air

regulatory scheme. Section 25(a)(1) provides for the creation of a less burdensome regulatory program in the western Gulf of Mexico. Under regulations governing the submission and approval of exploration plans and development and production plans, (*see* 44 FR 53686, September 14, 1979) OCS leases in the western Gulf of Mexico will be treated differently from leases in other OCS areas. Environmental Reports, for example, will not be required unless an affected State has an approved coastal zone management plan. If a report is requested, the Director of the U.S. Geological Survey (GS) will allow a lessee to submit only that information the State indicates it needs to make its consistency determination. The different treatment accorded for western Gulf of Mexico leases does not, however, extend to air quality reporting and control requirements. Nothing in the language of the statute or the legislative history suggests that the provisions of Section 25(a)(1) of the Act exempt lessees from the air quality regulatory program. Section 5(a)(8) of the Act requires "compliance * * * to the extent that activities authorized under this Act significantly affect the air quality of any State." A lessee submitting a new or revised plan after June 2, 1980, will be required to submit the information needed to make the findings under § 250.57–1(d)–(i), and to take the necessary measures to control emissions regardless of whether an Environmental Report is required. Likewise, existing facilities in the Gulf of Mexico may be reviewed in the same manner as existing facilities in other parts of the OCS.

Finally, several commenters objected to the regulatory scheme because the lessee, instead of the Department, "controls" the information. These commenters criticized the "passive" role of the Department and asserted that the regulator, not the regulated, should be responsible for collecting and interpreting data and making decisions concerning the applicability of the regulations to OCS operations. We do not believe that this is an accurate characterization of the role of the Department in implementing these regulations. The regulations place initial responsibility for all information gathering on the lessee. However, the Director has clear authority to require supplementary information and to take whatever action is necessary to validate the information. Additionally, the GS will review and evaluate all information submitted by the lessee and will make all final decisions concerning the necessity for controls and offsets.

2. *Need for Regulatory Analysis.* Several commenters argued that implementation of the regulations represents a significant regulatory action and, pursuant to Executive Order 12044, requires preparation of a regulatory analysis. Prior to the publication of the proposed regulations, the Department prepared a Negative Declaration and Regulatory Analysis. That document examined the criteria for determining whether the proposed regulations constituted a significant regulatory action. The Department found that: (1) Failure to promulgate rules could have a major regionwide impact on state and local governments because a failure to adequately control air emissions could affect the eligibility of state and local governments to receive Federal financial assistance. The Clean Air Act requires that state and local governments achieve national ambient air quality standards by specific dates in order to maintain eligibility for specified Federal grants; (2) The proposed regulations would impose new recordkeeping and reporting requirements on the oil and gas industry. However, the impact of these requirements was diminished for certain lessees operating in certain areas because they had already voluntarily compiled air quality information for proposed activities which corresponded to that required under the proposed regulations; (3) The proposed regulations would not involve a potential conflict between environmental and other considerations; (4) Although the proposed regulations would have a modest impact on the budget and personnel of the GS, they would not have a major impact on other programs of the Department, other Federal agencies, or the allocation of Federal funds; and (5) Based on an analysis of the projected cost to industry of complying with the proposed regulations, they were not estimated to have an annual economic consequence of $100 million or more. Based on these conclusions, the Department determined that the implementation of the regulations, as proposed, was a significant action but, because the potential cost of compliance was under $100 million, the preparation of a regulatory analysis was not required.

A review of that determination, in light of the comments received, failed to show any basis for changing the determination. In fact, the adoption of emission exemption rate formulas will reduce the overall cost of compliance by increasing the number of lessees exempt from regulatory review under the program and, thereby, decreasing the number of lessees who will have to model emissions to determine whether they produce onshore ambient air concentrations above the significant levels. We therefore maintain our finding that a regulatory analysis is not called for by the criteria set out in Executive Order 12044.

3. *Exemptions.* The proposed regulations exempted from further regulatory review OCS facilities with less than 100 tons per year uncontrolled emissions of each pollutant or less than 50 tons per year of controlled emissions of each pollutant. These exemption levels were applied to all facilities regardless of their distance from shore. In the preamble to the proposed regulations, the Department cited an analysis by EPA which indicated that emissions of less than 100 tons per year would not cause onshore ambient concentrations of air pollutants that exceed the 24-hour, 3-hour, and 1-hour EPA significance levels. The Department also noted that although a distance exemption could be established, data were insufficient to justify such an exemption in the proposed rule.

Several commenters favored the development of an exemption formula which incorporates a distance consideration. The American Petroleum Institute (API) derived an emission rate-distance formula which received wide industry backing. API began their analysis by using EPA's emission exemption rate of 100 tons per year for a source locating in a nonattainment area. Based on assumed and observed meteorological data, API then calculated the maximum ground level ambient air concentration of emissions from the source and substituted this concentration for the EPA significance levels. Then API calculated the emission rates and offshore source distances that would produce this concentration at the shoreline. The API formula is $E=80D$, where E is emmissions of air pollutants expressed in tons per year and D is distance from an onshore area expressed in miles. Thus, facilities with emissions of less than 240 tons per year at 3 miles, 800 tons per year at 10 miles, and 4,000 tons per year at 50 miles would be exempt.

Most of those who favored the adoption of the API formula said that if the Department decides to retain exemptions based on an emission rate alone, the distinction drawn between controlled and uncontrolled emissions should be dropped and the Clean Air Act exemption levels of 100 tons per year for facilities impacting

nonattainment areas and 250 tons per year for facilities impacting attainment areas should be adopted. Other commenters recommended exempting facilities more than 8 miles from shore, and there was a scattering of support for more lenient emission rate exemptions (e.g. one commenter recommended 750 tons per year, and another 400 tons per year at 8 miles.)

Many commenters argued that the proposed exemption levels were not stringent enough and that, when this fact is coupled with other alleged deficiencies in the proposed regulatory scheme (i.e. the recognition of atmospheric dilution, the adoption of significance levels, and the absence of controls for cumulative effects), the result is insufficient protection for the air quality of areas with more stringent State standards. They recommended the adoption of exemption levels equivalent to those allowed by the onshore jurisdiction potentially affected by emissions from offshore facilities (e.g. 25 pounds per hour, or 250 pounds per day for facilities located adjacent to many jurisdictions in California).

Emission rate-distance formulas, developed by the GS, have been incorporated into the final regulations. However, an approach different from that recommended by API has been adopted. The GS adopted an approach suggested by EPA which is designed to insure that exempt OCS facilities will not produce onshore ambient air concentrations above the adopted significance levels. Because of the decision to rely on significance levels to make the "significantly affected" determination (except for volatile organic compounds (VOC)—*see* "Volatile Organic Compounds"), the distance-emmission rate approach designed by GS is preferable to that suggested by API.

In developing the exemption formulas, the GS assumed source characteristics and meteorological conditions similar to those encountered on the OCS. Working with the adopted significance levels, the GS then calculated, for each pollutant and averaging time, the emission rates that would produce, from OCS sources at varying distances from shore, onshore ambient air concentrations equivalent to the significance levels. Three pollutants (total suspended particulates (TSP), sulfur dioxide (SO_2) and nitrogen oxides (NO_x)) produced approximately the same results showing that a 100 tons per year emission rate for a facility located three statute miles from shore would not exceed significance levels onshore. This emission rate is the exemption level used by EPA for new sources locating in nonattainment areas onshore. Because of the higher allowed concentration for carbon monoxide, the GS developed a separate formula for carbon monoxide (CO).

The Department's exemption formulas are: $E=3400D^{2/3}$ for CO and $E=33.3D$ for TSP, SO_2, NO_x, and VOC (*see* "Volatile Organic Compounds"), where E is the emission exemption amount expressed in tons per year and D is distance from an onshore area expressed in statute miles. Under these formulas, facilities with emissions of SO_2, for example, of 100 tons or less at 3 miles 333 tons or less at 10 miles, and 1665 tons or less at 50 miles would be exempt from further air quality review.

The adopted exemption formulas are more conservative than that developed by API because they were based on different assumptions concerning the effective release height and meteorological conditions. It is important to remember that an exemption level serves only as a screen to eliminate from review those sources which, when considered alone, will have no significant effect on the air quality of any onshore area.

In response to the comments concerning the ability of the proposed regulatory scheme to protect more stringent State standards, the Department is publishing, in a separate Notice, proposed regulations which would establish a more stringent program for application to those OCS facilities located off the coast of California.

4. *Modeling and Atmospheric Dilution.* The proposed regulations required a lessee to model emissions other than volatile organic compounds (hereinafter called "non-VOC emissions") from a non-exempt facility to determine whether they would produce onshore ambient air concentrations above the significance levels. The lessee was required to use a model approved by EPA.

Several commenters pointed out that there is no overwater model which EPA has "approved for use." They argued that the EPA approved models, especially when they are applied to overwater conditions, have unacceptably high margins of error—being overly conservative or not conservative enough depending on the respondent. They recommended dropping the EPA approval provision to allow the use of new models which better predict overwater plume behavior and more accurately describe offshore conditions. One commenter expressed opposition to any provision which would mandate the use of a given model, and another opposed the use of models altogether. The latter commenter suggested conducting actual monitoring to determine whether emissions from an OCS facility have a significant onshore effect.

Some commenters recommended that the Department should develop a list of acceptable models for offshore application, and one commenter suggested that the acceptable model or models contain guidelines on the factors to be considered in using the model. Another commenter objected to the use of models for predicting long term impacts. This respondent argued that models are capable of predicting short term impacts but are not suited for measurement of long term impacts and recommended the development of a model validation process. A number of commenters believed that the model approval process should be expanded to include a role for States.

Many commenters also criticized the establishment of an exemption formula which incorporates a distance consideration and opposed any regulatory provision that allows the dilution of air pollutants during atmospheric transport to be considered in determining whether emissions from an offshore facility significantly affect an onshore area. They argued that such an approach is analogous to the use of tall stacks as a control measure—a technique designed to lower ground-level air concentrations which has not been allowed by some courts.

The Act requires that the Department devise a regulatory scheme which requires the control of emissions from OCS facilities *only* when these emissions would have significant effects on the air quality of an onshore area. It is the position of the Department that this compels development of a method of calculating the onshore concentration of an offshore emission. Modeling is a common and accepted method of predicting the impact of emissions on ambient air concentrations. EPA, for example, uses the results of such models for determining the applicability of certain new source requirements, such as offsets. Thus, the agency with primary responsibility for protecting the Nation's air quality recognizes the ability of the atmosphere to dilute emissions during transport, as long as excessive stack heights and other illegal dispersion techniques are not used. The Department has adopted this analysis.

The Department has retained the modeling requirement established in the proposed regulations but, in recognition of the comments received, has initiated a step-by-step process which will lead to the development of an acceptable overwater model or models. At the

present time, GS is reviewing the list of EPA approved models and will select one or two which lessees must use in the air quality program. During the next year, these models will be adapted for overwater applications. Also, during the next two to three years, the Bureau of Land Management (BLM), Department of the Interior, will conduct actual field tests off the coast of southern California to develop diffusion coefficients for overwater conditions. These diffusion coefficients will be used to validate models the Director has approved for use. Finally, the GS will establish a mechanism, similar to the one used by EPA, under which interested outside parties can recommend new models or adaptations to existing models to the GS. Each recommendation will be subject to public review and comment before being added to the list of approved models.

It is the Department's position that the benefits to be derived from requiring the use of an approved model or models outweigh the loss of "flexibility" advocated by some commenters. Despite the deficiences in existing EPA models, their use, in the short term, is preferable to the controversies that would arise if all the parties involved were allowed to pick different models to predict and analyze the onshore air quality impacts of offshore operations.

It should be noted that EPA provides information on its approved models explaining how they work and how to use them. The Survey plans to provide similar information on the models which the Director approves for use. Finally, the Department disagrees with those who contend that, although the EPA models can estimate short term impacts, they cannot estimate long term (i.e. annual) impacts. Several EPA models calculate one hour averages of relative concentrations and sum these to estimate the annual average impact of the source. Thus the long term impacts are based on the cumulative effect of short term impacts.

The Department disagrees with comments concerning the impact of atmospheric dilution in its regulatory program. Any effort to equate atmospheric dilution of offshore emissions to using tall stacks is faulty for three reasons. First, the use of models to predict onshore impacts of offshore emissions does not constitute, as the commenters suggest, a "form of emission regulation." Instead, the models are used to answer the threshold question—is there a significant impact on the air quality of an onshore area? If the models predict an impact in excess of that level which is defined as significant, then emission limitations and, in some instances, offsets are required. Second, the outcome in the "tall stack" cases cited by commenters was based on the court's interpretation of specific language in Section 110(a)(2)(b) of the Clean Air Act, as amended (42 U.S.C. 1857c-5(a) (2)(B)). No similar language appears in the OCS Lands Act Amendments of 1978. Third, it is clear that Congress intended that the Department should consider distance in determining whether emissions from an OCS facility should be controlled:

> It is expected that some activities may not have significant effects because of distance from shore or meteorological conditions that blow the pollution out to sea. If an OCS activity or facility is determined to have no such significant effect, when, for example, it is located many miles from the coast, the requirement of the regulations under section 5(a)(8) would not apply. (see House Conf. Rep. No. 95-1474, p. 86).

This statement reflects the understanding that emissions further from shore are less likely to cause increases in the onshore ambient air concentrations than emissions released closer to the onshore area. Thus, a regulatory program which considers atmospheric dilution is consistent with this mandate.

5. *Significance Levels.* The proposed regulations adopted the significance levels established by EPA to control sources locating in a "clean" area but which would impact a nonattainment area. (*see* "Emission Offset Interpretive Ruling", 44 FR 3283 January 16, 1979). Non-VOC emissions from a non-exempt OCS facility were compared to these EPA significance levels to determine whether the emissions would significantly affect the air quality of an onshore area. These significance levels are approximately two percent of the national ambient air quality standards and correspond closely to the Class I increments under the Prevention of Significant Deterioration (PSD) program.

Several commenters argued that the proposed significance levels were too stringent and they recommended the adoption of levels that are 10 percent of the national ambient air quality standards. They maintained that this level would account for the natural variability of atmospheric background concentrations of the pollutants of concern and the limitations inherent in equipment and techniques which measure ambient pollutant concentrations. Other commenters, noting the relationship between the significance levels and the Class I increments, recommended basing the significance levels on the Class II increments, which are 25% of the national ambient air quality standards. They pointed out that Class II increments apply to the areas where most people live and would be more reasonable for determining a significant effect than the Class I increments.

Other commenters argued that the significance levels are not stringent enough and that an increase in air contaminants of up to two percent of the national ambient air quality standards is too much for nonattainment areas which are struggling to meet the standards. They recommended reducing the exemption level (*see* "Exemptions"), eliminating the modeling requirement (*see* "Modeling") and the significance levels, and requiring all emissions from non-exempt facilities to be fully reduced or offset.

It is the position of the Department that the use of EPA's significance levels in these air quality regulations is prudent. To fulfill the requirements of the Act, a regulatory scheme must be designed so that offshore emissions are converted into onshore ambient air concentrations which are then measured against a criterion to determine whether the onshore air quality is sufficiently affected to warrant regulation of the offshore source. EPA encounters an analogous situation where emissions from new sources locating in "clean" areas may adversely affect a nonattainment area. To address this situation EPA established a set of significance levels and stipulated that if the emissions from the new source locating in the "clean" area would cause ambient air concentrations in excess of these levels in the actual area of nonattainment, mitigation measures are necessary. Because the onshore situation for which the EPA significance levels were designed is similar to the offshore situation, the levels have been incorporated into this regulatory program. The levels are stringent enough to assure that onshore effects from offshore operations will be inconsequential but are not overly burdensome to operators on the OCS.

6. *Volatile Organic Compounds (VOCs).* Under the proposed regulations, a "36-hour travel time" criterion was used to determine whether emissions of VOCs (i.e. compounds which react with other pollutants in the atmosphere to form ozone) from a non-exempt facility significantly affect the air quality of a State. The "36-hour travel time" criterion, adopted from EPA, was selected because EPA informed the Department that acceptable reactive models for calculating ozone concentrations resulting from VOC

emissions from individual sources do not exist. EPA's rationale for this criterion was that most reactions leading to the formation of ozone occur during this 36-hour timeframe.

In the preamble to the proposed regulations, the Department noted that EPA was reevaluating the "36-hour travel time" criterion and might change it after the department published its proposed or final regulations.

The Department indicated that it would evaluate any new EPA approach for inclusion in the air quality regulations. On September 5, 1979, EPA withdrew the "36-hour travel time" criterion and proposed a requirement that sources locating in attainment or unclassifiable areas (the location of all OCS sources) monitor for one year (or for a shorter period specified by EPA) to determine whether there is an ozone violation at the site. If at least one ozone violation occurs during the monitoring period, the source generally would be subject to all EPA regulations which apply to sources locating in nonattainment areas. If no onsite violation occurred, the source would be subject to all EPA regulations which apply to sources locating in attainment areas.

Commenters on the proposed regulations gave very little support for the retention of the "36-hour travel time" criterion. Many commeters claimed that the criterion had no scientific basis and that the regulatory requirements were difficult to understand and apply. Alternative recommended approaches included adopting any future EPA approach, treating VOCs like the other criteria pollutants, or requiring control of all non-exempt VOC sources.

The Department has dropped the "36-hour travel time" criterion and has decided against following EPA's new approach to VOC emission control. An approach has been adopted which will require control of all facilities not exempt for VOC. The Department will treat offshore VOC emissions much like EPA treats them onshore. That is to say, the exemption level of 100 tons per year at three miles will apply. Sources at distances of more than three miles from shore will be exempt in accordance with the emission exemption amount determined by using the formula $E = 33.3D$ (*see* Exemption). All VOC emissions which are not exempted will be controlled.

The decision not to adopt EPA's new approach was based on the belief that onsite ambient air monitoring would pose unacceptable technologic and economic problems. It is unclear how sensitive monitoring equipment would react to the marine environment, and the placement of a monitoring buoy or tower on the OCS does not appear to be worth the cost, compared to the regulatory approach adopted. The decision not to treat VOCs like the other criteria pollutants was based on the absence of an acceptable reactive model. Should EPA approve a reactive model, the Department will reevaluate the regulations to determine the feasibility of treating VOCs as other criteria pollutants.

7. *Best Available Control Technology (BACT).* Under the proposed regulations, any lessee proposing a facility whose non-VOC air pollutants would significantly affect the air quality of a nonattainment area would have been required to take any measures necessary to reduce or offset the emissions from the facility so that the pollutant concentrations would not affect the nonattainment area. In determining the appropriate level of control for facilities with non-VOC emissions that significantly affect the air quality of an attainment or unclassifiable area, the lessee would follow a two-step approach.

First, the lessee would have identified BACT in the exploration plan or development and production plan. Next, assuming the application of BACT, the lessee would have modeled emissions of SO_2 and TSP to determine whether they would have produced ambient air concentrations in the attainment or unclassifiable area above the maximum allowable increments prescribed in the proposed regulations. If concentrations exceeded the maximum allowable increments, the lessee, in addition to applying BACT, would have been required to take whatever additional measures were necessary to reduce or offset the emissions down to a level at which the maximum allowable increments would not have been exceeded. The same general approach would have been followed for a facility with VOC emissions which were within 36 hours travel time of a nonattainment, attainment, or unclassifiable area. Finally, when modeling indicated that emissions from an existing or temporary facility would have significantly affected any nonattainment, attainment, or unclassifiable area of a State, the lessee would have been required to install BACT.

Many commenters complained that the imposition of the BACT requirement will impede the installation of the most cost effective technologies. They like the approach that would be followed when emissions significantly affect a nonattainment area (where some level of control less than BACT might be adequate) and complained that it is excessive to require a more stringent level of control when the same emissions significantly affect an attainment or unclassifiable area. They recommended deleting the BACT requirement and allowing the lessee to use a combination of controls and offsets to achieve the necessary reductions.

Other commenters pointed to the discrepancy between the level of control required for emissions significantly affecting a nonattainment area and those significantly affecting an attainment or unclassifiable area, and recommended modifying the regulations to more closely correspond with the level of control required by EPA in nonattainment areas (i.e. EPA's lowest achievable emission rate (LAER) standard). They did, however, support the use of BACT to control emissions significantly affecting attainment or unclassifiable areas.

The Department has decided to adopt an approach which more closely parallels the one used by EPA to control emissions which significantly affect a nonattainment area. The Department believes that it is important to require the installation of control equipment on OCS sources affecting the air quality of nonattainment areas. However, the Department has rejected the recommendation that EPA's standard of LAER be imposed on sources significantly affecting a nonattainment area. The LAER standard, unlike the BACT standard, gives no consideration to economic, environmental, or technological factors and thus conflicts with the best available and safest technologies standard contained in Section 21(b) of the Act. For this reason, the Department will require the use of BACT to control emissions which significantly affect a nonattainment area. In addition to applying BACT, a lessee of a facility which significantly affects a nonattainment area will also be required to install additional control equipment, obtain offsets, in order to fully reduce the emissions from the facility. For example, assume that a facility is found to significantly affect a nonattainment area, and that the total emissions of a particular air pollutant which must be fully reduced are 500 tons per year. Under the final regulations the lessee first must apply BACT. Assume that the installation of BACT reduces the emission of the pollutant down to 200 tons per year. In this instance, the lessee would then be required to install additional control equipment or obtain offsets (or a combination of the two) to fully reduce or offset the remaining

emissions attributable to the facility by 200 tons.

The Department has also retained the requirement that BACT be applied when emissions would significantly affect an attainment area and when emissions from a temporary facility would significantly affect an nonattainment, attainment, or unclassified area. Additionally, the installation of BACT may be required, in some instances, for existing facilities.

8. *Prevention of Significant Deterioration (PSD).* The proposed regulations required lessees to control emissions from facilities which significantly affect the air quality of onshore areas where the air quality is better than the primary or secondary ambient air quality standards.

A number of commenters argued that the Secretary does not have the authority, under Section 5(a)(8) of the Act, to include PSD requirements in the regulations. They asserted that the statutory language, which mandates "compliance with the national ambient air quality standards," limits the Department's regulatory authority to those onshore situations where the primary and secondary ambient air quality standards, established by the Clean Air Act, are being violated. They also asserted that the regulatory program established for nonattainment areas is totally separate and independent of the PSD regulatory program and that by using the term "national ambient air quality standards" Congress was referring only to the nonattainment program. Finally, some commenters pointed out that the offshore operations, unlike land based operations, usually are confined to the location where the oil or gas are discovered and cannot be relocated.

Other commenters, however, supported the imposition of controls on OCS facilities which significantly affect attainment or unclassifiable areas. They argued that the legislative history clearly indicates that the Department's regulations must insure that OCS sources will not have an adverse effect upon the air quality or attainment areas. One commenter pointed out that the PSD increments are federally-established and nationally applicable standards for attainment areas and operate in much the same way as the primary and secondary standards operate for nonattainment areas. Further, they argued that the PSD program, when incorporated into the State Implementation Plan, becomes a more stringent State program which, according to the Conference Report, must not be adversely affected by the offshore drilling program. Another commenter agreed that the PSD program should be included in the final regulations, but complained that the regulatory scheme as proposed is not sufficiently stringent: The commenter suggested that all OCS facilities should be required to install LAER whether or not the facility would significantly affect an attainment or nonattainment area. This commenter also asserted that in order to prevent the significant deterioration of onshore air quality, it would be necessary for the Department to require, in all cases, the modeling of cumulative impacts.

Also, one commenter believed that the proposed rules failed to recognize that some of the allowable increment may have been consumed by other new sources which have previously been located in an area. This commenter also argued that the OCS facility should not be allowed to consume the entire PSD increment because the clean air area would then be put at the same economic disadvantage as a nonattainment area when attempting to site new sources. The commenter recommended that the regulations should limit the offshore facilities to a certain percentage of the annual and short term increment (25 percent and 75 percent, respectively). Finally, one commenter suggested that the decision on the PSD requirements be delayed until the D.C. Court of Appeals issued its final ruling in *Alabama Power Co.* v. *Costle.*

After carefully considering the arguments presented by the many commenters, the Department has decided that it is legally authorized to retain the provisions which require compliance with standards established by EPA to prevent the significant deterioration of onshore air quality in attainment areas.

The Department believes that commenters are mistaken in their argument that, because of the statutory reference to "national ambient air quality standards," the authority of the Secretary is limited to control of OCS emissions affecting the air quality of nonattainment areas. We believe that Congress used the term "national ambient air quality standards pursuant to the Clean Air Act" in a broad sense to mean that the Secretary should promulgate regulations which insure the protection of air quality in attainment as well as nonattainment areas from degradation resulting from emissions from OCS operations. This interpretation is entirely consistent with the intent of Congress as expressed in the legislative history. Statements made on the House floor during the debate over the air quality provisions of the Act clearly demonstrate that Congress intended that all applicable aspects of the air quality regulatory program established under the Clean Air Act be extended to the program established under the Act (*see* 1978 Cong. Rec. H. 415–416, January 31, 1978). That the provisions of Part C of the Clean Air Act are "applicable" is underscored by the debates which occurred among the conferees during Conference Committee meetings. The point was made emphatically that if emissions from offshore operations are not regulated to the same extent as emissions from onshore operations, then onshore growth will be slowed in favor of offshore development (*see* Transcript of Conference Committee on OCS Lands Act Amendments, June 19, 1978). No distinction was made between attainment and nonattainment areas, strongly suggesting that Congress had no intention of creating a special exemption for offshore operations significantly affecting the air quality of an attainment area. Indeed, the legislative history indicates that once it is determined that offshore emissions significantly affect the air quality onshore areas, these emissions are to be regulated regardless of attainment status.

The commenter who argued that the regulations fail to recognize that some of the allowable increases may have already been consumed is mistaken. The regulations clearly indicate that the "maximum allowable increases" for SO_2 and TSP are ceilings which cannot be exceeded within the applicable area. To calculate the acceptable emission level, a lessee must combine the ambient air concentrations resulting from the projected emissions of TSP and SO_2 from the proposed OCS facility with those emissions of TSP and SO_2 from other onshore and offshore sources which contribute to the consumption of the maximum allowable increases.

The Department has rejected the suggestion that a lessee be limited to a percentage of the maximum allowable increases. Since EPA has not established this requirement for onshore sources, the Department has decided not to impose such a requirement on offshore operations. Finally, the D.C. Court of Appeals issued its final ruling in *Alabama Power v. Costle* on December 14, 1979. These final regulations contain no provisions or requirements which conflict with the ruling in that case.

9. *Offsets.* Under the proposed regulations, the lessees were allowed to use offsets instead of controls to reduce the emissions significantly affecting an

onshore nonattainment area. In each instance, the lessee would be given a choice between the use of controls or offsets, or a combination of the two.

Several commenters questioned the Department's authority to require emission offsets from onshore facilities since these facilities are outside the Department's jurisdiction under the Act. Other commenters, who supported giving the lessees the choice of controlling or offsetting emissions, argued that the amount of offset required should be only that necessary to reduce the emissions to that level which would prevent violations of the national ambient air quality standards. They also argued that offsets should never be necessary where only an attainment area is affected. Finally, some commenters argued that the Department should require greater than one-to-one (1:1) offsets when emissions significantly affect nonattainment areas.

The Department has retained offset provisions in its final regulations. The offset requirement is discretionary; no absolute requirement for onshore offsets exists in the final regulations. Instead, lessees are given the choice, after the application of BACT (*see* "Best Available Control Technology"), of installing additional controls or obtaining onshore or offshore offsets.

It is the position of the Department that it would be unwise to limit the use of offsets as the commenters recommended. The decision to require full reduction of emissions which affect the air quality of nonattainment areas (through the application of BACT and whatever additional controls or offsets are necessary) is consistent with EPA's regulatory program. The provision regarding the use of offsets to prevent a violation of the PSD increment is consistent with EPA's program and is reasonable because it provides lessees with an alternative to installing more control equipment.

Finally, the Department has rejected the recommendation that the offset requirement for emissions significantly affecting a nonattainment area should be greater than 1:1. The Department believes that such a requirement would conflict with its legislative mandate. The Department is limited to preventing significant onshore effects and cannot impose a level of control which would leave the air cleaner, in effect, than it would have been if the OCS facility had never located offshore.

10. *Temporary Facilities.* The proposed regulations contained a definition of "temporary activities" which indicated that construction and drilling activities that occur in one location for less than three years would be considered temporary. The proposed rule required a lessee to apply BACT to temporary activities which significantly affect the air quality of any state.

Several commenters supported this approach. Others agreed with the BACT requirement but recommended shortening the timeframe provided in the definition of "temporary activities" from three years to one year. One respondent noted that EPA uses a two year exemption period onshore and suggested that two years is also appropriate offshore.

Many other commenters argued for a total exemption of all temporary activities, including all mobile drilling equipment and pipeline and platform construction activities, from the regulatory requirements. They asserted that extensive experience has shown that temporary facilities have no adverse onshore air quality impacts. They argued that the cost of regulating temporary activities is far greater than the benefits and reiterated that onshore temporary activities are exempt under EPA's regulations. Finally, several commenters took the position that temporary facilities, if regulated at all, should only be regulated if they affect nonattainment areas.

The Department has decided to retain the approach to the regulation of temporary facilities which appeared in the proposed regulations. First, the Act does not distinguish between temporary and permanent facilities; it directs the Secretary to control *all* activities authorized under the Act that would have significant effects on onshore air quality. In fact, Section 11(c)(1) of the Act specifically directs the Secretary to insure that air quality impacts from exploratory activities do not have adverse effects on a State's air quality. Second, the information available to the Department indicates that substantial emissions (in excess of 100 tons per year) may be associated with temporary drilling activities.

Finally, application of the BACT requirement to temporary facilities is consistent with EPA practices in that temporary activities are exempt from other regulatory requirements but, nevertheless, must install BACT. The Department's approach is different, however, from EPA's because OCS lessees will be required to install BACT *only* if their temporary activities cause significant onshore effects. Only the BACT level of control is required for temporary facilities, and not more stringent controls or offsets, because of the limited time that these activities will emit pollutants and the difficulties and inequities that would be involved in obtaining offsets for temporary facilities.

The Department also intends to retain a definition of "temporary facility" which includes exploration and development drilling activities which are conducted in one location for less than three years. The definition also encompasses construction activities. The decision to classify construction activities as temporary was adopted from EPA's regulations. The three year time frame is based on the GS's experience with the time normally associated with exploration or development drilling activities.

11. *Existing Facilities.* Under the proposed regulations, an activity which had commenced operations prior to the effective date of the final regulations was subject to control if an affected State could demonstrate, and subsequent analyses would affirm, that emissions from the facility were significantly affecting the air quality of an onshore area. The criteria used to make the necessary determinations were the same as those applied to new or modified facilities, but the maximum level of control was different. Existing facilities with emissions which significantly affect onshore areas were required only to apply BACT.

Many commenters argued that existing facilities should be exempt from any regulatory requirements related to air emissions. They argued that Congress did not intend to regulate emissions from existing facilities, that retrofitting existing facilities is very difficult and expensive, and that existing facilities are not known to have any detectable impact on onshore air quality.

The Department has retained the regulatory requirements of the proposed rules which are applicable to existing facilities. There is no evidence to suggest that Congress intended to exempt existing facilities from the regulatory program. Section 5(a)(8) of the Act draws no distinction between existing and proposed facilities. Indeed, section 5(a) of the Act specifically states that rules and regulations promulgated under the Act shall apply as of their effective date, to all operations conducted under a lease issued or maintained under the provisions of the Act. The House Conference Report explains this language by stating that regulations are to be applicable to any lease in effect at the date of promulgation, as well as to any lease to be let in the future (*see* House Conf. Rep. No. 95-1474 p. 82).

The Department believes that the approach adopted gives adequate consideration to the problems associated with retrofitting existing facilities, particularly since the

application of BACT takes into account economic factors.

12. *Cumulative Effects.* The proposed regulations contained no specific provisions addressing the possible cumulative effects of sources locating in close proximity to each other. Numerous commenters argued that the final regulations must address more adequately the problem of cumulative effects. The Department's analysis of technical reports submitted to substantiate both sides on this issue convinced us that, in certain infrequent instances, it is possible for emissions from OCS sources to interact in such a way as to increase notably onshore ambient air concentrations of pollutants. Spacing of facilities is such, however, that it would be unusual for this to occur. However, to insure that cumulative effects are recognized and, if necessary, regulated, a provision has been added to the final regulations which gives the Director the authority to require a lessee to use models which demonstrate the effect on onshore air quality of emissions from a proposed OCS facility in combination with emissions from other OCS facilities in the area. Thus, the Director can require the lessee to use multi-source models to provide information concerning cumulative effects.

Additionally, a section has been added which provides that if a State demonstrates to the Director that emissions from an otherwise exempt facility will, either individually or in combination with other OCS emissions, significantly affect the air quality of an onshore area, or the Director believes that an otherwise exempt facility may cause significant air quality effects onshore, the Director may require the lessee to submit additional information. This provision was added to address the situation in which a State or the Director believes that an OCS facility is having significant impacts on the air quality of an onshore area even though the emissions from the facility are below the exemption level. This might occur if the emissions from the facility are acting in combination with emissions from a nearby OCS facility to cause cumulative impacts. It is the position of the Department that the incorporation of these provisions insures that cumulative impacts of OCS facilities on the air quality of onshore areas will be identified and effectively controlled.

Section-by-Section Discussion

1. Section 250.2 Definitions

Attainment areas.— One commenter urged that the definition of "attainment area" be rephrased to make it absolutely clear that an area can be "in attainment" for one pollutant and "in nonattainment" for another. The definition that appeared in the proposed regulations and that has been adopted in the final regulations is the same as EPA's definition. Retention of this definition is important because the final regulations incorporate most of EPA's PSD program and the classification system employed by the two agencies must be consistent. In any case, the definition is sufficiently clear to indicate that an area may be in attainment status for one air pollutant and in nonattainment status for another air pollutant.

Best Available Control Technology (BACT).—Several commenters raised objections to the definition of "best available control technology". One respondent urged the Department to adopt, word for word, EPA's definition of BACT. Another argued that the definition of BACT should not encompass production processes. One commenter argued that the BACT definition should be modified to recognize the paramount importance of safety and economic factors and space and weight limitations on OCS facilities. This person recommended allowing BACT certification of individual rigs and other portable equipment. Finally, one respondent suggested that lessees should be required to identify and justify the technology chosen only if the GS has specifically identified BACT equipment which the lessee does not propose to use.

The Department has decided to modify its definition of BACT to more closely parallel EPA's definition. The definition in the proposed regulations gave the mistaken impression that methods, such as offsets, which do not result in an actual decrease in emissions could be employed to satisfy the BACT requirement. This is not the case and language has been added to make this clear. The BACT determination process was chosen because it gives recognition to energy, environmental, and economic impacts and other costs. The Department recognizes the space and weight limitations on OCS facilities and will consider these and other factors in the BACT determination process. The Department also believes that it is appropriate, particularly in the initial stages, for lessees to identify BACT. As time goes on, certain technologies, methods, systems, and techniques will be recognized as BACT, and the burden of identifying BACT will be reduced.

In developing these regulations, the Department must comply with the provisions of Section 21(b) of the Act which requires, "on all new drilling and production operations and, wherever practicable, on existing operations, the use of the best available and safest technologies which the Secretary determines to be economically feasible, wherever failure of equipment would have a significant effect on safety, health, or the environment, except where the Secretary determines that the incremental benefits are clearly insufficient to justify the incremental costs of utilizing such technologies." Control equipment installed to satisfy the BACT requirement will be deemed to satisfy the Department's best available and safest technology requirement as well.

Commence, Facilities and Source.— The proposed regulations contained the terms "activities", "facilities", "sources", and "commenced", but none of these terms was defined. The absence of definitions for these terms, and the way they were used throughout the proposed regulations, confused reviewers. A number of commenters suggested that definitions of these terms be included in the final regulations. Several felt that the term "facilities" should be substituted for the word "activities". Others suggested that "activity" should be defined as broadly as possible to avoid situations where a number of individual activities in close proximity to each other, which in aggregate may have a significant onshore impact, are exempt from the regulatory requirement. One commenter believed that the term "activity" should be defined to include all emissions at an individual platform and should include emissions from ships and barges associated with the platform. Several commenters suggested that "facility" be defined as all emission points on an individual platform and "source" be defined as each specific piece of equipment that results in emissions. Another recommended that "OCS activity" and "facility" both be defined as "an installation including all platforms joined above water."

In response to these comments the term "facility" has been substituted for the term "activities" and definitions of the terms "facility" and "source" have been incorporated into the regulations. A platform and all equipment directly associated with a platform will be considered to be one facility. Each emission point on the facility is a source.

Multiple installations or devices may be considered part of a single facility if they are related directly to the production of oil or gas from a single site. Emissions from an offshore storage and treatment unit are to be treated as if

from a source that is part of the facility. Also, vessels used to transfer production away from a facility on the OCS shall be considered part of the facility for the entire period of time that the vessel is moored or otherwise physically attached to the facility. Thus, for purposes of calculating the total emissions, all emissions from such a vessel must be treated as emissions from a source on the facility during that period in which the vessel is physically attached to the facility. Sources on support vessels other than vessels used to transfer production from a facility will not be considered part of the facility.

The term "commenced" has been deleted from the regulations and a definition of "existing facility" has been added to establish a more precise criterion that the GS will apply to determine whether a facility is regulated by § 250.57–1 or § 250.57–2.

Onshore Area of a State.—One commenter suggested that the definition of "onshore area of a State" be extended to the three mile territorial limit of the State rather than landward of the mean high water mark. According to the commenter this is necessary because air pollutants can be deposited on surface waters.

The Department has not made this change because it would conflict with the intent of Congress. The primary concern under section 5(a)(8) is the protection of the air quality of onshore areas of the States. This is evidenced by language in the Conference Report which states "[T]he standards of applicability the conferees intended * * * is that when a determination is made that offshore operations may have or are having a significant effect on the air quality of an *adjacent onshore area* * * * regulations are to be promulgated." Accordingly, the Department believes that it is appropriate to measure the impact of the offshore emission landward of the shoreline instead of at the 3-mile territorial limit.

Projected Emissions.—The final regulations contain a definition of the term "projected emissions". This change was incorporated in response to many commenters who questioned the validity of the distinction drawn in the proposed regulations between controlled and uncontrolled emissions. They pointed out that the D.C. Circuit Court of Appeals in *Alabama Power Co. v. Costle*, No. 78–1006, (D.C. Cir. 1979) (Summary Opinion, June 18, 1979; final decision December 14, 1979) invalidated an EPA regulation which required calculation of emissions based on uncontrolled emissions. The Court held that the "potential to emit" of a source must be calculated on the basis of the *actual* levels of emissions which would result after the application of whatever air pollution control equipment may be incorporated into the design of the facility. The Department agrees with the commenters that, in light of the court's opinion, it would be inappropriate for its air quality regulations to distinguish between controlled and uncontrolled emissions. Accordingly, the term "projected emissions" was added to clarify the basis for calculating emissions from OCS facilities.

Volatile Organic Compound (VOC).—Several commenters suggested that the definition of "Volatile Organic Compound" be modified to exclude methane and ethane. Another recommended that the definition should create an exception for carbon monoxide, carbon dioxide, carbonic acid, metallic carbides and carbonates, and ammonium carbonate. Finally, two commenters recommended a change in the definition to make it clear that the unreactive compounds specified are exempt, in all cases, from the definition.

The Department has adopted the recommendation that the exempt status of the unreactive compounds be clarified by changing the term "may be exempt" to "are exempt". However, the definition has not been changed to name the exempt unreactive hydrocarbons or to expand the list. The definition provides that unreactive compounds specified by EPA in Table I of 42 FR 35314, July 8, 1977 are not to be treated as volatile organic compounds. This list includes methane; ethane; 1,1,1-Trichloroethane (Methyl Chloroform); and Trichlorotrifloroethane (Freon 113). Because this table is referenced, methane and ethane clearly are excluded from the definition. The reference to the EPA table has been retained so that future changes in the table will be incorporated automatically into these regulations.

2. Section 250.34–3 Information Requirements

This section requires the submission of air pollution emission data as a part of the exploration plans or development and production plans which must be submitted and approved under 30 CFR 250.34 prior to the initiation of exploration, development, or production activities on any leased OCS area. One commenter objected to making air quality determinations a part of the plan approval process. This commenter suggested that the proper time for a decision is during the preparation of the environmental impact statement for each lease sale. This suggestion is impractical. The onshore effects of offshore operations cannot be assessed adequately until detailed information about each facility, such as the exact distance from shore and the number of wells and type of generators to be used, is available. This type of information is not available until after a lease sale. For this reason a case-by-case examination of the potential of each facility to significantly affect the air quality of onshore areas is necessary at the time that detailed plans for exploration or development and production activities on the lease are submitted.

Several commenters urged that the Department reduce the information requirements to the minimum necessary to determine whether emission controls are required. They referred to the President's recent Executive Order No. 12044 which calls for regulations to be as simple and clear as possible. The regulations are designed to comply with the President's order by eliminating all unnecessary reporting. To implement this, the regulations state that the lessee is required to submit only that information needed to make the requisite findings under the regulatory program. Thus, a lessee who finds that emissions from the proposed facility fall under the exemption level would not be required to provide any further information because it would be clear, as a result of calculating the projected emissions, that no emission control is required. In addition, 30 CFR 250.34–3(a) and 250.34–3(b) allow a lessee to reference information in earlier Environmental Reports prepared for the geographic area by identifying the information and indicating a source for obtaining copies of the cited materials. Thus it is unnecessary for the lessee to resubmit information which has appeared in earlier Environmental Reports. For these reasons, the Department has rejected the suggestion of one commenter that the lessee be required, in every instance, to provide all the information listed in § 250.34–3(a)(4)(ii).

Several commenters recommended deletion of the provisions requiring a lessee to provide information on each onshore source of air pollution associated with the proposed offshore facility. They argued that the requirement for information about onshore emissions is duplicative, irrelevant, and not within the authority of the Secretary. This information requirement first appeared in the January 1978 regulations issued by the Department of Interior (30 CFR 250.34, 43 FR 3880) as a result of an agreement between the Department and the

National Oceanic and Atmospheric Administration. The regulations required the submission of air quality information to assist States with approved coastal zone management programs in evaluating consistency determinations. It has been included in these regulations for that same purpose.

One commenter urged that the regulations clarify the meaning of the term "load factor," which appeared in the proposed regulations in the information requirements section. The term "load factor" has been eliminated from the final regulations. To calculate whether a projected emission is exempt from control under the regulations, the lessee must use the anticipated highest annual total emissions from each facility for each air pollutant.

One commenter recommended that lessees be required to note specifically which emission factors were used in the calculation of the projected emissions. The regulations require that the lessee describe the bases of all calculations; this would include the emission factors used.

Several comments were received concerning the provision in the proposed regulations requiring the lessee to identify any emission reduction control technology which exists that would achieve a greater reduction in emissions than the technology the lessee proposes to use and present the reasons why the lessee should not be required to use this technology. One commenter argued that such a requirement is unnecessary and unreasonable. Other commenters, on the other hand, supported this requirement. The requirement for submitting information on alternative control technologies has been deleted in the final regulations. However the lessee is required to explain the basis for the technology proposed as BACT. This would include a discussion of alternative technologies.

One commenter asserted that operators in the Western Gulf of Mexico should be required to submit air quality information regardless of their Environmental Report exemption status. The Department agrees with this comment and has incorporated language in §§ 250.34–1(a)(2) and 250.34–2(a)(3) to indicate that the Director has the authority to require such information in the absence of an Environmental Report.

Several other changes have been made in §§ 250.34–3(a)(4)(ii)(A) and 250.34–3(b)(4)(ii)(A) related to the calculation of projected emissions from a facility. The requirement for expressing the emission from each source in "maximum anticipated pounds per hour" has been eliminated. Instead, for facilities described in development and production plans, a requirement for a frequency distribution of total emission from a facility, expressed in pounds per day, is included. This change enables the Department to evaluate whether any short term fluctuations in emissions from development and production facilities could cause problems. Additionally, lessees proposing modifications to existing facilities are required to submit information on both the incremental amount of the modified emissions and the total of any new and pre-existing emissions from the modified facility. This language was added to make it clear that when a lessee adds one or more new sources to an existing facility, the total emissions from the facility must be recalculated to determine whether the exemption levels are exceeded. In adopting ths approach the Department rejected the suggestion of some commenters that only the additional emissions resulting from the new sources on the existing facility be considered in calculating whether emissions significantly affect the air quality of an onshore area. If this suggestion were adopted, modifications could result in emissions which, when considered alone, would be under the exemption levels but which would cause, when combined with the existing emissions, significant effects on a State's air quality. The Department chose to require an analysis of the total emissions from a modified facility to insure adequate long term protection of onshore air quality.

A provision has been added which indicates that the Director may require a lessee to use models which demonstrate the onshore effect of emissions from a proposed facility *in combination with* the emissions from other OCS facilities in the area (*see* "Cumulative Effects").

The final regulations indicate that models must be approved by the Director instead of by EPA (*see* "Models") and require the use of the best meteorological information and data available. Many commenters legitimately pointed out that the quantity and quality of meteorological information and data vary from area to area and that the proposed regulations, which cited EPA's "Guidelines on Air Quality Models," did not give any direction on what type of information or data would be required. The new language is designed to provide the necessary direction.

3. Section 250.57–1 Facilities Described in a New or Revised Exploration Plan or Development and Production Plan

Sections 250.57–1(a) and (c) provide that all new or modified exploration plans and development and production plans deemed submitted under §§ 250.34–1(a) or 250.34–2(a) on or after June 2, 1980 shall be subject to the regulatory program established in § 250.57–1.

Section 250.57–1(b) authorizes the Director to review any exploration plan and development and production plan which was deemed submitted or approved by GS prior to June 2, 1980 to determine whether any facility described in such a plan should, because it has the potential to significantly affect onshore air quality, be subject to § 250.57–1. It also sets forth some general criteria which the Director shall apply in determining whether this review should be conducted and whether the facility reviewed should be subject to § 250.57–1. Any facility deemed submitted or approved prior to June 2, 1980 which is identified by the Director, on the basis of the criteria, as having the potential to significantly affect the air quality of an onshore area of any State shall be required to submit the information specified in § 250.34–3(a)(4) or § 250.34–3(b)(4) and comply with the applicable requirements of § 250.57–1.

Many commenters argued that the regulations should not apply to activities covered under an approved exploration plan or development or production plan. Other commenters indicated their strong support for the revision of such plans but suggested that the language of the regulations be clarified to insure that there was no confusion on this issue.

In order to clarify the ambiguities of the proposed regulations and to respond to commenter's criticisms, §§ 250.57–1(a), (b) and (c) have been substantially revised. First, the reference to the filing of plans prior to the effective date of the regulations has been deleted. Instead, to be consistent with §§ 250.34–1(a)(6) and 250.34–2(b)(6), the term "filing" has been deleted and the term "deemed submitted" has been added. The status of a plan is to be determined by the date that the plan is deemed submitted by the GS. Additionally, instead of referring to the "effective date of these regulations," the actual effective date—June 2, 1980—has been incorporated into the regulations.

The second major change from the proposed regulatory scheme concerns facilities described in development and production plans deemed submitted or

approved prior to June 2, 1980, which have the potential to significantly affect onshore air quality. The overall goal of the Department's air quality program is to prevent significant onshore air quality effects from OCS facilities. Several major emission sources covered under development and production plans which have already received GS approval have not yet commenced operations. Also, the possibility exists that some plans which are deemed submitted before these regulations become effective may cover sources which have the potential to significantly affect the air quality of an onshore area. The release of emissions from these sources could result in substantial adverse onshore air quality effects. To avoid such effects, the regulations have been structured to give the Director the discretion to require that plans which were deemed submitted or approved by the GS prior to June 2, 1980 (existing facilities) be subject to the provisions of § 250.57–1 instead of § 250.57–2.

To determine whether such a facility should be treated as a new facility under § 250.57–1 or an existing facility under § 250.57–2, the Director will consider the size of the facility, the distance of the facility from shore, the number of sources planned for the facility and their operational status; and the air quality status of the onshore area. It is the intent of the Department that use of this discretionary authority will generally be restricted to those situations where a large emission source, which is part of a facility located rather close to a nonattainment area, has not yet commenced operations. For instance, it is possible that some facilities in the Santa Barbara Channel and possibly in other OCS areas off California will be subject to review under this provision.

It should be noted that the discretion created under this section is sufficient to allow the Director to review any existing facility, regardless of the operational status of the sources on the facility, if the Director has reason to believe, after evaluation of the facility according to the criteria set out in § 250.57–1(b)(1), that the facility may be significantly affecting the air quality of an onshore area. However, we believe that the Director will rarely have reason to exercise the authority under § 250.57–1(b) for existing facilities on which most or all of the sources are operating. Such existing facilities will, however, be subject to State review as described in § 250.57–2.

Section 250.57–1(d) establishes the formulas to be used in determining whether projected emissions from a facility are exempt from the regulatory program. For a detailed discussion of these provisions, *see* "Exemptions."

Section 250.57–1(e) identifies the "significance levels." For a discussion of this provision, *see* "Significance Levels."

Section 250.57–1(f) explains how significance determinations will be made for non-VOC pollutants and for VOC pollutants. For non-VOC pollutants, any emission which would result in an onshore ambient air concentration above the significance level for that pollutant is deemed to "significantly affect" the air quality of an onshore area. For VOCs, any emission in excess of the exemption level "E" is deemed to significantly affect the air quality of an onshore area. The rationale for choosing these levels and a discussion of the comments received on this issue are included in other sections of this preamble (*see* "Modeling", "Significance Levels" and "Volatile Organic Compounds.")

Section 250.57–1(g)(1) requires lessees to fully reduce any non-VOC pollutant which significantly affects a nonattainment area. This must be done through the application of BACT and, if additional reductions are necessary, through the application of additional emission controls or the acquisition of offshore or onshore offsets. A discussion of the comments received concerning the application of BACT and the offset requirement is included in another section of this preamble (*see* "Best Available Control Technology" and "Offsets").

Section 250.57–1(g)(2) requires lessees to apply BACT to control non-VOC emissions significantly affecting attainment or unclassifiable areas. Assuming the application of BACT, the lessee is then directed to model emissions to determine whether the emissions of TSP or SO_2 which remain after the application at BACT would cause the PSD maximum allowable increases (established in the Clean Air Act) to be exceeded. If the increases are exceeded, the lessee must apply additional emission controls or obtain offsets so that the concentrations of TSP and SO_2 in the onshore ambient air of an attainment area do not exceed the maximum allowable increases.

The reference to the EPA regulations (40 CFR 52.21(d) and (f)), which appeared in the proposed regulations, has been deleted. The provisions of 40 CFR 52.21(f) apply to onshore areas and are independent of OCS operations. However, the provision of 40 CFR 52.21(d) has been retained and incorporated into the regulations.

Section 250.57–1(g)(3) provides that VOC emissions, except those from a temporary facility, which significantly affect a non-attainment area shall be fully reduced. The lessee must apply BACT to the facility and, if further reductions are necessary, the lessee must apply additional controls or obtain onshore or offshore offsets. This section also requires that VOC emissions which significantly affect an attainment area be reduced through the application of BACT. For a detailed discussion of these decisions, *see* "Volatile Organic Compounds."

A new § 250.57–1(g)(4) has been added which provides that, in those instances when emissions from a facility significantly affect both a nonattainment and an attainment or unclassifiable area, the regulatory requirements applicable to emissions significantly affecting a nonattainment area shall apply. This section also includes a requirement that, in those instances when emissions from a facility significantly affect more than one class of attainment area, the lessee must reduce emissions to meet the maximum allowable increases specified for each class. For example, if emissions from a facility simultaneously impact both Class I and Class II areas, the emissions must be reduced to the point where the maximum allowable increases are not exceeded in either area.

Section 250.57–1(h) contains the provisions which apply to temporary facilities. Under this section lessees must apply the best available control technology to reduce emissions from temporary facilities which significantly affect the air quality of a State. For a discussion of the comments received on this issue, *see* "Temporary Facilities."

Section 250.57–1(i) sets forth certain requirements for emission offsets. In order to obtain approval of a proposed emission offset, the lessee must demonstrate that: (1) The offsets are equivalent in nature and quantity to the emissions that must be reduced; (2) a binding commitment exists between the lessee and the owner of each offsetting source; (3) the appropriate air quality control jurisdiction has been notified of the need to revise the State Implementation Plan to include the information regarding the offsets; and (4) the required offsets come from sources which affect the air quality of the area significantly affected by the lessee's OCS operations. One commenter recommended dropping the provision requiring offsets "equivalent in nature and quantity to the emissions that must be reduced." Instead, the commenter suggested that the amount of the offset required should be limited to the equivalent of the onshore impact of

the emission. Another commenter argued that the requirement that the lessee obtain binding commitments be eliminated because such a requirement could lead to delays and uncertainties and because changes at the offsetting source could adversely affect the binding commitment. Both the "equivalency" requirement and the binding commitment requirement have been retained in the final regulations. The "equivalency" requirement is the same as EPA's and is necessary to insure the effectiveness of the offsets. The Department agrees that, in some instances, a change in status of the offsetting source which affects the binding commitment could occur, but believes that such a contingency can be addressed easily in the document creating the commitment.

Many comments were received on the question of whether the regulations should require that all existing onshore or offshore sources owned and operated by the lessee be in compliance with all Clean Air Act requirements as a condition to operating on the OCS. Most commenters believed that the Secretary has no authority under the Act to impose such a requirement and that such action would result in a total bar of OCS activities. One commenter, however, took the position that the cross-compliance requirement is necessary. Since onshore violations of the Clean Air Act already are subject to a variety of enforcement actions and these actions are outside the Department's jurisdiction and control, the Department believes that it is unnecessary to impose this additional condition to OCS development. Accordingly, no cross-compliance requirement has been incorporated into the final regulations.

A new § 250.57–1(j), which is similar to a provision appearing at § 250.57–1(c) of the proposed regulations, has been added. It provides that if a State demonstrates to the Director that emissions from an exempt OCS facility will, either individually or in combination with emissions from other OCS facilities, significantly affect the air quality of an onshore area, or the Director believes that an otherwise exempt facility may cause onshore significant effects, the Director may require the lessee to submit additional information to determine whether control measures are necessary. The Director will provide the lessee involved an opportunity to comment on the State's information.

Several commenters argued that this provision constitutes an impermissible delegation of authority to States. Other commenters suggested that lessees should have the opportunity to rebut information supplied by the State to demonstrate that emissions from exempt facilities are not resulting in significant onshore impacts. Others suggested that if States are allowed to intervene they must be required to carry a heavy burden of proof and provide substantial technical evidence to support their position.

It is the Department's position that the provision giving the States the opportunity to present information about the impact of otherwise exempt emissions is not a delegation of authority because the final decision concerning onshore impacts remains with the Director, not the States. However, the Department has incorporated language allowing the lessee to respond to the presentation provided by a State before the Director makes a decision concerning the necessity for the submission of further information by the lessee.

Section 250.57–1(k) is a new provision which requires the lessee to monitor, in a manner approved or prescribed by the Director, emissions from a facility. This information is to be provided in a manner and form approved or prescribed by the Director and to be included in the monthly report or operations required under 30 CFR 250.93.

The proposed regulations contained no monitoring requirements. Several commenters noted the absence of the requirement and urged that both pre-construction site-specific data and post-construction monitoring data be required to validate the analysis and the modeling. Other commenters argued that monitoring should be required only where emissions cannot be adequately estimated. These commenters were concerned with the costs and need for monitoring.

The Department must have a means of insuring that the actual emissions from a facility are the same as the projected emissions contained in the plan. This type of verification is essential for effective enforcement and to assure coastal areas that emissions from offshore facilities are not significantly affecting their air quality. Thus, the final regulations impose a post-construction monitoring requirement on any lessee that has installed emission controls. The Director must approve the form and manner in which the monitoring is to be performed. The Department expects that these requirements will vary from case to case.

Section 250.57–1(l) is a new provision under which the Director may require lessees to collect, for a period of time and in a manner approved or prescribed by the Director, and submit meteorological data from the facility.

The proposed regulations contained no requirements for the collection of meteorological data by lessees. Some commenters urged that site-specific data be required as a pre-requisite to approval of a facility. It also was argued that pre-construction collection of meteorological data would be virtually impossible. Others pointed out that until the platform is constructed, the collection of meteorological data would be extremely costly.

The Department believes that onsite monitoring of meteorological conditions is not economically feasible prior to the construction of a structure on the lease area. However, once a structure is in place, the Director may impose a requirement that meteorological data be collected and reported for a specified period of time.I83Section 250.57–2 Existing Facilities

Under the final regulations, an existing facility is defined as an OCS facility described in a plan deemed submitted prior to June 2, 1980, except for a facility identified for review by the Director under § 250.57–1(b). Operators of existing facilities are not required automatically to submit information regarding emissions. However, the Director may require the submission of this information under § 250.57–1(b) (see discussion under "Facilities Described in a New or Revised Exploration Plan or Development and Production Plan"). Additionally, a State may trigger a review of an existing facility under § 250.57–2. An affected State may request that the Director supply basic emission data from existing facilities when the data are needed for the updating of the State's emission inventory. In submitting the request, the State must demonstrate that any similar onshore or offshore facilities under the State jurisdiction are included in the State's emission inventory. After the submission of this request by the State, the Director may require lessees of existing facilities to submit the basic emission data to the requesting State. The State then is given the opportunity to submit information to the Director which indicates that emissions from existing facilities may be significantly affecting the air quality of the State.

The Director will evaluate the information submitted by the State and will provide the lessees involved an opportunity to comment on the State's information. The Director will then evaluate all information. If the Director determines that no existing facility has the potential to significantly affect the air quality of the State submitting the information, the Director shall notify the

State of this finding and explain the basis for this determination. If the Director determines that a facility has the potential to significantly affect the air quality of the State submitting the information, the Director shall require the lessee of the facility to submit within 120 days, or a longer period of time if the Director determines it is needed, information required to make findings concerning the impacts on onshore air quality impacts.

In submitting such information, the lessee shall apply the same exemption levels and significance criteria as are applicable to new facilities. If, under these criteria, any non-VOC or VOC emission is determined to significantly affect any onshore area, then the lessee is required to reduce the emissions through the application of BACT. The Department does not intend that an existing facility must shutdown if it is determined to significantly affect an onshore area. Instead, a compliance schedule for the application of BACT must be submitted to the Director. The Director will monitor the progress of the lessee to insure adherence to the compliance schedule. If it is necessary to cease operations to allow for the installation of emission controls, the lessee may apply for a suspension of operations under the provisions of 30 CFR 250.12.

Some commenters suggested that, if the Department declined to create an exemption for existing facilities, the BACT requirement should only apply to those facilities affecting nonattainment areas. They recommended eliminating any control requirements when attainment or unclassifiable areas would be impacted. For a discussion of the Department's rejection of this suggestion, *see* "Prevention of Significant Deterioration."

One commenter argued that the regulations should set out the requirements a State must meet to activate the review process for existing facilities. The final regulations do not set forth a comprehensive list of requirements a State must meet. However, they do require that before a State can request basic emissions data from the Director, it must submit information demonstrating that similar onshore or offshore facilities within the State's jurisdiction also are included in the State's emissions inventory.

Another reviewer suggested that provisions be added which describe the criteria the Director will apply in determining whether existing facilities have the potential to significantly affect an onshore area. The final regulation states that the Director will base this decision on information available on the facilities themselves (i.e. basic emissions data), meteorological data, and the distance of the facility from shore. The Department cannot be more specific about these factors because they will vary from area to area.

Finally, one commenter suggested that the 120-day provision for revision of the plan should be deleted. The requirement has not been deleted, but a provision has been added which allows the Director to extend the 120-day period whenever necessary.

The regulatory procedure described in this final rule for existing facilities is essentially the same as the one in the proposed regulations. The major change involves the States' ability to request the submission of basic emission data. For a more detailed discussion of the comments received on provisions relating to existing facilities, *see* "Existing Facilities".

Overview of the Regulatory Program

The final regulations are designed to insure that emissions from OCS facilities do not cause significant effects on the onshore air quality of a State. The program is divided into three steps for each air pollutant. The first two steps are screening procedures to determine whether emissions of an air pollutant from an OCS facility would significantly affect the onshore air quality of a State. The third step, if necessary, determines what measures the lessee must take to mitigate the impact of the emissions of the air pollutant. These steps are illustrated in Figure 1.

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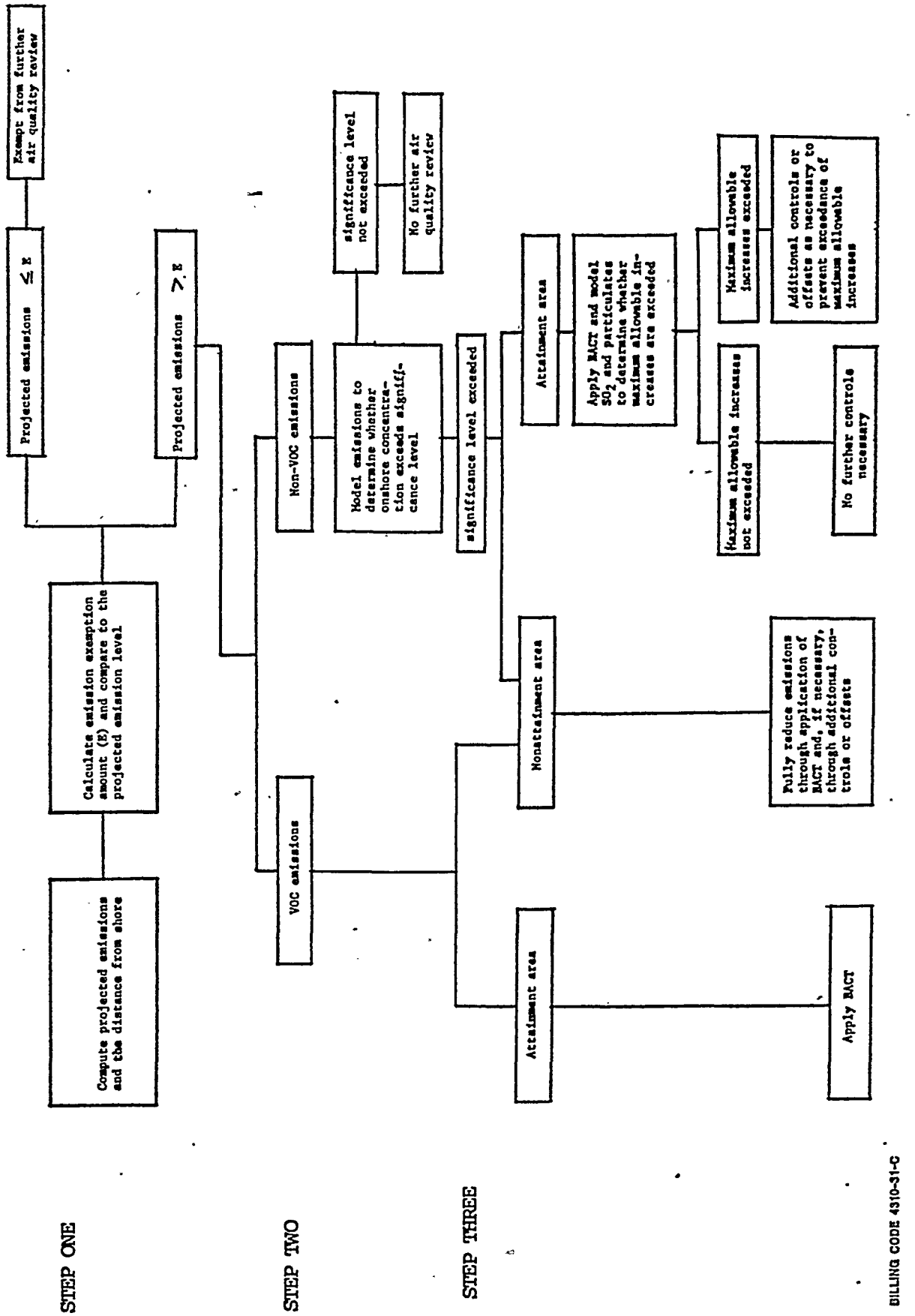
FIGURE 1: AIR REGULATORY SCHEME FOR OCS FACILITIES



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Step 1: Do the emissions of an air pollutant exceed the exemption amount "E"?

The projected emissions of an air pollutant from each facility are calculated and compared to an emission exemption amount "E". The emission exemption amount "E" is dependent upon the distance of the facility from shore and is calculated for each air pollutant on the basis of formulas described in the regulations. If the projected emissions from the facility are equal to or less then "E", the facility is exempt from further air quality review for that air pollutant and the information required from the lessee is limited to projected emission and distance data and an explanation of how the exemption formulas were applied. (For exploration plans see § 250.34–3(a)(4)(ii)(A); for development and production plans see § 250.34–3(b)(4)(ii)(A).

Step 2: Do the emissions of an air pollutant cause onshore air pollutant concentrations to exceed the significance levels established in the regulations?

If a facility is not exempt under Step 1 because the emissions of an air pollutant from the facility exceed the emission exemption amount "E", the lessee must determine whether the emissions cause onshore pollutant concentrations above the "significance levels" established in the regulations.

For non-VOC emissions of TSP, SO_2, NO_2, and CO which exceed the emission exemption amount "E", the lessee must determine the onshore concentrations by air pollutant that will be caused by the offshore emissions. This is done through the application of models approved by GS. The resulting onshore concentration of these pollutants is then compared to the significance levels established in the regulations. If the emissions result in onshore concentrations below the signficance level for that pollutant, the facility is not subject to further regulatory review for that pollutant and the information submitted by the lessee need include only the projected emission and distance data, and the information related to the meteorological data and models used. (For exploration plans see § 250.34–3(a)(4)(ii)(A) and (B); for development and production plans see § 250.34–3(b)(4)(ii)(A) and (B).

A VOC emission which exceeds the emission exemption amount "E" is deemed to significantly affect an onshore area of the State.

Step 3: What degree of control is necessary?

Lessees must control the emissions of those air pollutants which are not "screened out" of the regulatory scheme under either Step 1 or Step 2. The degree of control imposed depends on the air quality status of the nearby onshore area and the nature of the pollutant. The control requirements are summarized as follows:

Emission Controls Required

Non-VOC emissions:
1. Affecting a nonattainment area
   BACT + additional controls or offsets necessary to "fully reduce" emissions
2. Affecting an attainment area
   BACT + additional controls or offsets necessary to prevent exceedance of maximum allowable increases for SO_2 and TSP.

VOC emissions:
1. Affecting a nonattainment area
   BACT + additional controls or offsets necessary to "fully reduce" emissions
2. Affecting an attainment area
   BACT

Non-VOC or VOC emissions:
1. From a *temporary facility* affecting an attainment or a nonattainment area
   BACT
2. From an *existing facility* affecting an attainment or a nonattainment area (except if designated by the Director to be treated as a facility described in a new plan)
   BACT

A lessee proposing a facility which is subject to any of these control requirements must submit all information required by § 250.34–3(a)(4)(ii)(A) through (D) for exploration plans or § 250.34–3(b)(4)(ii)(A) through (D) for development and production plans. This includes information about projected emission and distance from shore, the meteorological data and models used and the modeling results, the air quality status of the onshore area, and the emission reduction control technologies to be used to reduce emissions.

This regulatory scheme is applicable to any newly proposed facility or to any proposed modification of a facility. It also is to be applied to any existing facility which the Director identifies under § 250.57–1(b) as a facility with the potential to significantly affect the onshore air quality of any State. Additionally, the information requirements and procedures described in Steps 1 and 2 for determining significance are to be followed where the Director, at a State's request, requires the submission of information pursuant to § 250.57–2 for an existing facility. The emissions control requirement for existing facilities is limited to the installation of BACT.

Decisions concerning the potential impacts on onshore air quality of emissions from OCS facilities and the necessity for control or offset of those emissions will be made as part of the approval process for exploration plans and development and production plans (see Sections 11 and 25 of the Act). As part of its review of the plan the GS will evaluate the information submitted by the lessee. State and local governments will have an opportunity to review and comment on the information in accordance with the procedures described in 30 CFR 250.34. The exploration plan or development and production plan will not be approved until the GS is satisfied that the air emission data are accurate, that the air models have been run in accordance with relevant guidelines, and that, where applicable, the controls and other mitigating measures proposed are adequate and available.

Because the Survey has integrated the air quality regulations into its established regulatory scheme, no separate permit issuing procedure is necessary. A lessee can undertake no exploratory, development or production activities on a lease until the applicable plan is approved and required drilling permits are granted. Additionally, at any time after approval of a plan the Department has authority to suspend operations under 30 CFR 250.12 if the lessee deviates from the approved plan. If, for instance, a lessee fails to honor a commitment to obtain an offset, or to take some other action to prevent or mitigate the effects of emissions from operations under an approved plan, operations can be suspended until the problem is remedied. The lessee also may be assessed substantial monetary penalties for failure to conduct activities on the OCS in accordance with the approved plan.

Environmental Impact and Regulatory Analysis

The Department of the Interior has determined that the revision of the regulations in 30 CFR Part 250, in accordance with this notice, is not a major Federal action significantly affecting the quality of the human environment and will not require preparation of an Environmental Impact Statement. The Department has also determined that this notice of final rule is a significant rule but does not require preparation of a regulatory analysis under Executive Order 12044 and implementing regulations 43 CFR Part 2.

Dated: February 29, 1980.

Cecil D. Andrus,

Secretary of the Interior.

30 CFR Part 250 is revised as follows:

1. Section 250.2 Definitions is revised by adding paragraphs (tt) through (ggg) which read as follows:

§ 250.2 Definitions.

* * * * *

(tt) "Air pollutant" means any airborne agent or combination of agents for which the Environmental Protection Agency (EPA) has established, pursuant to Section 109 of the Clean Air Act, national primary and secondary ambient air quality standards.

(uu) "Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(vv) "Attainment area" means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) not to exceed any primary or secondary ambient air quality standard, established by EPA in 40 CFR Part 50, for the air pollutant.

(ww) "Best available control technology (BACT)" means an emission limitation based on the maximum degree of reduction for each air pollutant subject to regulation, taking into account energy, environmental and economic impacts and other costs. BACT shall be verified on a case-by-case basis by the Director, and may include reductions achieved through the application of processes, systems, and techniques for the control of each air pollutant.

(xx) "Emission offsets" means emission reductions obtained from facilities, either onshore or offshore, other than the facility or facilities covered by the proposed exploration plan or development and production plan. The provisions of Part IV.C and D. of "Appendix S" of EPA's Emission Offset Interpretive Ruling (44 FR 3274, January 16, 1979) are applicable when determining offsets.

(yy) "Existing facility" is an OCS facility described in an exploration plan or a development and production plan deemed submitted, under § 250.34–1(a) or § 250.34–2(a), prior to June 2, 1980, except for a facility identified for review by the Director under § 250.57–1(b).

(zz) "Facility" means any installation or device permanently or temporarily attached to the seabed on the OCS which is used for exploration, development, and production activities, and which emits or has the potential to emit any air pollutant from one or more sources. All equipment directly associated with the installation or device shall be considered part of a single facility if the equipment is dependent on, or affects the processes of, the installation or device. During production, multiple installations or devices will be considered to be a single facility if the installations or devices are directly related to the production of oil or gas at a single site. Any vessel used to transfer production from an OCS facility shall be considered part of the facility while physically attached to the facility.

(aaa) "Nonattainment area" means, for any air pollutant, an area which is shown by monitored data or which is calculated by air quality modeling (or other methods determined by the Administrator of EPA to be reliable) to exceed any primary or secondary ambient air quality standard, established by EPA in 40 CFR Part 50, for the air pollutant.

(bbb) "Onshore area of a State" means areas of a State landward of the mean high water mark (mean higher high water mark on the Pacific coast).

(ccc) "Projected emissions" means emissions, either controlled or uncontrolled, from a source or sources.

(ddd) "State Implementation Plan (SIP)" means a plan submitted to and approved by the EPA, pursuant to Section 110 of the Clean Air Act, which provides for the implementation, maintenance, and enforcement of the national primary and secondary ambient air quality standards within a State.

(eee) "Source" means an emission point. Several sources may be included within a single facility.

(fff) "Temporary facility" means activities associated with the construction of platforms on the OCS or with facilities related to exploration for or development of OCS oil and gas resources which are conducted in one location for less than three years.

(ggg) "Volatile organic compound (VOC)" means any organic compound which is emitted to the atmosphere as a vapor. The unreactive compounds specified by EPA in Table I of "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314, July 8, 1977), as it may be amended, are exempt from the above definition.

2. Section 250.34–3 is amended by the addition of new paragraphs (a)(4) and (b)(4) which read as follows:

§ 250.34–3 Environmental reports.

(a) * * *

* * * * * *

(4)(i) For onshore activities directly associated with a proposed OCS facility, the lessee shall provide information on each source of air pollutants, listing: The source; the location of each source; the chemical composition and quantity of air pollutants; and the frequency and duration of emissions.

(ii) For each OCS facility, the lessee shall review the requirements of § 250.57, and shall submit only that information, described below, needed to make the findings under § 250.57:

(A)(*1*) Projected emissions from each proposed or modified facility for each year of operation, and the bases for all calculations, to include: (*i*) For each source: The source, the amount of the emission by air pollutant expressed in tons per year, and the frequency and duration of emissions; (*ii*) For each facility: The facility, the total amount of emissions by air pollutant expressed in tons per year, and in addition, for a modified facility only, the incremental amount of total emissions by air pollutant resulting from the new or modified source or sources; (*iii*) A detailed description of all processes, process equipment, and storage units, including information on fuels to be burned; (*iv*) A schematic drawing which identifies the location and elevation of each source; and (*v*) If projected emissions are based on the use of emission reduction control technology, a description of the controls providing the information required by paragraph (a)(4)(ii)(D) of this section. If a mobile drilling vessel has been described in an earlier Environmental Report, the lessee may reference, consistent with the limitations described in paragraph (a) of this section, the information in that report pertaining to paragraphs (a)(4)(ii)(A)(*1*) (*iii*), (*iv*) and (*v*).

(*2*) The distance of each proposed facility from the mean high water mark (mean higher high water mark on the Pacific Coast) of any State.

(B)(*1*) The model or models used to determine the effect on the onshore air quality of emissions from each facility, or from other facilities when required by the Director, and the results obtained through the use of the model or models. The model or models must be approved for use by the Director.

(*2*) The best available meteorological information and data consistent with the model or models used, stating the basis for the information and data selected.

(C) The air quality status of any onshore area where the air quality is significantly affected by projected emissions from each facility proposed in the plan. The area should be classified as nonattainment, attainment, or unclassifiable, to include: The status of each area by air pollutant; the class of attainment areas; and the air pollution control agency whose jurisdiction covers the area identified.

(D) The emission reduction control technology available to reduce emissions, to include: The source; the emission reduction control technology; the reductions achieved; and the monitoring system the lessee proposes

to use to measure emissions. If applicable, the lessee shall indicate which emission reduction control technology the lessee believes constitutes BACT and the basis for that opinion.

(b) *Environmental Report (Development/Production).* * * *

* * * * *

(4)(i) For onshore activities directly associated with a proposed OCS facility, the lessee shall provide information on each source of air pollutants, listing: The source; the location of each source; the chemical composition and quantity of air pollutants; and the frequency and duration of emissions.

(ii) For each OCS facility the lessee shall review the requirements of § 250.57, and shall submit only that information, described below, needed to make the findings under § 250.57:

(A)(*1*) Projected emissions from each proposed or modified facility for each year of operation, and the bases for all calculations, to include: (*i*) For each source: the source, the amount of the emission by air pollutant expressed in tons per year, and the frequency and duration of emissions; (*ii*) For each proposed facility: The facility, the total amount of emissions by air pollutant expressed in tons per year, the frequency distribution of total emissions by air pollutant expressed in pounds per day, and in addition, for a modified facility only, the incremental amount of total emissions by air pollutant resulting from the new or modified source or sources; (*iii*) A detailed description of all processes, process equipment, and storage units, including information on fuels to be burned; (*iv*) A schematic drawing which identifies the location and elevation of each source; and (*v*) If projected emissions are based on the use of emission reduction control technology, a description of the controls providing the information required by paragraph (b)(4)(ii)(D)(*1*) of this section.

(*2*) The distance of each proposed facility from the mean high water mark (mean high water mark on the Pacific Coast) of any State.

(B)(*1*) The model or models used to determine the effect on the onshore air quality of emissions from each facility, or from other facilities when required by the Director, and the results obtained through the use of the model or models. The model or models must be approved for use by the Director.

(*2*) The best available meteorological information and data consistent with the model or models used, stating the basis for the information and data selected.

(C) The air quality status of any onshore area where the air quality is significantly affected by projected emissions from each facility proposed in the plan. The area should be classified as nonattainment, attainment, or unclassifiable, listing: The status of each area by air pollutant; the class of attainment areas; and the air pollution control agency whose jurisdiction covers the area identified.

(D)(*1*) The emission reduction control technology available to reduce emissions, listing: The source; the emission reduction control technology; the reductions achieved; and the monitoring system the lessee proposes to use to measure emissions. If applicable, the lessee shall indicate which emission reduction control technology the lessee believes constitutes BACT and the basis for that opinion.

(*2*) The ownership of the offshore and onshore offsetting source or sources, and the reduction obtainable from each offsetting source.

(*3*) A new § 250.57 Air Quality consisting of §§ 250.57–1 and 250.57–2 is being added to Part 250 which reads as follows:

§ 250.57 Air Quality.

§ 250.57–1 Facilities described in a new or revised exploration plan or development and production plan.

(a) *New Plans.* All exploration plans and development plans deemed submitted under § 250.34–1(a) or § 250.34–2(a) on or after June 2, 1980, shall include the information required to make the necessary findings under paragraphs (d) through (i) of this section and the lessee shall comply with the requirements of this section as necessary.

(b) *Applicability of this Section to Existing Facilities.* (1) The Director may review any exploration plan or development and production plan deemed submitted or approved prior to June 2, 1980, to determine whether any facility described in the plan should be subject to review under this section and has the potential to significantly affect the air quality of an onshore area. To make these decisions the Director shall consider the following: The distance of the facility from shore; the size of the facility; the number of sources planned for the facility and their operational status; and the air quality status of the onshore area.

(2) For a facility identified by the Director under paragraph (b)(1) of this section, the Director shall require the lessee to refer to the information required under § 250.34–3(a)(4) or § 250.34–3(b)(4) and to submit only that information required to make the necessary findings under paragraphs (d) through (i) of this section. The lessee shall submit this information within 120 days of the Director's determination or within a longer period of time at the discretion of the Director. The lessee shall comply with the requirements of § 250.57–1 as necessary.

(c) *Revised facilities.* All revised exploration plans and development and production plans which are deemed submitted under § 250.34–1(a) or § 250.34–2(a) on or after June 2, 1980, shall include the information required to make the necessary findings under paragraphs (d) through (i) of this section. The lessee shall comply with the requirements of this section as necessary.

(d) *Exemption Formulas.* To determine whether a facility described in a new, modified, or revised exploration plan or development and production plan is exempt from further air quality review, the lessee shall use the highest annual total amount of emissions from the facility for each air pollutant calculated in § 250.34–3(a)(4)(ii)(A)(*1*) or § 250.34–3(b)(4)(ii)(A)(*1*) and compare these emissions to the emission exemption amount "E" for each air pollutant calculated using the following formulas: $E=3400D^{2/3}$ for carbon monoxide (CO); and $E=33.3D$ for total suspended particulates (TSP), sulfur dioxide (SO_2), nitrogen oxides (NO_x), and VOC (where E is the emission exemption amount expressed in tons per year, and D is the distance of the proposed facility from the closest onshore area of a State expressed in statute miles). If the amount of these projected emissions is less than or equal to the emission exemption amount "E" for the air pollutant, the facility is exempt for that air pollutant from further air quality review required by paragraphs (e) through (i) of this section.

(e) *Significance Levels.* For a facility not exempt under paragraph (d) of this section for air pollutants other than VOC, the lessee shall use an approved air quality model to determine whether projected emissions of those air pollutants from the facility result in an onshore ambient air concentration above the following significance levels:

Air pollutant	Averaging time (hours)				
	Annual	24	8	3	1
SO_2	[1] 1	[1] 5		[1] 25	
TSP	[1] 1	[1] 5			
NO_2	[1] 1				
CO			[1] 500		[1] 2,000

[1] $\mu g/m^3$.

(f) *Significance Determinations.* (1) The projected emissions of any air pollutant other than VOC from any facility which result in an onshore ambient air concentration above the significance level determined under paragraph (e) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for that air pollutant.

(2) The projected emissions of VOC from any facility which is not exempt under paragraph (d) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for VOC.

(g) *Controls required.* (1) The projected emissions of any air pollutant other than VOC from any facility, except a temporary facility, which significantly affect the quality of a nonattainment area shall be fully reduced. This shall be done through the application of BAGT and, if additional reductions are necessary, through the application of additional emission controls or through the acquisition of offshore or onshore offsets.

(2) The projected emissions of any air pollutant other than VOC from any facility which significantly affect the air quality of an attainment or unclassifiable area shall be reduced through the application of BACT.

(i) Except for temporary facilities, the lessee also shall use an approved air quality model to determine whether the emissions of TSP or SO_2 that remain after the application of BACT cause the following maximum allowable increases over the baseline concentrations established in 40 CFR 52.21 to be exceeded in the attainment or unclassifiable area:

Air pollutant	Annual mean [1]	Maximum allowable increases (averaging times)	
		24-hour maximum	3-hour maximum
Class I:			
TSP	[2]5	[2]10	
SO_2	[2]2	[2]5	[2]25
Class II:			
TSP	[2]19	[2]37	
SO_2	[2]20	[2]91	[2]512
Class III:			
TSP	[2]37	[2]75	
SO_2	[2]40	[2]182	[2]700

[1] For TSP—geometric. For SO_2—arithmetic.
[2] $\mu g/m^3$.

No concentration of an air pollutant shall exceed the concentration permitted under the national secondary ambient air quality standard, or the concentration permitted under the national primary air quality standard, whichever concentration is lowest for the air pollutant for the period of exposure. For any period other than the annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one onshore location.

(ii) If the maximum allowable increases are exceeded, the lessee shall apply whatever additional emission controls are necessary to reduce or offset the remaining emissions of TSP or SO_2 so that concentrations in the onshore ambient air of an attainment or unclassifiable area do not exceed the maximum allowable increases.

(3)(i) The projected emissions of VOC from any facility, except a temporary facility, which significantly affect the onshore air quality of a nonattainment area shall be fully reduced. This shall be done through the application of BACT and, if additional reductions are necessary, through the application of additional emission controls or through the acquisition of offshore or onshore offsets.

(ii) The projected emissions of VOC from any facility which significantly affect the onshore air quality of an attainment area shall be reduced through the application of BACT.

(4)(i) If projected emissions from a facility significantly affect the onshore air quality of both a nonattainment and an attainment or unclassifiable area, the regulatory requirements applicable to projected emissions significantly affecting a nonattainment area shall apply.

(ii) If projected emissions from a facility significantly affect the onshore air quality of more than one class of attainment area, the lessee must reduce projected emissions to meet the maximum allowable increases specified for each class in paragraph (g)(2)(i) of this section.

(h) *Controls Required On Temporary Facilities.* The lessee shall apply BACT to reduce projected emissions of any air pollutant from a temporary facility which significantly affect the air quality of an onshore area of a State.

(i) *Emission Offsets.* When emission offsets are to be obtained, the lessee must demonstrate that: The offsets are equivalent in nature and quantity to the projected emissions that must be reduced after the application of BACT; a binding commitment exists between the lessee and the owner or owners of the source or sources; the appropriate air quality control jurisdiction has been notified of the need to revise the State Implementation Plan to include the information regarding the offsets; and the required offsets come from sources which affect the air quality of the area significantly affected by the lessee's OCS operations.

(j) *Review of Facilities with Emissions Below the Exemption Amount.* If, during the review of a new, modified, or revised exploration plan or development and production plan, the Director determines or an affected State submits information to the Director which demonstrates, in the judgment of the Director, that projected emissions from an otherwise exempt facility will, either individually or in combination with other facilities in the area, significantly affect the air quality of an onshore area, then the Director shall require the lessee to submit additional information to determine whether emission control measures are necessary. The lessee shall be given the opportunity to present information to the Director which demonstrates that the exempt facility is not significantly affecting the air quality of an onshore area of the State.

(k) *Emission monitoring requirements.* The lessee shall monitor, in a manner approved or prescribed by the Director, emissions from the facility. The lessee shall submit this information, in a manner and form approved or prescribed by the Director, with the monthly report of operations prescribed under section 250.93 of this Part.

(l) *Collection of meteorological data.* The Director may require the lessee to collect, for a period of time and in a manner approved or prescribed by the Director, and submit meteorological data from a facility.

§ 250.57-2 Existing facilities.

(a) *Process leading to review of an existing facility.* (1) An affected State may request that the Director supply basic emission data from existing

facilities when such data are needed for the updating of the State's emission inventory. In submitting the request, the State must demonstrate that similar offshore and onshore facilities in areas under the State's jurisdiction are included also in the emission inventory.

(2) The Director may require lessees of existing facilities to submit basic emission data to a State submitting a request under paragraph (a)(1) of this section.

(3) The State submitting a request under paragraph (a)(1) of this section may submit information from its emission inventory which indicates that emissions from existing facilities may be significantly affecting the air quality of the onshore area of the State. The lessee shall be given the opportunity to present information to the Director which demonstrates that the facility is not significantly affecting the air quality of the State.

(4) The Director shall evaluate the information submitted under paragraph (a)(3) of this section and shall determine, based on the basic emission data, available meteorological data, and the distance of the facility or facilities from the onshore area, whether any existing facility has the potential to significantly affect the air quality of the onshore area of the State.

(5) If the Director determines that no existing facility has the potential to significantly affect the air quality of the onshore area of the State submitting information under paragraph (a)(3) of this section, the Director shall notify the State of, and explain the reasons for, this finding.

(6) If the Director determines that an existing facility has the potential to significantly affect the air quality of an onshore area of the State submitting information under paragraph (a)(3) of this section, the Director shall require the lessee to refer to the information requirements under § 250.34–3(a)(4) or § 250.34–3(b)(4) and to submit only that information required to make the necessary findings under paragraphs (b) through (e) of this section. The lessee shall submit this information within 120 days of the Director's determination or within a longer period of time at the discretion of the Director. The lessee shall comply with the requirements of § 250.57–2 as necessary.

(b) *Exemption formulas.* To determine whether an existing facility is exempt from further air quality review, the lessee shall use the highest annual total amount of emissions from the facility for each air pollutant calculated in § 250.34–3(a)(4)(ii)(A)(*1*) or § 250.34–3(b)(4)(ii)(A)(*1*) and compare these emissions to the emission exemption amount "E" for each air pollutant calculated using the following formulas: $E=3400D^{2/3}$ for CO; and $E=33.3D$ for TSP, SO_2, NO_x, and VOC (where E is the emission exemption amount expressed in tons per year and D is the distance of the facility from the closest onshore area of a State expressed in statute miles). If the amount of projected emissions are less than or equal to the emission exemption amount "E" for the air pollutant, the facility is exempt for that air pollutant from further air quality review required under paragraphs (c) through (e) of this section.

(c) *Significance levels.* For a facility not exempt under paragraph (b) of this section for air pollutants other than VOC, the lessee shall use an approved air quality model to determine whether projected emissions of those air pollutants from the facility result in an onshore ambient air concentration above the following significance levels:

Air pollutant	Averaging time (hours)				
	Annual	24	8	3	1
SO_2	[1] 1	[1] 5		[1] 25	
TSP	[1] 1	[1] 5			
NO_2	[1] 1				
CO			[1] 500		[1] 2,000

[1] $\mu g/m^3$.

(d) *Significance determinations.* (1) The projected emissions of any air pollutant other than VOC from any facility which result in an onshore ambient air concentration above the significance level determined under paragraph (c) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for that air pollutant.

(2) The projected emissions of VOC from any facility which is not exempt under paragraph (b) of this section for that air pollutant shall be deemed to significantly affect the air quality of the onshore area for VOC.

(e) *Controls required.* (1) The projected emissions of any air pollutant which significantly affect the air quality of an onshore area shall be reduced through the application of BACT.

(2) The lessee shall submit a compliance schedule for the application of BACT. If it is necessary to cease operations to allow for the installation of emission controls, the lessee may apply for a suspension of operations under the provisions of § 250.12.

(f) *Review of facilities with emissions below the exemption amount.* If, during the review of the information required under paragraph (a)(6) of this section, the Director determines or an affected State submits information to the Director which demonstrates, in the judgment of the Director, that projected emissions from an otherwise exempt facility will, either individually or in combination with other facilities in the area, significantly affect the air quality of an onshore area, then the Director shall require the lessee to submit additional information to determine whether control measures are necessary. The lessee shall be given the opportunity to present information to the Director which demonstrates that the exempt facility is not significantly affecting the air quality of an onshore area of the State.

(g) *Emission monitoring requirements.* The lessee shall monitor, in a manner approved or prescribed by the Director, emissions from the facility following the installation of emission controls. The lessee shall submit this information, in a manner and form approved or prescribed by the Director, with the monthly report of operations prescribed under § 250.93.

(h) *Collection of meteorological data.* The Director may require the lessee to collect, for a period of time and in a manner approved or prescribed by the Director, and submit meteorological data from a facility.

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DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Proposed rule.

SUMMARY: A final rule establishing a regulatory program to implement section 5(a)(8) of the Outer Continental Shelf (OCS) Lands Act Amendments of 1978, Pub. L. 95-372 (herein referred to as the "Act"), concerning the regulation of air emissions from oil and gas operations on the OCS was published in the Federal Register on Friday, March 7, 1980. The final rule revised 30 CFR 250.2 and 250.34 and created a new section 30 CFR 250.57. These proposed revisions would amend 30 CFR 250.57 to incorporate a separate set of exemption formulas and significance levels for application to OCS facilities locating in areas adjacent to the State of California and to establish a provision under which other affected States with air quality standards more stringent than the national ambient air quality standards may petition the U.S. Geological Survey (GS) for treatment similar to that accorded California.

DATE: Interested persons are invited to submit written comments and recommendations on the proposed regulations. Written comments and recommendations must be submitted on or before May 6, 1980.

ADDRESS: Responses should identify the subject matter and be directed to the Chief, Conservation Division, Attention: Environmental Analysis Section, U.S. Geological Survey, National Center, Mail Stop 600, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: John Goll, U.S. Geological Survey, Conservation Division, National Center, Mail Stop 600, Reston, Virginia 22092, (703) 860-7136.

AUTHORS: Thomas McCloskey, Office of the Assistant Secretary-Energy and Minerals, Department of the Interior; Theresa Hooks, Office of the Solicitor, Department of the Interior; R. A. Karam, Office of OCS Program Coordination, Office of Assistant Secretary-Policy, Budget and Administration, Department of the Interior; John Goll, U.S. Geological Survey, Conservation Division, Department of the Interior.

SUPPLEMENTARY INFORMATION: The Act provides that the Secretary of the Interior shall prescribe regulations with provisions for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*), to the extent that activities authorized under the Act significantly affect the air quality of any State (section 5(a)(8), 43 U.S.C. 1334). By Notice of Proposed Rule on May 10, 1979 (44 FR 27449) public comments and recommendations were requested on proposed air quality regulations.

In the proposed regulations no explicit recognition was given to State ambient air quality standards. Instead, a stringent regulatory program based on significance levels derived from the national ambient air quality standards was proposed. In the preamble to the proposed regulations, the Department stated that, "Although there is no explicit reference * * * to State standards, the Department believes that the approach it has adopted will not prevent the attainment of more stringent State standards." The Department based this conclusion on the following arguments: (1) The proposed program was comprehensive in nature because it applied to both existing and new facilities and to emissions affecting either attainment or nonattainment areas; (2) only limited exemptions to the regulatory requirements were granted; (3) stringent significance levels were adopted; and (4) stringent levels of control were required.

Many of those submitting comments on the proposed regulations supported the decision not to give explicit recognition to State standards. They argued that this decision is consistent with the Department's mandate under section 5(a)(8) of the Act which refers to *national* standards. Others commenters, however, disagreed with the Department's decision and asserted that the rationale for the decision was unconvincing. They maintained that the unique air pollution problems of California, for example, require special consideration in the drafting of air quality regulations. They pointed out that the Conference Committee Report on the Act directs the Department to adopt a regulatory program that "protects" a State's ability to achieve more stringent State standards, and argued that this is not accomplished if more stringent state standards are not incorporated specifically into the Department's regulations.

Because of the many comments received from State and local government entities in California, the Department's initial position on this issue has been carefully re-evaluated. We have concluded that, on the basis of existing information, we cannot yet determine whether the final air quality regulations would protect California's ability to attain more stringent State standards.

One of the problems the Department encountered from the outset is the apparent assumption, by State and local government entities in California, that the approach adopted in California's air quality regulatory program is the only one that can protect the State's ability to achieve its more stringent standards. California commenters urged that all aspects of the State's regulatory program, including enforcement by local governments, be incorporated into the federal program. Additionally, they argued against any regulatory scheme which recognizes dilution of air pollutants, and suggested the adoption of a program embodying the concept that all pollutants emitted within a defined area adjacent to the State, called the "California coastal waters", have onshore impacts and must be controlled. However, the approach advocated by California conflicts with the Department's legislative mandate to control only those emissions from OCS facilities that have *significant* onshore impacts, and with the ruling of the U.S. Court of Appeals for the Ninth Circuit in *California* v. *Exxon Corp.*, No. 78-2363 (Aug. 20, 1979), that the United States has exclusive authority to regulate air emissions from OCS facilities. Moreover, the status of the State's definition of "California coastal waters" is indefinite in light of a decision by the California Air Resources Board on December 6, 1979 to ask EPA to defer consideration of an amendment to the California State Implementation Plan which would have incorporated a provision defining "Southern California Coastal Waters."

Thus, in an effort to respond to the expressed concern of State and local governments in California, the Department examined the various components of the State's program to see if they could be incorporated into the national program created in the final regulations. Although none of the procedural aspects are acceptable, the Department developed a means by which the air quality standards adopted by California could be applied in a manner consistent with the approach the Department has adopted for the nation as a whole in the final regulations. The GS derived significance levels for the national criteria pollutants (see 40 CFR Part 50) from California's States ambient air quality standards which are equivalent, on a percentage basis, with the relationship between the significance levels in the Department's

final air quality program and the national standards. Those "California" significance levels, which were more stringent than the significance levels in the Department's final air quality program, were then substituted for those based on the national standards. Corresponding emission exemption formulas were established. The result is a proposal, based on California's air quality standards and the exemptions granted under Model Rule 213 (roughly equivalent to 46 tons per year), which is approximately twice as stringent as the one now applicable to OCS facilities under the Department's final air quality regulatory program. The Department has decided to publish proposed regulations establishing a separate set of exemption formulas and significance levels for application to OCS facilities locating in areas adjacent to the State of California. All other aspects of the Department's final air quality program remain the same.

In addition, in order to insure equitable treatment for other affected States with air quality standards more stringent than the national ambient air quality standards, a provision is included to allow such States to petition the GS for treatment similar to that accorded California. This treatment would be limited to: (1) The State ambient air quality standards which are more stringent than the national ambient air quality standards; (2) the national criteria pollutants defined in 40 CFR Part 50; and (3) the derivation of significance levels and exemption formulas.

The decision to publish these provisions in proposed form is based on the following considerations. First, the approach differs significantly from the one contemplated under the proposed regulations and interested parties have not had an opportunity to comment on it in terms of its adequacy or impact. Second, there is uncertainty about whether the approach outlined in the Department's proposed and final regulations will protect California's ability to achieve its more stringent State standards. Finally, recent legislative, administrative, and judicial actions in California cast doubt over the future applicability of the State's more stringent air quality standards. In particular the Department is hesitant to promulgate final regulations until the impact of Senate Bill 815, which was signed into law on September 9, 1979, is clarified. That law provides that California's State Implementation Plan shall include only those provisions necessary to meet the requirements of the Clean Air Act. The Department encourages commenters on the proposed regulations to address specifically the question of how Senate Bill 815 effects the ability of the State to create more stringent State standards and the ability of the Department to incorporate such standards in its regulatory program.

Environmental Impact and Regulatory Analysis

The Department of the Interior has determined that this proposed revision of the regulations in 30 CFR Part 250, in accordance with this notice, is not a major Federal action significantly affecting the quality of the human environment and will not require preparation of an Environmental Impact Statement. An Environmental Assessment and a Finding of No Significant Impact have been prepared. The Department has also determined that this proposed rule is a significant rule but does not require preparation of a regulatory analysis under Executive Order 12044 and implementing regulations 43 CFR Part 2.

Dated: March 3, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

30 CFR Part 250 is amended as follows:

1. Section 250.57–1(d) and (e) are revised to read as follows:

§ 250.57–1. Facilities described in a new or revised exploration plan or development and production plan.

* * * * *

(d) *Exemption Formulas.* To determine whether a facility described in a new, modified, or revised exploration plan or development and production plan is exempt from further air quality review, the lessee shall use the highest annual total amount of emissions from the facility for each air pollutant calculated in § 250.34–3(a)(4)(ii)(A)(*1*) or § 250.34–3(b)(4)(ii)(A)(*1*) and compare these emissions to the emission exemption amount "E" for each air pollutant calculated using the following formulas: $E=3400D^{2/3}$ for carbon monoxide (CO); and E=33.3D, except for areas adjacent to California for which E=15.3D, for total suspended particulates (TSP), sulfur dioxide (SO_2), nitrogen oxides (NO_x), and VOC (where E is the emission exemption amount expressed in tons per year and D is the distance of the facility from the closest onshore area of a State expressed in statute miles). If the amount of these projected emissions is less than or equal to the emission amount "E" for the air pollutant, the facility is exempt for that air pollutant from further air quality review required by paragraphs (e) through (i) of this section.

(e) *Significance Levels.* For a facility not exempt under paragraph (c) of this section for air pollutants other than VOC, the lessee shall use an approved air quality model to determine whether projected emissions of those air pollutants from the facility result in an onshore ambient air concentration above the following significance levels:

(1) For a facility located in an area not adjacent to California:

Air pollutant	Averaging time (hours)				
	Annual	24	8	3	1
SO_2	[1]1	[1]5		25	
TSP	[1]1	[1]5			
NO_2	[1]1				
CO			[1]500		[1]2,000

[1] $\mu g/m^3$.

(2) For a facility located in an area adjacent to California:

Air pollutant	Averaging time (hours)			
	Annual	24	8	1
SO_2	[1]1	[1]2		[1]25
TSP	[1]1	[1]2		
NO_2	[1]1			[1]10
CO			[1]500	[1]2,000

[1] $\mu g/m^3$.

2. Section 250.57–1 is amended by adding paragraph (m) which reads as follows:

* * * * *

(m) Any State which has, or in the future adopts, State ambient air quality standards which are more stringent than the national ambient air quality standards may request that the Director develop exemption formulas and significance levels based on the State's ambient air quality standards.

3. Section 250.57–2(b) and (c) are revised to read as follows:

§ 250.57–2. Existing facilities.

* * * * *

(b) *Exemption Formulas.* To determine whether an existing facility is exempt from further air quality review, the lessee shall use the highest annual total amount of emissions from the facility for each air pollutant calculated in § 250.34–3(a)(4)(ii)(A)(*1*) or § 250.34–3(b)(4)(ii)(A)(*1*) and compare these emissions to the emission exemption amount "E" for each air pollutant calculated using the following formulas: $E=3400D^{2/3}$ for CO; and E=33.3D, except for areas adjacent to California for which E=15.3D, for TSP, SO_2, NO_x, and VOC (where E is the emission exemption amount expressed in tons per year and D is the distance of the facility

from the closest onshore area of a State expressed in statute miles). If the amount of projected emissions is less than or equal to the emission amount "E" for the air pollutant, the facility is exempt for that air pollutant from further air quality review required under paragraphs (c) through (e) of this section.

(c) *Significance Levels.* For a facility not exempt under paragraph (b) of this section for air pollutants other than VOC, the lessee shall use an approved air quality model to determine whether projected emissions of those air pollutants from the facility result in an onshore ambient air concentration above the following significance levels:

(1) For a facility located in an area not adjacent to California:

Air pollutant	Averaging time (hours)				
	Annual	24	8	3	1
SO_2	[1]1	[1]5	.....	[1]25	.....
TSP	[1]1	[1]5	.....	.....	.....
NO_2	[1]1	.....	.....	.....	.....
CO	.....	.....	[1]500	.....	[1]200

[1] μg/m³.

(2) For a facility located in an area adjacent to California:

Air pollutant	Averaging time (hours)			
	Annual	24	8	1
SO_2	[1]1	[1]2	.....	[1]25
TSP	[1]1	[1]2	.....	.....
NO_2	[1]1	.....	.....	[1]10
CO	.....	.....	500	[1]2,000

[1] μg/m³.

* * * * *

4. Section 250.57–2 is revised by adding paragraph (i) which reads as follows:

* * * * *

(i) Any State which has, or in the future adopts, State ambient air quality standards which are more stringent than the national ambient air quality standards, may request that the Director develop exemption formulas and significance levels based on the State's ambient air quality standards.

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Federal Register

Friday
March 7, 1980

Part VI

Department of Labor

Employment and Training Administration

Designation as a Prime Sponsor Under the Comprehensive Employment and Training Act; Invitation To Submit Preapplications

DEPARTMENT OF LABOR

Employment and Training Administration

Designation as a Prime Sponsor Under the Comprehensive Employment and Training Act; Invitation To Submit Preapplications

The purpose of this notice is to describe the eligibility criteria for prime sponsor designation under the Comprehensive Employment and Training Act (CETA) and the procedures for applying for such designation for those jurisdictions newly exceeding 100,000 in population, those newly under 100,000 in population, and those jurisdictions listed in the December 28, 1979, Federal Register notice which at one time exceeded 100,000 and were prime sponsors but subsequently dropped below 100,000 and now again exceed 100,000. These preapplication procedures also apply to other jurisdictions where initial decisions about prime sponsor composition are altered as a result of the new population estimates.

This notice is a followup to the December 28, 1979, notice and pertains to those jurisdictions which fall into one of the listed above categories.

The Secretary of Labor provides financial assistance under CETA to qualified prime sponsors for the conduct of employment and training programs. Each year applicants for prime sponsor designation, including those that have been designated as prime sponsors in previous years, must submit a preapplication for Federal assistance. One such preapplication will suffice for all titles of CETA, except that the preapplication for Special Grants to Governors must be separate.

Eligibility Criteria. Section 101(a) of the Act provides that a prime sponsor shall be:

(a) A State;

(b) A unit of a general local government which has a population of 100,000 or more;

(c) Any consortium of units of general local government which includes a unit of general local government qualifying under paragraph (b) of this section;

(d) The four existing Concentrated Employment Programs (CEP) prime sponsors.

(e) Any unit of general local government previously designated as a prime sponsor, with a population below 100,000 persons, which the Secretary certifies has demonstrated its effectiveness in, and continues to have the capability for, adequately carrying out programs under the Act.

(f) Any unit of general local government or any consortium of such units, without regard to population, which is determined by the Secretary

(1)(i) To serve a substantial portion of a functioning labor market area, or

(ii) To be a rural area having a high level of unemployment; and

(2) To have demonstrated that

(i) It has the capability for adequately carrying out programs under the Act,

(ii) There is a special need for services within the area to be served, and

(iii) It will carry out programs and services in the area as effectively as any larger unit of general local government in the jurisdiction of which it is located or as the State.

General Procedures for Applying. In accordance with Section 101(c) of the Act, and in order to be considered eligible for prime sponsorship, the Secretary of Labor hereby informs all potential applicants listed below that they must submit a preapplication for Federal assistance no later than April 7, 1980. The Department of Labor will not accept any change in these applications subsequent to April 7, 1980.

The preapplication must be submitted to the appropriate Regional Administration, Employment and Training Administrator (ETA), the Governor, and appropriate State and areawide clearinghouses pursuant to OMB Circular A-95, not later than 30 days prior to the submission of its completed Comprehensive Employment and Training Plan to the clearinghouse for formal review.

The preapplication will consist of Standard Form (SF) 424, as described in 41 CFR 29-70, with an attachment giving the following information:

(a) Population of area(s) to be served;

(b) Certification that the prime sponsor applicant, except for States, CEP and consortia prime sponsor applicants, has the general government authority required by the definition of "unit of general local government" at Section 3(29) of CETA;

(c) Name of any ineligible unit of general local government, located within the prime sponsor applicant's jurisdiction, that has informed the prime sponsor applicant that it will not be participating in the prime sponsor applicant's plan;

(d) Certification that the development of the applicant's plan will be in accordance with the requirements of the Act and the regulations;

(e) The signature of the chief elected officials(s) or chief executive officer(s), as appropriate, of each applicant. For a newly formed consortium, and for a consortium in which one or more members have joined or withdrawn, the signature of the chief elected official or chief executive officer of each consortium member is required. In the case of an established consortium with no membership changes, the preapplication may, with the consent of all consortium members, be signed by the consortium's chief executive officer.

Special Application Procedures

(a) *Units of general local government of less than 100,000 population.* Any unit of general local government which does not have a population of 100,000 but wishes to be named a prime sponsor because of exceptional circumstances under the provisions of Section 101 of the Act should submit a preapplication according to procedures set forth above. In addition, the preapplication should include information as to:

(1) The labor market area(s) in which the unit of general local government is located;

(2) The proportion of the labor market area population which resides within the jurisdiction of the unit of general local government;

(3) The unit of general local government's administrative and organizational capability for adequately carrying out programs under the Act;

(4) The unit of general local government's ability to carry out the program as effectively as the State, e.g., past experience in operating employment and training programs, effective linkages with community-based organizations and programs, administrative efficiency in terms of costs, and of the existence and effective operation of an Operational Planning Grant;

(5) The special need for services within the area to be served, e.g., a high proportion of groups within the population such as disadvantaged youth, offenders, high school dropouts, a high unemployment rate, substantial outmigration, or unique commuting problems. The problems faced by prime sponsors in dealing with these special needs for services should be different from the problems faced by other prime sponsors in similar geographic areas.

(b) *Consortia.* Combination of units of general local government may form a consortium to plan and operate a comprehensive employment and training program. The nature of consortium agreements is set forth in detail in Section 676.4 of the CETA regulations, published at 20 CFR Parts 675 through 680.

In order to encourage the formation of consortia that comprise at least 75 percent of labor market areas, the Secretary will use up to 5 percent of the funds available for Title II, Parts A, B

and C, of the Act to provide additional funding for such consortia.

Consortia which do not serve such areas shall not be eligible for these additional funds. Prior to making decisions concerning these funds, the Regional Administrator, ETA, will consult with the Governors of the appropriate States and afford them an opportunity to make recommendations.

A consortium must submit a preapplication according to the procedures set forth above. (See 20 CFR 676.4.) An established consortium which submitted a formal written ageement last year may attest in writing that the agreement is the same of specify amendments to the agreement. The formal agreement or attestation must be signed by the chief elected official or chief executive officer of each consortium member. Only one such agreement is necessary for designation under all titles. Changes in consortium agreements resulting from revised prime sponsor composition because of the new population estimates shall be submitted to the Regional Administrator by April 7, 1980.

List of ETA Regional Offices. All preapplication information and consortium agreements (described above) must be submitted to the appropriate Regional Administrator, ETA. The names, addresses and areas of responsibility of the Regional Administrators are listed below.

Implementation Schedule

Grants to prime sponsors for Fiscal Year 1981 will be executed by October 1, 1980. Planning estimates will be released by May 15, 1980. Prime sponsors listed below will be expected to submit their final grant applications to the appropriate Regional Administrator by August 15, 1980. If planning estimates for these prime sponsors should be slightly delayed because of data compilation requirements, final grant applications will be due to the Regional Administrator by September 1, 1980.

Eligible Under Section 101(a)(2)

Listing of jurisdictions newly exceeding 100,000 in populations.

Fullerton City, California
Shasta County, California
Sterling Heights City, Michigan
Catawba County, North Carolina
Eugene City, Oregon
Denton County, Texas
Montgomery County, Texas

List of jurisdictions previously exceeding 100,000 in population and which were prime sponsors, and which subsequently dropped below 100,000 in population, but which now again exceed 100,000 in population.

Ashtabula County, Ohio

In addition to the above, the following jurisdictions exceed 100,000 in population and were inadvertently omitted in the December 28, 1979, Federal Register notice. These jurisdictions are eligible to apply for prime sponsorship under Section 101(a)(1) of the Act.

Pima County, Arizona
Polk County, Iowa

Regional Administrators, Employment and Training Administration

Location and States in Region

Region I, Boston

Timothy M. Barnicle, Regional Administrator, ETA, U.S. Department of Labor, J. F. Kennedy Building, Room 1703, Boston, Massachusetts 02203.
Connecticut, Maine, Massachusetts, Vermont, Rhode Island, New Hampshire

Region II, New York

James A. Ware, Regional Administrator, ETA, U.S. Department of Labor, 1515 Broadway, Room 3713, New York, New York 10036.
New York, Puerto Rico, New Jersey, Virgin Islands, Canal Zone

Region III, Philadelphia

William J. Haltigan, Regional Administrator, ETA, U.S. Department of Labor, Post Office Box 8796, Philadelphia, Pennsylvania 19101.
Delaware, Virginia, Maryland, Pennsylvania, West Virginia, District of Columbia

Region IV, Atlanta

James A. Lowe, Acting Regional Administrator, ETA, U.S. Department of Labor, 1371 Peachtree Street, N.E., Room 405, Atlanta, Georgia 30309.
Alabama, Florida, Georgia, Mississippi, Kentucky, North Carolina, South Carolina, Tennessee

Region V, Chicago

Charles T. Ross, Regional Administrator, ETA, U.S. Department of Labor, 230 South Dearborn Street, 6th Floor, Chicago, Illinois 60604.
Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Region VI, Dallas

Richard A. Flores, Jr., Regional Administrator, ETA, U.S. Department of Labor, 555 Griffin Square Building, Room 316, Dallas, Texas 75202.
Arkansas, Oklahoma, Texas, Louisana, New Mexico

Region VII, Kansas City

Richard G. Miskimins, Regional Administrator, ETA, U.S. Department of Labor, 911 Walnut Street, Room 1000, Federal Building, Kansas City, Missouri 64106.
Iowa, Missouri, Nebraska, Kansas

Region VIII, Denver

Floyd E. Edwards, Regional Administrator, ETA, U.S. Department of Labor, 16122 Federal Office Building, 1961 Stout Street, Denver, Colorado 80294.
Colorado, Utah, South Dakota, North Dakota, Montana, Wyoming

Region IX, San Francisco

Carolyn M. Golding, Regional Administrator, ETA, U.S. Department of Labor, Federal Office Building, Box 36084, 450 Golden Gate Avenue, San Francisco, California 94102.
Arizona, California, Hawaii, Nevada, Guam, American Samoa, Trust Territory of the Pacific Islands

Region X, Seattle

Don A. Balcer, Regional Administrator, ETA, U.S. Department of Labor, Federal Office Building, 909 First Avenue, Room 1145, Seattle, Washington 98174.
Alaska, Idaho, Oregon, Washington

Signed at Washington, D.C., this 28th day of February 1980.

Charles B. Knapp,

Deputy Assistant Secretary for Employment and Training.

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BILLING CODE 4510-30-M

Federal Register

Friday
March 7, 1980

Part VII

Department of Labor

Office of the Assistant Secretary for Labor-Management Relations

Standards of Conduct for Labor Organizations in the Federal Sector

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Labor-Management Relations

29 CFR Parts 201, 202, 203, 204, 205, 206, 207, 208, and 209

Standards of Conduct for Labor Organizations in the Federal Sector

AGENCY: Office of the Assistant Secretary for Labor-Management Relations, Department of Labor.

ACTION: Final regulations.

SUMMARY: The following regulations, Parts 207–209 of Title 29 of the Code of Federal Regulations, implement the provisions of Title VII of the Civil Service Reform Act of 1978 which relate to the standards of conduct for labor organizations in the Federal sector (section 7120 of Title 5 of the United States Code). The provisions of 5 U.S.C. 7120 supersede the standards of conduct provisions of section 18 of Executive Order 11491, as amended. Parts 207–209 adopt with few revisions the portions of the regulations issued under the Executive Order in Parts 201–206 which relate to standards of conduct matters.

EFFECTIVE DATE: These regulations are effective April 7, 1980.

FOR FURTHER INFORMATION CONTACT: Herbert Raskin (202) 523–7373.

SUPPLEMENTARY INFORMATION: The Federal labor-management relations program of Executive Order 11491, as amended, has been replaced by the statutory program set forth in Title VII of the Civil Service Reform Act of 1978 (5 U.S.C. 7101 et. seq.). Under 5 U.S.C. 7120, the Assistant Secretary for Labor-Management Relations retains the responsibility for administering the standards of conduct requirements for labor organizations in the Federal sector previously set forth in section 18 of the Executive Order. The responsibility for administering other areas of the Federal labor-management relations program (which under the Executive Order were assigned to the Assistant Secretary) have been delegated to the Federal Labor Relations Authority (the Authority), the General Counsel of the Authority, and the Federal Service Impasses Panel (the Panel), agencies which are independent of the Department of Labor.

Under Executive Order 11491, the Assistant Secretary issued implementing regulations in Parts 201–206 of Title 29 of the Code of Federal Regulations. Those protions of Parts 201–206 which relate to standards of conduct matters were transferred with few revisions to proposed Parts 207–209 implementing 5 U.S.C. 7120 in a notice published in the Federal Register on August 28, 1979 (44 FR 50557). The proposed Parts 207–209 are adopted with several modifications suggested by comments from the public as discussed below. (Parts 201–206 are revoked to the extent they relate to standards of conduct matters and are withdrawn from publication in Title 29. However, to the extent that Parts 201–206 are incorporated in regulations of the Authority, the General Counsel of the Authority and the Panel (5 CFR Part 2400 et. seq.), they may still be applicable to cases other than standards of conduct matters which arose under Executive Order 11491.)

The following changes were made as a result of comments received from the public on the proposed regulations. Section 208.28 contained a misprint which has been corrected by deleting the words "trusteeship established by a labor organization" which appeared between the words "executive" and "board" in the first sentence. The words "and by applicable court decisions" have been added at the end of § 208.35. The phrase "or other agent or representative" has been added at the end of § 208.68(a). At the end of § 208.79, the word "proof" has been deleted and replaced by the words "proving the allegations of the complaint by a preponderance of the evidence."

The following comments were considered and not acted upon.

1. One comment suggested that § 208.2(d) be amended so that only union members be entitled to receive a copy of a contract negotiated by a local union; non-member employees who are directly affected by such a contract would only be entitled to inspect it. The commenter notes that Federal sector unions, unlike those in the private sector, may not negotiate union security provisions and that unions may incur extensive costs if they are required to provide copies of a contract to any employee who claims to be directly affected by it.

The language of § 208.2(d) (previously set forth in 29 CFR 206.2(d)) is taken from section 104 of the Labor-Management Reporting and Disclosure Act of 1959, as Amended (LMRDA), 29 U.S.C. 414, pursuant to the requirement that the regulations issued by the Assistant Secretary under the Civil Service Reform Act (CSRA) conform generally to the principles applied to private sector unions. Section 104 is applicable to a private sector union regardless of whether or not it has negotiated a union security provision in its contract. Consequently, the absence of union security provisions in the Federal sector and the potential costs to Federal sector unions do not warrant the limitation of the rights of a non-member employee who in a particular case is directly affected by a contract.

2. Another comment suggests the deletion of § 208.64(c), which provides for a review by the Assistant Secretary of a dismissal of an officer election complaint, in that it promotes instability and uncertainty in the resolution of election disputes. However, § 208.64(c) incorporates the principle of the Supreme Court decision in *Bachowski* v. *Brennan*, 421 U.S. 560 (1975), which should be applicable to officer elections in Federal sector unions.

3. A third comment suggests the deletion of that portion of § 208.70 which provides that a stipulated agreement for remedial action approved by an administrative law judge be referred to the Assistant Secretary for the issuance of an order or other appropriate action. The commenter states that this provision is unnecessary and time-consuming. However, the participation of the Assistant Secretary in the approval of a stipulated agreement is appropriate in that the role of the administrative law judge is advisory. Further, the referral of such agreements to the Assistant Secretary will clarify and expedite the procedures for granting final approval once the actions set forth in the agreements have been satisfactorily completed.

4. Another comment states that the procedures for enforcing alleged violations of the bill of rights of members are too cumbersome and time-consuming. The commenter suggests that a member should be able to file a complaint with the Chief Administrative Law Judge of the Department of Labor who, prior to issuing a notice of hearing, will obtain additional necessary facts, determine whether there is a reasonable basis for the complaint and whether there has been a satisfactory offer of settlement. These functions are now handled by area and regional administrators of the Labor-Management Services Administration of the Department. The suggestion, however, would not decrease the actions required of a member which, prior to a hearing, consist solely of filing a complaint. Further, the obtaining of information is more expeditiously handled by field personnel experienced in these matters, and the role of an administrative law judge is more appropriately that of an impartial third party in a formal adversary setting rather than that of an investigator or mediator.

5. A fifth comment suggests that postmarks be considered the date of

receipt of any document in determining its timeliness in order to avoid inequities due to slow mail service. However, it is important for the parties to a hearing to know the final date on which a document must be received in order to know what action, if any, is appropriate for them to take. Consequently, the date of actual receipt, rather than the date of mailing, is of primary importance. In addition, § 209.5(b) of the regulations provides that the Assistant Secretary may alter or extend any time period where strict adherence will lead to injustice or interfere with the proper effectuation of the Civil Service Reform Act.

6. Another comment suggests the deletion of § 208.72(c), which provides that an employee whose presence at a hearing has been determined to be necessary shall be granted official time and be paid necessary expenses by his or her agency. The commenter notes that agencies are not parties to standards of conduct matters and that there is no comparable requirement in the private sector that an employer pay the salary and expenses of an employee in connection with an internal union matter.

The provisions of § 208.72(c) were previously set forth in § 206.7(g) of the regulations issued under Executive Order 11491, as amended. Subsection 206.7(g) was issued pursuant to a ruling by the Federal Labor Relations Council that the Assistant Secretary may promulgate such regulations with regard to matters for which he is responsible. (The Council was responsible for overseeing the Federal labor-management relations program of the Executive Order and was composed of the Chairman of the Civil Service Commission, the Secretary of Labor, and the Director of the Office of Management and Budget.) Subsection 206.7(g) was proposed in September of 1973 (38 FR 26919), adopted in November of 1973 (38 FR 30875) after consideration of all comments, and has been an important aspect of the implementation of the Federal labor-management relations program since that time. Since the standards of conduct provisions of the Civil Service Reform Act are not substantially different from those of the Executive Order, its provisions remain warranted.

7. The final comment stated that the proposed regulations were incomplete in that they did not provide guidance to Federal agencies with regard to their obligation to accord recognition only to unions which are not subject to corrupt or undemocratic influences. The commenter suggests amending the definition of labor organization to provide that an organization must meet the requirements of the standards of conduct provisions of the Act and be accorded exclusive recognition by an agency in order to be considered a labor organization. However, it would not be appropriate for the Assistant Secretary to modify the statutory definition of a labor organization. Further, the suggestion would have the effect of exempting from the standards of conduct requirements those organizations which are seeking exclusive recognition, thereby eliminating the rights of members of those organizations. It should be noted that issues regarding recognition of labor organizations should be directed to the Federal Labor Relations Authority which is responsible for administering those portions of the Civil Service Reform Act.

Under the authority of 5 U.S.C. 7120 and 7134, the Assistant Secretary for Labor-Management Relations hereby revokes Parts 201–206 of Title 29 of the Code of Federal Regulations insofar as they apply to the Assistant Secretary's functions under section 16 of Executive Order 11491, as amended, withdraws those parts from publication in Title 29 of the Code of Federal Regulations, and issues new Parts 207–209 applicable to matters arising under 5 U.S.C. 7120 to read as follows:

PARTS 201-206 [DELETED]

1. Parts 201–206 are revoked.

2. New Parts 207, 208, and 209 are added to read as set forth below:

PART 207—GENERAL

Subpart A—Purpose and Scope

Sec.

207.1 Purpose and Scope.

Subpart B—Meaning of Terms as Used in This Chapter

207.10 Act; LMRDA.
207.11 Agency, employee, labor organization, dues, activity.
207.12 Authority.
207.13 Assistant Secretary.
207.14 Standards of conduct for labor organizations.
207.15 Regional Administrator.
207.16 Area Administrator.
207.17 Director.
207.18 Administrative Law Judge.
207.19 Chief Administration Law Judge.
207.20 Party.
207.21 Intervenor.

Authority: 5 U.S.C. 7120, 7134.

Subpart A—Purpose and Scope

§ 207.1 Purpose and scope.

The regulations contained in this chapter are designed to implement 5 U.S.C. 7120, which relates to the standards of conduct for labor organizations in the federal sector set forth in Title VII of the Civil Service Reform Act of 1978. They prescribe procedures and basic principles which the Assistant Secretary of Labor will utilize in effectuating the standards of conduct required of labor organizations composed of federal government employees. (Regulations implementing the other provisions of Title VII of the Civil Service Reform Act are issued by the Federal Labor Relations Authority, the General Counsel of the Federal Labor Relations Authority, and the Federal Service Impasses Panel in Title 5 of the Code of Federal Regulations.)

Subpart B—Meaning of Terms as Used in This Chapter

§ 207.10 Act; LMRDA.

"Act" means the Civil Service Reform Act of 1978; "LMRDA" means the Labor-Management Reporting and Disclosure Act of 1959, as amended.

§ 207.11 Agency, employee, labor organization, dues, activity.

"Agency," "employee," "labor organization," and "dues" have the meanings set forth in the Act, 5 U.S.C. 7103. "Activity" means any facility, organizational entity, geographical subdivision or combination thereof of an agency.

§ 207.12 Authority.

"Authority" means the Federal Labor Relations Authority as described in the Act, 5 U.S.C. 7104 and 7105.

§ 207.13 Assistant Secretary.

"Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations.

§ 207.14 Standards of conduct for labor organizations.

"Standards of conduct for labor organizations" shall have the meaning as set forth in the Act, 5 U.S.C. 7120, and amplified in Part 208 of this chapter.

§ 207.15 Regional Administrator.

"Regional Administrator" means the Administrator of a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 207.16 Area Administrator.

"Area Administrator" means the Administrator of an area office within a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

§ 207.17 Director.

"Director" means the Director of the Office of Labor-Management Standards Enforcement within the Labor-Management Services Administration of the Department of Labor.

§ 207.18 Administrative Law Judge.

"Administrative Law Judge" means the Chief Administrative Law Judge or any Administrative Law Judge designated by the Chief Administrative Law Judge to conduct a hearing in cases under 5 U.S.C. 7120, as implemented by Part 208 of this chapter, and such other matters as may be assigned.

§ 207.19 Chief Administrative Law Judge.

"Chief Administrative Law Judge" means the Chief Administrative Law Judge, U.S. Department of Labor, Washington, D.C. 20210.

§ 207.20 Party.

"Party" means any person, employee, group of employees, labor organization, activity or agency: (a) filing a complaint petition, request, or application; (b) named in a complaint, petition, request, or application; or (c) whose intervention in a proceeding has been permitted or directed by the Assistant Secretary, Chief Administrative Law Judge, or Administrative Law Judge, as the case may be.

§ 207.21 Intervenor.

"Intervenor" means a party in a proceeding whose intervention has been permitted or directed by the Assistant Secretary, Chief Administrative Law Judge, or Administrative Law Judge, as the case may be.

PART 208—STANDARDS OF CONDUCT

Subpart A—Substantive Requirements Concerning Standards of Conduct

Sec.
208.1 General.
208.2 Bill of Rights of members of labor organizations.
208.3 Application of LMRDA labor organization reporting requirements.

Trusteeships

208.26 Purposes for which a trusteeship may be established.
208.27 Prohibited acts relating to subordinate body under trusteeship.
208.28 Presumption of validity.

Elections

208.29 Election of officers.

Additional Provisions Applicable

208.30 Removal of elected officers.
208.31 Maintenance of fiscal integrity in the conduct of the affairs of labor organizations.
208.32 Provision for accounting and financial controls.
208.33 Prohibition of conflicts of interest.
208.34 Loans to officers or employees.
208.35 Bonding requirements.
208.36 Prohibitions against certain persons holding office or employment.
208.37 Prohibition of certain discipline.
208.38 Deprivation of rights under the Act by violence or threat of violence.

Subpart B—Proceedings for Enforcing Standards of Conduct

208.50 Investigations.
208.51 Inspection of records and questioning.
208.52 Report of investigation.
208.53 Filing of complaints.

Procedures Involving Bill of Rights or Prohibited Discipline

208.54 Complaints alleging violations of § 208.2, Bill of rights of members of labor organizations or § 208.37, prohibition of certain discipline.
208.55 Content of complaint.
208.56 Service on respondent.
208.57 Additional information and report.
208.58 Dismissal of complaint.
208.59 Review of dismissal.
208.60 Actionable complaint.
208.61 Transfer and consolidation of cases.
208.62 Hearing procedures.

Procedures Involving Election of Officers

208.63 Complaints alleging violations of § 208.29, election of officers.
208.64 Investigations; dismissal of complaint.
208.65 Procedures following actionable complaint.

Other Enforcement Procedures

208.66 Procedures for institution of enforcement proceedings.
208.67 Standards complaint; initiation of proceedings.
208.68 Answer.

Subpart C—Hearing and Related Matters

208.69 Notice of hearing.
208.70 Administrative Law Judge.
208.71 Procedure upon admission of facts.
208.72 Motions and requests.
208.73 Prehearing conferences.
208.74 Conduct of hearing.
208.75 Intervention.
208.76 Duties and powers of the Administrative Law Judge.
208.77 Rights of parties.
208.78 Rules of evidence.
208.79 Burden of proof.
208.80 Unavailability of Administrative Law Judges.
208.81 Objection to conduct of hearing.
208.82 Motions after a hearing.
208.83 Waiver of objections.
208.84 Oral argument at the hearing.
208.85 Transcript.
208.86 Filing of brief.
208.87 Proposed findings and conclusions.
208.88 Submission of the Administrative Law Judge's recommended decision and order to the Assistant Secretary; exceptions.
208.89 Contents of exceptions to Administrative Law Judge's recommended decision and order.
208.90 Briefs in support of exceptions.
208.91 Action by the Assistant Secretary.
208.92 Compliance with decisions and orders of the Assistant Secretary.
208.93 Stay of remedial action.

Authority: Secs. 7105, 7111, 7120, 7134 of the Civil Service Reform Act of 1978 (92 Stat. 1196, 1199, 1210, 1215; 5 U.S.C. 7105, 7111, 7120, 7134).

Subpart A—Substantive Requirements Concerning Standards of Conduct

§ 208.1 General.

The term "LMRDA" means the Labor-Management Reporting and Disclosure Act of 1959, as amended (29 U.S.C. 401 et seq.). Unless otherwise provided in this part or in the Act, any term in any section of the LMRDA which is incorporated into this part by reference, and any term in this part which is also used in the LMRDA, shall have the meaning which that term has under the LMRDA, unless the context in which it is used indicates that such meaning is not applicable. In applying the standards contained in this subpart the Assistant Secretary will be guided by the interpretations and policies followed by the Department of Labor in applying the provisions of the LMRDA and by applicable court decisions.

§ 208.2 Bill of rights of members of labor organizations.

(a)(1) *Equal rights.* Every member of a labor organization shall have equal rights and privileges within such organization to nominate candidates, to vote in elections or referendums of the labor organization, to attend membership meetings and to participate in the deliberations and voting upon the business of such meetings, subject to reasonable rules and regulations in such organization's constitution and bylaws.

(2) *Freedom of speech and assembly.* Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express any views, arguments or opinions; and to express at meetings of the labor organization his views, upon candidates in an election of the labor organization or upon any business properly before the meeting, subject to the organization's established and reasonable rules pertaining to the conduct of meetings: *Provided,* That nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization as an institution and to his refraining from conduct that

would interfere with its performance of its legal or contractual obligations.

(3) *Dues, initiation fees, and assessments.* Except in the case of a federation of national or international labor organizations, the rates of dues and initiation fees payable by members of any labor organization in effect on the date this section is published shall not be increased, and no general or special assessment shall be levied upon such members, except—

(i) In the case of a local organization, (A) by majority vote by secret ballot of the members in good standing voting at a general or special membership meeting, after reasonable notice of the intention to vote upon such question, or (B) by majority vote of the members in good standing voting in a membership referendum conducted by secret ballot; or

(ii) in the case of a labor organization, other than a local labor organization or a federation of national or international labor organizations, (A) by majority vote of the delegates voting at a regular convention, or at a special convention of such labor organization held upon not less than 30 days written notice to the principal office of each local or constituent labor organization entitled to such notice, or (B) by majority vote of the members in good standing of such labor organization voting in a membership referendum conducted by secret ballot, or (C) by majority vote of the members of the executive board or similar governing body of such labor organization, pursuant to express authority contained in the constitution and bylaws of such labor organization: *Provided,* That such action on the part of the executive board or similar governing body shall be effective only until the next regular convention of such labor organization.

(4) *Protection of the right to sue.* No labor organization shall limit the right of any member thereof to institute an action in any court, or in a proceeding before any administrative agency, irrespective of whether or not the labor organization or its officers are named as defendants or respondents in such action or proceedings, or the right of any member of a labor organization to appear as a witness in any judicial, administrative, or legislative proceeding, or to petition any legislature or to communicate with any legislator: *Provided,* That any such member may be required to exhaust reasonable hearing procedures (but not to exceed a 4-month lapse of time) within such organization, before instituting legal or administrative proceedings against such organizations or any officer thereof.

(5) *Safeguards against improper disciplinary action.* (a) No member of any labor organization may be fined, suspended, expelled, or otherwise disciplined, except for nonpayment of dues by such organization or by any officer thereof unless such member has been (i) served with written specific charges; (ii) given a reasonable time to prepare his defense; (iii) afforded a full and fair hearing.

(b) Any provision of the constitution and bylaws of any labor organization which is inconsistent with the provisions of this section shall not be a defense to any proceeding instituted against the labor organization under this part or under the Act.

(c) Nothing contained in this section shall limit the rights and remedies of any member of a labor organization under any State or Federal law or before any court or other tribunal, or under the constitution and bylaws of any labor organization.

(d) It shall be the duty of the secretary or corresponding principal officer of each labor organization, in the case of a local labor organization, to forward a copy of each agreement made by such labor organization with any activity or agency to any employee who requests such a copy and whose rights as such employee are directly affected by such agreement, and in the case of a labor organization other than a local labor organization, to forward a copy of any such agreement to each constitutent unit which has members directly affected by such agreement; and such officer shall maintain at the principal office of the labor organization of which he is an officer, copies of any such agreement made or received by such labor organization, which copies shall be available for inspection by any member or by any employee whose rights are affected by such agreement. An employee's rights under this paragraph shall be enforceable in the same manner as the rights of a member.

§ 208.3 Application of LMRDA labor organization reporting requirements.

The reporting provisions of Parts 402, 403, and 408 of Chapter IV of this title shall apply to labor organizations subject to the requirements of the Civil Service Reform Act of 1978.

Trusteeships

§ 208.26 Purposes for which a trusteeship may be established.

Trusteeships shall be established and administered by a labor organization over a subordinate body only in accordance with the constitution and bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of (a) correcting corruption or financial malpractice, (b) assuring the performance of negotiated agreements or other duties of a representative of employees, (c) restoring democratic procedures, or (d) otherwise carrying out the legitimate objects of such labor organization.

§ 208.27 Prohibited acts relating to subordinate body under trusteeship.

During any period when a subordinate body of a labor organization is in trusteeship, (a) the votes of delegates or other representatives from such body in any convention or election of officers of the labor organization shall not be counted unless the representatives have been chosen by secret ballot in an election in which all the members in good standing of such subordinate body were eligible to participate; and (b) no current receipts or other funds of the subordinate body except the normal per capita tax and assessments payable by subordinate bodies not in trusteeship shall be transferred directly or indirectly to the labor organization which has imposed the trusteeship; *Provided, however,* That nothing contained in this section shall prevent the distribution of the assets of a labor organization in accordance with its constitution and bylaws upon the bona fide dissolution thereof.

208.28 Presumption of validity.

In any proceeding involving § 208.26, a trusteeship established by a labor organization in conformity with the procedural requirements of its constitution and bylaws and authorized or ratified after a fair hearing either before the executive board or before such other body as may be provided in accordance with its constitution and bylaws shall be presumed valid for a period of 18 months from the date of its establishment and shall not be subject to attack during such period except upon clear and convincing proof that the trusteeship was not established or maintained in good faith for purposes allowable under § 208.26. After the expiration of 18 months the trusteeship shall be presumed invalid in any such proceeding, unless the labor organization shall show by clear and convincing proof that the continuation of the trusteeship is necessary for a purpose allowable under § 208.26.

Elections

§ 208.29 Election of officers.

Every labor organization subject to the order shall conduct periodic elections of officers in a fair and democratic manner. All elections of

officers shall be governed by the standards prescribed in sections 401 (a), (b), (c), (d), (e), (f) and (g) of the LMRDA to the extent that such standards are relevant to elections held pursuant to the provisions of 5 U.S.C. 7120.

Additional Provisions Applicable

§ 208.30 Removal of elected officers.

When an elected officer of a local labor organization is charged with serious misconduct and the constitution and bylaws of such organization do not provide an adequate procedure meeting the standards of § 417.2(e) of this title for removal of such officer, the labor organization shall follow a procedure which meets those standards. A labor organization which has adequate procedures in its constitution and bylaws shall follow those procedures.

§ 208.31 Maintenance of fiscal integrity in the conduct of the affairs of labor organizations.

The standards of fiduciary responsibility prescribed in section 501(a) of the LMRDA are incorporated into this subpart by reference and made a part hereof.

§ 208.32 Provision for accounting and financial controls.

Every labor organization shall provide accounting and financial controls necessary to assure the maintenance of fiscal integrity.

§ 208.33 Prohibition of conflicts of interest.

(a) No officer or agent of a labor organization shall, directly or indirectly through his spouse, minor child, or otherwise (1) have or acquire any pecuniary or personal interest which would conflict with his fiduciary obligation to such labor organization, or (2) engage in any business or financial transaction which conflicts with his fiduciary obligation.

(b) Actions prohibited by paragraph (a) of this section include, but are not limited to, buying from, selling, or leasing directly or indirectly to, or otherwise dealing with the labor organization, its affiliates, subsidiaries, or trusts in which the labor organization is interested, or having an interest in a business any part of which consists of such dealings, except bona fide investments of the kind exempted from reporting under section 202(b) of the LMRDA. The receipt of salaries and reimbursed expenses for services actually performed or expenses actually incurred in carrying out the duties of the officer or agent is not prohibited.

§ 208.34 Loans to officers or employees.

No labor organization shall directly or indirectly make any loan to any officer or employee of such organization which results in a total indebtedness on the part of such officer or employee to the labor organization in excess of $2,000.

§ 208.35 Bonding requirements.

Every officer, agent, shop steward, or other representative or employee of any labor organization subject to the order (other than a labor organization whose property and annual financial receipts do not exceed $5,000 in value), or of a trust in which a labor organization is interested, who handles funds or other property thereof shall be bonded in accordance with the principles of section 502(a) of the LMRDA. In enforcing this requirement the Assistant Secretary will be guided by the interpretations and policies followed by the Department of Labor in applying the provisions of section 502(a) of the LMRDA and by applicable court decisions.

§ 208.36 Prohibitions against certain persons holding office or employment.

The prohibitions against holding office or employment in a labor organization contained in section 504(a) of the LMRDA are incorporated into this subpart by reference and made a part hereof. The prohibitions shall also be applicable to any person who has been convicted of, or who has served any part of a prison term resulting from his conviction of, violating 18 U.S.C. 1001 by making a false statement in any report required to be filed pursuant to this subpart, or who has been determined by the Assistant Secretary after an appropriate proceeding pursuant to §§ 208.66 through 208.92 to have willfully violated § 208.27: *Provided, however,* That the duties and responsibilities of the Parole Commission of the U.S. Department of Justice under section 504(a) of the LMRDA shall be assumed under this section by the Assistant Secretary or such other person as he may designate for the purpose of determining whether it would not be contrary to the Act and this section to permit a person barred from holding office or employment to hold such office or employment.

§ 208.37 Prohibition of certain discipline.

No labor organization or any officer, agent, shop steward, or other representative or any employee thereof shall fine, suspend, expel, or otherwise discipline any of its members for exercising any right to which he is entitled under the provisions of the Act or this chapter.

§ 208.38 Deprivation of rights under the Act by violence or threat of violence.

No labor organization or any officer, agent, shop steward, or other representative or any employee thereof shall use, conspire to use, or threaten to use force or violence to restrain, coerce, or intimidate, or attempt to restrain, coerce, or intimidate any member of a labor organization for the purpose of interfering with or preventing the exercise of any right to which he is entitled under the provisions of the Act or of this chapter.

Subpart B—Proceedings for Enforcing Standards of Conduct

§ 208.50 Investigations.

When he believes it necessary in order to determine whether any person has violated or is about to violate any provisions of this part (other than § 208.2, Bill of rights of members of labor organizations or § 208.37, Prohibition of certain discipline) the Director shall have the authority to cause an investigation to be conducted. The authority to investigate possible violations of this part (other than §§ 208.2 or 208.37) shall not be contingent upon receipt of a complaint.

§ 208.51 Inspection of records and questioning.

In connection with such investigation an Area Administrator or his representative may inspect such records and question such persons as he may deem necessary to enable him to determine the relevant facts. Every labor organization, its officers, employees, agents, or representatives shall cooperate fully in any investigation and shall testify and produce the records or other documents requested in connection with the investigation. This section shall be enforced in accordance with the procedures in §§ 208.66 through 208.92.

§ 208.52 Report of investigation.

The Area Administrator's report of investigation (except those relating to complaints under §§ 208.2 or 208.37) shall be submitted through the Regional Administrator to the Director, who may report to interested persons concerning any matter which he deems to be appropriate as a result of such an investigation.

§ 208.53 Filing of complaints.

A complaint alleging violations of this part may be filed with any area office, or any other office of the Labor-Management Services Administration.

Procedures Involving Bill of Rights or Prohibited Discipline

§ 208.54 Complaints alleging violations of § 208.2, Bill of rights of members of labor organization or § 208.37, Prohibition of certain discipline.

Any member of a labor organization whose rights under the provisions of § 208.2 or § 208.37 are alleged to have been infringed or violated, may file a complaint in accordance with § 208.53: *Provided, however,* That such member may be required to exhaust reasonable hearing procedures (but not to exceed a 4-month lapse of time) within such organization.

§ 208.55 Content of complaint.

(a) The complaint shall contain appropriate identifying information and a clear and concise statement of the facts constituting the alleged violation.

(b) The complainant shall submit with his complaint a statement setting forth the procedures, if any, invoked to remedy the alleged violation, including the dates when such procedures were invoked and copies of any written ruling or decision which he has received.

§ 208.56 Service on respondent.

Upon the filing of a complaint, a copy of the complaint shall be served upon the respondent, and a written statement of such service shall be furnished to the Area Administrator.

§ 208.57 Additional information and report.

Upon the filing of a complaint pursuant to §§ 208.54–208.56, the Area Administrator shall obtain such additional information as he deems necessary and shall report the essential facts, the positions of the parties, and any offers of settlement to the Regional Administrator.

§ 208.58 Dismissal of complaint.

If the Regional Administrator after receipt of a report of the Area Administrator pursuant to § 208.57, determines that a reasonable basis for the complaint has not been established, or that an offer of settlement satisfactory to the complainant has been made, he may dismiss the complaint. If he dismisses the complaint, he shall furnish the complainant with a written statement of the grounds for dismissal, sending a copy of the statement to the respondent.

§ 208.59 Review of dismissal.

The complainant may obtain a review of a dismissal by filing a request for review with the Assistant Secretary within fifteen (15) days of service of the notice of dismissal. A copy of such request shall be served on the Regional Administrator and the respondent, and a statement of service shall be filed with the Assistant Secretary. The request for review shall contain a complete statement of the facts and reasons upon which a request is based.

§ 208.60 Actionable complaint.

If it appears to the Regional Administrator that there is a reasonable basis for the complaint, and that no offer of settlement satisfactory to the complainant has been made, he shall refer the matter to the Chief Administrative Law Judge, U.S. Department of Labor, for the issuance of a notice of hearing as set forth in § 208.69.

§ 208.61 Transfer and consolidation of cases.

In any matter arising pursuant to the regulations in this chapter, whenever it appears necessary in order to effectuate the purposes of the order or to avoid unnecessary costs or delay, the Regional Administrator may consolidate cases within his own region or may transfer such cases to any other region, for the purpose of consolidation with any proceedings which may have been instituted in, or transferred to, such region.

§ 208.62 Hearing procedures.

The proceedings following issuance of the notice of hearing shall be as provided in §§ 208.69 through 208.92 of this part.

Procedures Involving Election of Officers

§ 208.63 Complaints alleging violations of § 208.29, election of officers.

(a) A member of a labor organization may file a complaint alleging violations of § 208.29 within 1 calendar month after he has (1) exhausted the remedies available under the constitution and bylaws of the labor organization and of any parent body, or (2) invoked such available remedies without obtaining a final decision within 3 calendar months of such invocation.

(b) The complaint shall contain a clear and concise statement of the facts constituting the alleged violation(s), the remedies which have been invoked under the constitution and bylaws of the labor organization and when such remedies were invoked.

(c) The complainant shall submit with his complaint a copy of any ruling or decision he has received in connection with the subject matter of his complaint.

§ 208.64 Investigations; dismissal of complaint.

(a) If it is determined after preliminary inquiry that a complaint is deficient in any of the following respects, the Area Administrator shall conduct no investigation: (1) The complainant is not a member of the labor organization which conducted the election being challenged; (2) the labor organization is not subject to the Civil Service Reform Act of 1978; (3) the election was not a regular periodic election of officers; (4) the allegations, if true, do not constitute a violation or violations of § 208.29; (5) the complainant has not complied with the requirements of § 208.63(a).

(b) If investigation discloses (1) that there has been no violation or (2) that a violation has occurred but could not have affected the outcome or (3) that a violation has occurred but has been remedied, the Director shall issue a determination dismissing the complaint and stating the reasons for his action.

(c) A determination dismissing the complaint may be reviewed by the Assistant Secretary, but only on the basis of deciding whether the Director's decision was arbitrary and capricious. The request for review must be made within fifteen (15) days after service of notice of dismissal.

§ 208.65 Procedures following actionable complaint.

(a) If the Director concludes that there is probable cause to believe that a violation has occurred which may have affected the outcome and which has not been remedied, he shall proceed in accordance with §§ 208.66 through 208.92.

(b) The challenged election shall be presumed valid pending a final decision thereon by the Assistant Secretary, and in the interim the affairs of the organization shall be conducted by the officers elected or in such other manner as its constitution and bylaws may provide.

(c) When the Director supervises an election pursuant to an order of the Assistant Secretary issued under § 208.68 or § 208.91, he shall certify to the Assistant-Secretary the names of the persons elected. The Assistant Secretary shall thereupon issue an order declaring such persons to be the officers of the labor organization.

Other Enforcement Procedures

§ 208.66 Procedures for institution of enforcement proceedings.

Whenever it appears to the Director that a violation of this part (other than § 208.2 or §208.37) has occurred and has not been remedied, he shall immediately notify any appropriate person and labor

organization. Within fifteen (15) days following receipt of such notification, any such person or labor organization may request a conference with the Director or his representatives concerning such alleged violation. At any such conference, the Director may enter into an agreement providing for appropriate remedial action. If no person or labor organization requests such a conference, or upon failure to reach agreement following any such conference, the Director shall institute enforcement proceedings by filing a complaint with the Chief Administrative Law Judge, U.S. Department of Labor, and shall cause a copy of the complaint to be served on each respondent named therein. If an agreement is reached and the Director concludes that there has not been compliance with all the terms of the agreement, he may refer the matter to the Assistant Secretary for appropriate enforcement action or file a complaint with the Chief Administrative Law Judge.

§ 208.67 Standards complaint; initiation of proceedings.

A complaint filed under § 208.66 shall constitute the institution of a formal enforcement proceeding in the name of the Director, who shall be the only complaining party in the proceeding and shall, where he believes it appropriate, refrain from disclosing the identity of any person who called the violation to his attention (except in proceedings involving violations of section 208.29, Election of officers). The complaint shall include the following:

(a) The name and identity of each respondent.

(b) A clear and concise statement of the facts alleged to constitute violations of the Act or of this part.

(c) A statement of the relief requested.

(d) In any complaint filed by the Director on the basis of a complaint received from a member of a labor organization pursuant to § 208.63, a statement setting forth the procedures, if any, followed to invoke available remedies, including the dates when such procedures were invoked, and the substance of any ruling or decision received by the complaining member from the labor organization or any parent body.

§ 208.68 Answer.

(a) Within twenty (20) days from the service of the complaint the respondent shall file an answer thereto with the Chief Administrative Law Judge and shall serve a copy on all parties. The answer shall be signed by the respondent or his attorney or other agent or representative.

(b) The answer (1) shall contain a statement of the facts which constitute the grounds of defense, and shall specifically admit, explain, or deny each of the allegations of the complaint unless the respondent is without knowledge, in which case the answer shall so state; or (2) shall state that the respondent admits all of the allegations in the complaint. Failure to file an answer to or plead specifically to any allegation in the complaint shall constitute an admission of such allegation.

Subpart C—Hearing and Related Matters

§ 208.69 Notice of hearing.

The Chief Administrative Law Judge shall issue and cause to be served upon each of the parties a notice of hearing. The notice of hearing shall include the following:

(a) The name and identity of each party and the case number.

(b) A statement of the authority and jurisdiction under which the hearing is to be held.

(c) A statement of the time and place of the hearing which shall be not less than fifteen (15) days after service of the notice of hearing.

§ 208.70 Administrative Law Judge.

Each enforcement proceeding instituted pursuant to this part shall be conducted before an Administrative Law Judge designated by the Chief Administrative Law Judge for the Department of Labor except, however, that when the Administrative Law Judge approves a stipulated agreement for appropriate remedial action, he shall prepare his recommended decision and order adopting that agreement and transfer the case to the Assistant Secretary. The Assistant Secretary may order the remedial action set forth in the stipulated agreement or take such other action as he deems appropriate.

§ 208.71 Procedure upon admission of facts.

The admission of all the material allegations of fact in the complaint shall constitute a waiver of hearing. Upon such admission, the Administrative Law Judge without further hearing shall prepare his recommended decision and order in which he shall adopt as his proposed findings of fact the material facts alleged in the complaint.

§ 208.72 Motions and requests.

(a) Motions and requests made prior to the hearing shall be filed with the Chief Administrative Law Judge. The moving party shall serve a copy of all motions and requests on all other parties. Motions during the course of the hearing may be stated orally or filed in writing and shall be made part of the record. Each motion shall state the particular order, ruling, or action desired, and the grounds therefor. The Administrative Law Judge is authorized to rule upon all motions made prior to the filing of his report.

(b) A party may request the attendance of witnesses and/or the production of documents at a hearing held pursuant to this part, by written application before the hearing or orally during the hearing. Copies of an application filed before the opening of the hearing shall be served on the other parties, who may file written objections to the request within seven (7) days after such service. The Administrative Law Judge after consideration of any objections, shall grant the request provided the specified testimony and/or documents appear to be necessary to the matters under investigation. If the Administrative Law Judge denies the request he shall set forth the basis for his ruling. Upon the failure of any party or officer or employee of any party to comply with such a request which has been granted by the Administrative Law Judge, the Administrative Law Judge and the Assistant Secretary may disregard all related evidence offered by the party failing to comply with the request or take such other action as may be appropriate.

(c) Employees who have been determined to be necessary as witnesses at a hearing shall be granted official time only for such participation as occurs during their regular work hours and when they would otherwise be in a work or paid leave status. Participation as witnesses includes the time necessary to travel to and from the site of a hearing, and the time spent giving testimony and waiting to give testimony, when such time falls during regular work hours. In addition, necessary transportation and per diem expenses shall be paid by the employing activity or agency.

§ 208.73 Prehearing conferences.

(a) Upon his own motion or the motion of the parties, the Administrative Law Judge may direct the parties or their counsel to meet with him for a conference to consider:

(1) Simplification of the isssues;

(2) Necessity or desirability of amendments to pleadings for purposes of clarification, simplification, or limitations;

(3) Stipulations, admissions of fact, and contents and authenticity of documents;

(4) Limitation of the number of expert witnesses; and

(5) Such other matters as may tend to expedite the disposition of the proceeding.

(b) The record shall show the matters disposed of by order and by agreement in such prehearing conferences. The subsequent course of the proceeding shall be controlled by such action.

§ 208.74 Conduct of hearing.

Hearings shall be conducted by an Administrative Law Judge and shall be open to the public unless otherwise ordered by the Administrative Law Judge.

§ 208.75 Intervention.

Any person desiring to intervene in a hearing shall file a motion in writing in accordance with the procedures set forth in § 208.72 or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. Such a motion shall be filed with the Administrative Law Judge who shall rule upon such motion.

§ 208.76 Duties and powers of the Administrative Law Judge.

It shall be the duty of the Administrative Law Judge to inquire fully into the facts as they relate to the matter before him and to prepare, serve and submit his recommended decision and order pursuant to § 208.88. Upon assignment to him and before transfer of the case to the Assistant Secretary, the Administrative Law Judge shall have the authority to:

(a) Grant requests for appearance of witnesses or production of ducuments;

(b) Rule upon offers of proof and receive relevant evidence;

(c) Take or cause depositions to be taken whenever the ends of justice would be served thereby;

(d) Limit lines of questioning or testimony which are immaterial, irrelevant, or unduly repetitious;

(e) Regulate the course of the hearing and if appropriate, exclude from the hearing persons who engage in misconduct and strike all related testimony of witnesses refusing to answer any questions ruled to be proper;

(f) Hold conferences for the settlement or simplification of the issues by consent of the parties or upon his own motion;

(g) Dispose of procedural requests, motions, or similar matters which shall be made part of the record of the proceeding, including motions to amend pleadings; also to recommend dismissal of cases or portions thereof, and to order hearings reopened prior to issuance of his recommended decision and order;

(h) Examine and cross-examine witnesses and introduce into the record documentary or other evidence;

(i) Request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof;

(j) Continue, at his discretion, the hearing from day-to-day, or adjourn it to a later date or to a different place, by announcement thereof at the hearing or by other appropriate notice;

(k) Take official notice of any material fact not appearing in evidence in the record, which is among the traditional matters of judicial notice and also concerning which the Department by reason of its functions is presumed to be expert: *Provided,* That the parties shall be given adequate notice, at the hearing or by reference in the Administrative Law Judge's recommended decision and order, of the matters so noticed, and shall be given adequate opportunity to show the contrary;

(l) Correct or approve proposed corrections of the official transcript when deemed necessary; and

(m) Take any other action necessary under the foregoing and not prohibited by these regulations.

§ 208.77 Rights of parties.

Any party shall have the right to appear at such hearing in person, by counsel, or by other representative, to examine and cross-examine witnesses, and to introduce into the record documentary or other relevant evidence, except that the participation of any party shall be limited to the extent prescribed by the Administrative Law Judge. Two (2) copies of documentary evidence shall be submitted and a copy furnished to each of the other parties. Stipulations of fact may be introduced in evidence with respect to any issue.

§ 208.78 Rules of evidence.

The technical rules of evidence do not apply. Any evidence may be received, except that an Administrative Law Judge may exclude any evidence or offer of proof which is immaterial, irrelevant, unduly repetitious, or customarily privileged. Every party shall have a right to present his case by oral and documentary evidence and to submit rebuttal evidence.

§ 208.79 Burden of proof.

In a hearing concerning an alleged violation of § 208.2 (Bill of rights of members of labor organizations) or § 208.37 (Prohibition of certain discipline), the complainant shall have the burden of proving the allegations of the complaint by a preponderance of the evidence. In a hearing concerning an alleged violation of other standards of conduct matters, the Director shall have the burden of proving the allegations of the complaint by a preponderance of the evidence.

§ 208.80 Unavailability of Administrative Law Judges.

In the event the Administrative Law Judge designated to conduct the hearing becomes unavailable, the Chief Administrative Law Judge shall designate another Administrative Law Judge for the purpose of further hearing or issuance of a recommended decision and order on the record as made, or both.

§ 208.81 Objection to conduct of hearing.

(a) Any objection with respect to the conduct of the hearing, including any objection to the introduction of evidence, may be stated orally or in writing accompanied by a short statement of the grounds for such objection and included in the record. No such objection shall be deemed waived by further participation in the hearing. Such objection shall not stay the conduct of the hearing.

(b) Automatic exceptions will be allowed to all adverse rulings. Rulings by the Administrative Law Judge shall not be appealed prior to the transfer of the case to the Assistant Secretary, but shall be considered by the Assistant Secretary only upon the filing of exceptions to the Administrative Law Judge's recommended decision and order in accordance with § 208.88.

§ 208.82 Motions after a hearing.

All motions made after the transfer of the case to the Assistant Secretary, except motions to correct the record under § 208.76(l), shall be made in writing to the Assistant Secretary. The moving party shall serve a copy of all motion papers on all other parties. A statement of service shall accompany the motion. Answers, if any, must be served on all parties and the original thereof, together with a statement of service, shall be filed with the Assistant Secretary after the hearing, within seven (7) days after service of the moving papers unless it is otherwise directed.

§ 208.83 Waiver of objections.

Any objection not duly urged before an Administrative Law Judge shall be deemed waived.

§ 208.84 Oral argument at the hearing.

Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral

argument, which shall be included in the official transcript of the hearing.

§ 208.85 Transcript.

An official reporter shall make the only official transcript of such proceedings. Copies of the official transcript will be provided to the parties, in accordance with the provisions of 29 CFR 70.62(c), or they may be examined in the Area Office in whose geographic jurisdiction the hearing has been held.

§ 208.86 Filing of brief.

Any party desiring to submit a brief to the Administrative Law Judge shall file the original within ten (10) days after the close of the hearing: *Provided, however,* That prior to the close of the hearing and for good cause, the Administrative Law Judge may grant a reasonable extension of time. Copies of such brief shall be served on all of the parties to the proceeding. Requests for additional time in which to file a brief under authority of this section made after the hearing shall be made in writing to the Administrative Law Judge and copies thereof served on the other parties. A statement of such service shall be furnished. A request for extension of time shall be received not later than three (3) days before the date such briefs are due. In the absence of the Administrative Law Judge such requests shall be ruled upon by the Chief Administrative Law Judge. No reply brief may be filed except by permission of the Administrative Law Judge.

§ 208.87 Proposed findings and conclusions.

Within fifteen (15) days following the close of the hearing, the parties may submit proposed findings and conclusions to the Administrative Law Judge, together with supporting reasons therefor, which shall become part of the record.

§ 208.88 Submission of the Administrative Law Judge's recommended decision and order to the Assistant Secretary; exceptions.

(a) After the close of the hearing, and the receipt of briefs, or findings and conclusions, if any, the Administrative Law Judge shall prepare his recommended decision and order expeditiously. The recommended decision and order shall contain findings of fact, conclusions, and the reasons or basis therefor including credibility determinations, and recommendations as to the disposition of the case including the remedial action to be taken.

(b) The Administrative Law Judge shall cause his recommended decision and order to be served promptly on all parties to the proceeding. Thereafter, the Administrative Law Judge shall transfer the case to the Assistant Secretary including his recommended decision and order and the record. The record shall include the complaint, the notice of hearing, motions, rulings, orders, official transcript of the hearing, stipulations, objections, depositions, exhibits, documentary evidence and any briefs or other documents submitted by the parties.

(c) Exceptions to the Administrative Law Judge's recommended decision and order may be filed by any party with the Assistant Secretary within fifteen (15) days after service of the recommended decision and order: *Provided, however,* That the Assistant Secretary may for good cause shown extend the time for filing such exceptions. Requests for additional time in which to file exceptions shall be in writing, and copies thereof shall be served on the other parties. Requests for extension of time must be received no later than three (3) days before the date the exceptions are due. Copies of such exceptions and any supporting briefs shall be served on all other parties, and a statement of such service shall be furnished to the Assistant Secretary.

§ 208.89 Contents of exceptions to Administrative Law Judge's recommended decision and order.

(a) Exceptions to an Administrative Law Judge's recommended decision and order shall:

(1) Set forth specifically the questions upon which exceptions are taken;

(2) Identify that part of the Administrative Law Judge's recommended decision and order to which objection is made;

(3) Designate by precise citation of page the portions of the record relied on, state the grounds for the exceptions and include the citation of authorities unless set forth in a supporting brief.

(b) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

§ 208.90 Briefs in support of exceptions.

(a) Any brief in support of exceptions shall contain only matters included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A concise statement of the case containing all that is material to the consideration of the questions presented;

(2) A specification of the questions involved and to be argued;

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific page reference to the transcript and the legal or other material relied on.

(b) Answering briefs to the exceptions may be filed with the Assistant Secretary within ten (10) days after service of the exceptions.

§ 208.91 Action by the Assistant Secretary.

(a) After considering the Administrative Law Judge's recommended decision and order, the record, and any exceptions filed, the Assistant Secretary shall issue his decision affirming or reversing the Administrative Law Judge, in whole, or in part, or making such other disposition of the matter as he deems appropriate: *Provided, however,* That unless exceptions are filed which are timely and in accordance with § 208.89, the Assistant Secretary may, at his discretion, adopt without discussion the recommended decision and order of the Administrative Law Judge, in which event the findings, conclusions, and recommendations of the Administrative Law Judge, as contained in his recommended decision and order, shall, upon appropriate notice to the parties, automatically become the decision of the Assistant Secretary.

(b) Upon finding a violation of the Act, the Assistant Secretary may order the respondent to cease and desist from such violative conduct and may require the respondent to take such affirmative action as he deems appropriate to effectuate the policies of the Act.

(c) Upon finding no violation of the Act, the Assistant Secretary shall dismiss the complaint.

§ 208.92 Compliance with decisions and orders of the Assistant Secretary.

When remedial action is ordered, the respondent shall report to the Assistant Secretary, within a specified period, that the required remedial action has been effected. When the Assistant Secretary finds that the required remedial action has not been effected, he shall refer the matter to the Federal Labor Relations Authority for appropriate action.

§ 208.93 Stay of remedial action.

In cases involving violations of this part, the Assistant Secretary may direct, subject to such conditions as he deems appropriate, that the remedial action ordered be stayed.

PART 209—MISCELLANEOUS

Sec.

209.1 Computation of time for filing papers.
209.2 Additional time after service by mail.
209.3 Documents in a proceeding.
209.4 Service of pleading and other papers under this chapter.
209.5 Rules to be construed liberally.

Authority: Secs. 7120, 7134 of the Civil Service Reform Act of 1978 (92 Stat. 1210, 1215; 5 U.S.C. 7120, 7134).

§ 209.1 Computation of time for filing papers.

In computing any period of time prescribed by or allowed by the regulations contained in Part 208 of this chapter, the day of the act, event, or default after which the designated period of time begins to run, shall not be included. The last day of the period so computed is to be included unless it is a Saturday, Sunday or Federal legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or a Federal legal holiday. When the period of time prescribed or allowed is seven (7) days or less, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computations. When these regulations require the filing of any paper, such document must be received by the Assistant Secretary or the officer or agent designated to receive such matter before the close of business of the last day of the time limit, if any, for such filing or extension of time that may have been granted.

§ 209.2 Additional time after service by mail.

Whenever a party has the right or is required to do some act pursuant to these regulations within a prescribed period after service of a notice or other paper upon him and the notice or paper is served on him by mail, five (5) days shall be added to the prescribed period: *Provided, however,* That five (5) days shall not be added if any extension of time may have been granted.

§ 209.3 Documents in a proceeding.

(a) *Title.* Documents in any proceeding under Part 208 of this chapter, including correspondence, shall show the title of the proceeding and the case number, if any.

(b) *Signature.* The original of each document required to be filed under these regulations shall be signed by the party or by an attorney or representative of record for the party, or by an officer of the party, and shall contain the address and telephone number of the person signing it.

§ 209.4 Service of pleading and other papers under this chapter.

(a) *Method of service.* Notices of hearing, decisions, orders and other papers may be served personally or by registered or certified mail or by telegraph. When service is by mail, the date of service shall be the day when the matter served is deposited in the United States mail.

(b) *Upon whom served.* All papers, except as herein otherwise provided, shall be served upon all counsel of record and upon parties not represented by counsel or by their agents designated by them or by law and upon the Assistant Secretary, or his designated officer, or agent or Administrative Law Judge where appropriate. Service upon such counsel or representative shall constitute service upon the party, but a copy also shall be transmitted to the party.

§ 209.5 Rules to be construed liberally.

(a) The regulations in this chapter may be construed liberally to effectuate the purposes and provisions of the Act.

(b) When an act is required or allowed to be done at or within a specified time, the Assistant Secretary may at any time order the period altered where it shall be manifest that strict adherence will work surprise or injustice or interfere with the proper effectuation of the Act.

Signed at Washington, D.C. this 29th day of February 1980.

William P. Hobgood,

Assistant Secretary of Labor for Labor-Management Relations.

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Friday
March 7, 1980

Part VIII

Department of Labor

Wage and Hour Division

Child Labor for Agricultural Employment; Waiver of Certain Provisions; Restrictions on Use of Pesticides and Other Chemicals

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 575

Waiver of Child Labor Provisions for Agricultural Employment of 10 and 11 Year Old Minors in Hand Harvesting of Short Season Crops; Provisions Governing Application for and Issuance of a Waiver; Restrictions on Use of Pesticides and Other Chemicals

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed Rule.

SUMMARY: On February 15, 1980, the United States Court of Appeals for the District of Columbia Circuit entered a judgment ruling that certain portions of a regulation published by the Department of Labor relating to waivers pursuant to Section 13(c)(4) of the Fair Labor Standards Act for the employment of 10 and 11 year old children in the hand-harvesting of pesticide treated crops were invalid. The court remanded the case to the United States District Court for the District of Columbia for entry of an injuction pending appropriate notice-and-comment rulemaking (*National Association of Farmworker Organizations* v. *Marshall,* No. 79–1587).

The District Court issued an Order on February 29, 1980, enjoining the Secretary of Labor from granting any waivers pursuant to the portions of the regulation which the Court of Appeals held were invalid. (Civil Action No. 79–1044). The present Proposed Rule is issued pursuant to the order of the District Court.

DATES: Comments are due on or before April 7, 1980. Responses by interested parties to the comments are due on or before April 21, 1980. All comments and responses thereto must be filed in triplicate.

ADDRESS: Comments and any responses thereto shall be sent to the Administrator, Wage and Hour Division, Attention: Lucille C. Pinkett, Room S–3022, New Department of Labor Building, 200 Constitution Avenue N.W., Washington, D.C., 20210. All comments will be available for public inspection and copying in Room S–3022 from 9:30 a.m. to 4:00 p.m., Monday through Friday (excluding Federal holidays).

FOR FURTHER INFORMATION CONTACT: Lucille C. Pinkett, Wage and Hour Division, Room S–3022, New Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210, telephone 202–523–8412.

SUPPLEMENTARY INFORMATION: The child labor provisions of the Fair Labor Standards Act generally prohibit employment of children under the age of 16. Certain exceptions allow the employment of younger children in agriculture under specific conditions delineated in the statute. In 1974, Congress prohibited the employment in agriculture of any child under the age of 12 under most conditions. This prohibition applied until 1977, when Congress enacted the waiver amendment for certain agricultural employment.

Section 13(c)(4) of the Act authorizes the Secretary to grant a waiver from the Act's prohibitions, to permit the limited employment of 10 and 11 year olds as hand harvesters of short season crops under specified conditions. Among other conditions, the statute prohibits the Secretary from granting such a waiver "unless he finds, based on objective data submitted by the applicant," that five enumerated requirements are met. One of these five prerequisites is a finding that "the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the individuals to whom the waiver would apply." Section 13(c)(4)(A)(iii).

On April 4, 1978, the Secretary published proposed regulations implementing the waiver provisions (43 FR 14068). The proposal specified the information the Secretary would require an employer to submit when applying for a waiver. Regarding "the level and type of pesticides and other chemicals used," the employer would be required to identify each chemical used, reveal the date of last application prior to harvest, and cite "the standards of EPA, OSHA, NIOSH, or other comparable authority which establish that each field so treated with the identified chemical and/or pesticide will not adversely affect the health or well-being" of the children covered by the waiver (Proposed 29 CFR 575.5(d)(2), 43 FR 14070).

During the period allowed for comment on the regulations, in response to the Secretary's proposed reliance on the Environmental Protection Agency's standards, that agency wrote to inform the Labor Department that its standards did not apply to children. An EPA representative confirmed at the public hearings on the proposed regulations that the EPA standards were not intended to provide protection for children.

The Labor Department's final regulations were published on June 21, 1978 (43 FR 26562). The introduction discussed the testimony at the public hearing and the information provided by the EPA and explained that "it was apparent from the testimony at the hearings that the currently established EPA and other federal standards have not been shown to be safe for 10 and 11 year olds". Accordingly, the final regulations provided that the applicant for a waiver "will either have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested or submit data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10 and 11 year olds." The regulation also stated that in the event such data submitted by the growers, or additional studies undertaken by the Department, established safe reentry standards for particular chemicals, the regulation would be amended to include such standards so that a waiver applicant need merely identify the chemical and date last used.

When the Department determined that EPA standards could not be used to establish safe reentry times for children, the Department was concerned that the individual growers would simply not be able to meet their statutory burden of producing objective data showing that pesticides used would have no adverse effect on the health or well-being of 10 and 11 year old hand harvesters. Thus, the Department decided to try to develop its own expertise, by acquiring the scientific knowledge which would enable the Secretary to issue waivers where some pesticides had been used, if the necessary information to meet the statutory criteria existed. The labor Department contracted in June, 1978,

with Clement Associates, Inc., scientific regulatory consultants, to review data on the chemicals used by the affected growers.

Under a short term contract in 1978, Clement reviewed the scientific literature regarding approximately 30 chemicals used for strawberry and potato crops and issued reports in August 1978, recommending minimum entry times for some chemicals. In reliance on these reports, the Department amended its regulations in August, 1978 to list certain pesticides which could be used if the specified periods had elapsed before 10 and 11 year olds were admitted to the fields. (August 18, 1978, 43 FR 36623.) The August amendments dispensed with the notice-and-comment period in the "public interest," so that the specified chemicals could be used during the remainder of that year's berry harvest and for the upcoming potato harvest.

Throughout the second half of 1978, officials of the Department consulted with EPA, OSHA, NIOSH, and experts outside the government to try to determine what type of longer term studies, including possible field observations, were needed to acquire pesticide data relating to children. They were advised that the needed study would take 3 to 5 years, and steps were taken to commence the long-term study to measure exposure levels and evaluate the risk to children more precisely.

Meanwhile, after publication of the August amendment, the growers asked the Labor Department to study additional pesticides for possible inclusion on the approved pesticide list. Accordingly, the Department of Labor, in early 1979, initiated a second contract with Clement Associates to review 16 additional chemicals and re-review the 30 chemicals it had already studied under the first contract. Under this second contract, Clement Associates expanded its research of the scientific literature. Accordingly, in April and May, 1979, the waiver regulations were amended to delete certain chemicals from the approved list while including others. These amendments were made effective immediately, so that they could apply during the imminent harvest season, but specified that waivers could be issued where the pesticides deleted from the approved list had been used prior to the publication date. (April 13, 1979, 44 FR 22061; April 24, 1979, 44 FR 24059; May 16, 1979, 44 FR 29049).

The National Association of Farmworker Organizations sued the Secretary of Labor, asserting that the standards adopted in the various amendments to the June 21, 1978 regulation were unlawful. The District Court ruled that there was no need to publish the pesticide standards initially in proposed form, and that those standards were consistent with the Act's requirements.

The United States Court of Appeals for the District of Columbia Circuit subsequently ruled, however, that in publishing the amendments in question, the Secretary had failed to satisfy the statutory criteria. Specifically, the court stated that the Clement Report, on which the Secretary relied in issuing specific pesticide standards, was "based on the assumption that his recommendations would provide only 'reasonable protection' for the children." The Court of Appeals stated, however, that under the statute there must be "objective data" that "the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the [children]." The court further ruled that the Secretary lacked good cause to dispense with the notice-and-comment procedures required by the Administrative Procedure Act. The court stated that it would issue a later opinion, explaining the basis of its ruling (*National Association of Farmworker Organizations* v. *Marshall*, No. 79-1587; Feb. 15, 1980).

In *Washington State Farm Bureau et al.* v. *Marshall* (C.A. 9, No. 79-4449), the Department is continuing to assert its position that its pesticide regulations are consistent with the statutory standard, and that it was not necessary to issue them in proposed form with an opportunity for comment. This case was argued in the United States Court of Appeals for the Ninth Circuit on March 5, 1980. It is possible that the Ninth Circuit will reach a different result from that of the District of Columbia Circuit, in which event the matter may require resolution by the United States Supreme Court. In the meantime, however, in order to abide by the ruling in *National Association of Farmworker Organizations* v. *Marshall*, the Department is now issuing, in proposed form, those portions of the regulation which were previously published without opportunity for comment. The remaining portions of the regulation, Part 575, remain in full force and effect.

The present publication in proposed form and the comment period are designed to provide an opportunity for affected parties to express their views on the proposal. The normal 60-day comment period generally required under Executive Order 12044 has been shortened to allow this regulation to be published in final form prior to the time for applying pesticides and other chemicals to short-season crops in the current season. Any comments which are submitted should be supported by the most authoritative scientific data available. In addition to the 30 day period allowed for comment, an additional 15 day period has been provided in which responses to comments may be submitted.

The proposal lists the same pesticides and other chemicals and sets for the same minimum entry times for strawberries and potatoes as did those portions of the regulation which were published in final form without opportunity for comment and which were codified at 19 CFR 575.5(d). (The six-day minimum entry time for propargite (omite; comite) in the case of strawberries has been extended to ten days to correct an error in the original regulation. No waivers were in fact granted with respect to this chemical.) This has been done in order to provide interested parties with a concrete proposal on which to comment. Insofar as the comments received provide "objective data" that "the level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of the [children]," within the meaning of Section 13(c)(4) of the Act, appropriate minimum entry times will be established by the final regulation.

Although the final order of the District Court in *National Association of Farmworker Organizations* v. *Marshall* enjoins the Department from issuing any waivers pursuant to those portions of 29 CFR 575.5(d) which were not published in proposed form, the Department retains the inherent authority under the express terms of Section 13(c)(4) of the Act to issue waivers on a case-by-case basis, provided that the standards in that section are satisfied. The standards pertaining to the level and type of pesticides and other chemicals are set forth in § 575.5(d)(1)(i), which reads as follows:

§ 575.5 Supporting data to accompany application.

* * * * *

(d)(1)(i) The "level and type of pesticides and other chemicals used would not have an adverse effect on the health or well-being of" minors employed under the waiver. The safe reentry standards established by the Environmental Protection Agency, and followed by other Federal and State agencies, were established for adult workers and have not been shown to be safe for 10- and 11-year-olds. Therefore, the applicant, in order to satisfy this condition, will:

(A) have to submit a statement that no pesticides or other chemicals were used on the crop to be harvested; (B) submit data which upon study by the Secretary or the Secretary's designee establishes a basis for a

minimum entry time which would protect 10- and 11-year-old hand harvesters from adverse effects of the pesticide or chemical used; or (C) specify from lists provided in paragraph (d) (2) or (3) of this section the type and level of pesticides or chemicals used and the date of last application of same prior to harvest. If additional studies conducted by the Secretary or the Secretary's designee establish differing standards or standards requiring different minimum entry times for 10- and 11-year-olds; this section will be amended accordingly.

(ii) The "level" of pesticides or other chemicals used shall mean the level of application set forth in the directions for use on the manufacturer's label.

* * * * *

This portion of § 575.5(d) remains in effect, with the exception of clause (C). Clause (C) is no longer in effect because it refers to standards listed in paragraph (d) (2) or (3) of this section which the District Court has enjoined the Department from enforcing pending notice and comment.

Apart from strawberries and potatoes, other crops as to which the Department in the past has received applications for waiver of the child labor provisions include raspberries, blueberries, blackberries, red currants, beans, bush snap beans, and cucumbers. The Department invites comments, together with the best available scientific data, with respect to pesticides and other chemicals which might possible be used on these other crops.

The proposed regulation has been developed under the direction and control of Donald Elisberg, Assistant Secretary for Employment Standards, New Department of Labor Building, 200 Constitution Ave., N.W., Washington, D.C. 20210.

Accordingly, the Secretary invites comments on the following proposal:

§ 575.5 Supporting data to accompany application.

* * * * *

(d)(1) * * *

(2) *Strawberries.* In harvesting strawberries, the following pesticides or other chemicals would not have an adverse effect on the health or well-being of 10- and 11-year-old hand harvesters if applied at not less than the indicated minimum entry times:

Pesticide	Minimum entry time for 10- and 11-year-olds (days)
Endosulfan (Thiodan)	16
Demeton (Systox)	42
Diazinon	10
Azinphosmethyl (Guthion)	30
Chloroxuron (Tenoran)	120
Dinoseb (Pre-merge; DiNitro)	60
Diphenamid (Enide)	120
Malathion	6
Metaldehyde	12
Methoxychlor (Marlate)	28
Mevinphos (Phosdrin)	8
Napropamide (Devrinol)	(1)
Oxydemeton Methyl (Metasystox R)	28
Tricycloexyltin hydroxide (Plictran)	28
Propargite (Omite; Comite)	10
Rotenone	4
Simazine	(1)
Sulfur	2
Carbaryl (Sevin)	40
Anilazine (Dyrene)	10

[1] Use according to label

(3) *Potatoes.* In harvesting potatoes, the following pesticides or other chemicals would not have an adverse effect on the health or well-being of 10- and 11-year-old hand harvesters if applied at not less than the indicated minimum entry times:

Pesticide	Minimum entry time for 10- and 11-year-olds (days)
Aldicarb (Temik)	100
Disulfoton (Di Syston)	90
Carbofuran (Furadan)	2
Endosulfan (Thiodan)	16
Demeton (Systox)	42
Monitor	28
Methomyl (Lanate-L)	28
Captafol (Difolatan)	2
Triphenyltin hydroxide (Duter)	16[1] and 66[2]
Pirimicarb (Pirimor)	2
EPTC (Eptam)	90
Alachlor (Lasso)	45
Linuron (Lorax)	45
Metribuzin (Sencor)	45
Dalapon	45
Ametryn (Evik)	28
Azinphosmethyl (Guthion)	42
Dinoseb (Pre-Merge; DiNitro)	60
Diphenamid (Enide)	100
Malathion	2
Metaldehyde	12
Methoxychlor (Marlate)	28
Mevinphos (Phosdrin)	8
Oxydemeton methyl (Metasystox R)	14
Paraguat	20
Propargite (Omite; Comite)	28
Rotenone	4
Sulfur	2
Carbaryl (Sevin)	40
Anilazine (Dyrene)	2

[1] For aerial and ground application.
[2] For irrigation application.

(4) The following pesticides or chemicals have been identified as suspected carcinogens and their use will preclude the issuance of a waiver:

Captan
Chlorothalonil (Bravo)
Dicofol (Kelthane)

(5)(i) The following pesticides or chemicals have been preliminarily reviewed by the Secretary or the Secretary's designee but at this time there does not appear to be sufficient scientific data upon which to base minimum entry times:

Maneb
Metiram-Polyram
Benomyl (Benlate)
Dinitro-o-cresol (DNOC)
Parathion
Thiram
Ziram

(ii) An application indicating the use of any of these pesticides or chemicals must be accompanied with data which upon study by the Secretary or the Secretary's designee establishes safe reentry times for 10- and 11-year-olds, as provided in paragraph (d)(1)(i)(B) of this section.

* * * * *

(Secs. 11, 12, 13, 18, 52 Stat. 1067, 1069, as amended; 29 U.S.C. 211, 212, 213, 218; Secretary of Labor's Order No. 16-75, 40 FR 55913)

Signed at Washington, D.C. this 5th day of March, 1980.

Donald Elisburg,

Assistant Secretary, Employment Standards.

[FR Doc. 80-7368 Filed 3-6-80; 10:25 am]
BILLING CODE 4510-27-M

Reader Aids

Federal Register

Vol. 45, No. 47

Friday, March 7, 1980

INFORMATION AND ASSISTANCE

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

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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

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

8009 2-6-80 / Nevada State Implementation Plan; revision

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

52191 9-7-79 / Mercury vapor lamps; radiation safety performance standard

INTERIOR DEPARTMENT

Land Management Bureau—

8176 2-6-80 / Cooperative relations; advisory committees

List of Public Laws

Last Listing March 3, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.J. Res. 267 / Pub. L. 96-198 To provide for designation of Friday, March 7, 1980, as "Teacher Day, United States of America". (March 5, 1980; 94 Stat. 66) Price $1.00.

H.R. 3757 / Pub. L. 96-199 To establish the Channel Islands National Park, and for other purposes. (March 5, 1980; 94 Stat. 67) Price $1.25.

Advance Orders are now Being Accepted for Delivery in About 6 Weeks

CODE OF FEDERAL REGULATIONS

(Revised as of January 1, 1980)

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